MISCELLANEOUS TARIFF BILLS—1982

HEARINGS

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

JULY 21 AND 22, 1982

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MISCELLANEOUS TARIFF BILLS—1982

WEDNESDAY, JULY 21, 1982

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 2221, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Danforth, Heinz, Grassley, and Symms.

[The press release announcing the hearings, background material prepared by the Finance Committee Trade Staff on the miscellaneous tariff bills, and the prepared statement of Senators Dole, Heinz, and Symms follow:]

[Press Release No. 82-149]

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARING ON TARIFF BILLS

The Honorable John C. Danforth (R., Mo.), Chairman of the Subcommittee on International Trade of the Committee on Finance, today announced that the Subcommittee will hold a hearing on Wednesday and Thursday, July 21 and 22, 1982 on the tariff measures listed below.

The hearing will begin at 9:30 a.m. each day in Room 2221 of the Dirksen Senate Office Building.

The following proposals will be considered:

S. 1902, introduced by Senator Danforth and Senator Symms. S. 1902 would exend for 2 additional years the President's authority to negotiate tariff reductions pursuant to section 124 of the Trade Act of 1974.

S. 2685, introduced by Senator Dole and Senators Chafee, Danforth, Roth, Grassley, Percy, Bradley, Durenberger, Mathias, and East. S. 2685 would implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

Section 8(c) of S. 2094 would authorize the President to proclaim such modification, elimination or continuance of any existing duty, free, or excise treatment or such additional duties, as he deems appropriate on the following articles listed in the Tariff Schedules of the United States:

(1) Accounting, computing, and other data processing machines provided in item 676.15;

(2) Data processing machines provided for in item 676.30;

(3) Parts of automatic data processing machines (and units thereof) provided for in item 676.52;

(4) Transistors provided for in 687.70;

(5) Monolithic integrated circuits provided for in item 687.74;

(6) Integrated circuits provided for in item 687.77;

(7) Electronic components provided for in item 687.81.

H.R. 4566, section 2 relating to the importation of canned tuna, section 4 relating to chipper knife steel, section 7 relating to pipe organ parts, section 11 relating to the increase in value limitations applicable to informal entries of imported merchandise, and section 17 relating to certain metal waste and scrap. The Subcommittee on International Trade, by a press release dated October 19, 1981, requested written comments on H.R. 4566. Although conflicting comments were received only with respect to the sections set forth above the subcommittee will entertain requests to testify with respect to any other section.

S. 11, introduced by Senator Mitchell and Senator Cohen. S. 11 would prohibit the Secretary of the Treasury from processing potatoes for entry into the United States until certain measures are taken.

S. 231, introduced by Senator Matsunaga. S. 231 would amend the Tariff Act of 1930 to increase from $250 to $600 the amount for informal entry of goods.

S. 1552, introduced by Senator Humphrey. S. 1552 would lower the duty on certain imported satchet parts.

S. 1565, introduced by Senator Mitchell and Senators Packwood, Cohen, Tsongas, and Kennedy. S. 1565 would lower the duty on certain fish netting and fish nets.

S. 1588, introduced by Senator Roth. S. 1588 would provide for a temporary suspension of the duty on bulk fresh carrots.

S. 1717 introduction by Senator Durenberger. S. 1717 would provide for a temporary suspension of the duty on certain freight containers.

S. 1723 introduced by Senator Matsunaga. S. 1723 would implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

S. 1746 introduced by Senator Heinz. S. 1746 would reduce the duty on the pesticide commonly known as Dicofol.

S. 1979 introduced by Senator Grassley. S. 1979 would elimimate the duty on sulfaguanidine, sulfapyridine, and sulfathiazole.

S. 2031 introduced by Senator Baucus. S. 2031 would suspend for a 3-year period the duty on copper scale.

S. 2247 introduced by Senator Packwood and Senator Hatfield. S. 2247 would permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2396 introduced by Senator Roth. S. 2396 would provide for a temporary suspension of the duty on certain high alumina fiber.

S. 2560 introduced by Senator Mitchell and Senators Cohen and Roth. S. 2560 would amend the tariff schedules of the United States to ensure that potatoes imported as seed are not diverted for human consumption.

S. 2566 introduced by Senator Heinz and Senator Helms. S. 2566 would reduce the duty on certain texturing machines.

S. 2692 introduced by Senator Danforth, S. 2692 would provide a temporary suspension of the duty on certain small toy and novelty items.

S. 2699 introduced by Senator Bentsen. S. 2699 would provide a temporary suspension of the duty on 1,6 Hexanediol.

S. 2705 introduced by Senator Long. S. 2705 would provide a temporary suspension of the duty on mixtures of mashed or macerated hot red peppers and salt.

Consolidated testimony.—Senator Danforth urges all witnesses who have a common position or who have the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Committee to receive a wider expression of views that they might otherwise obtain. The senator urges that all witnesses exert a maximum effort to consolidate and coordinate their statements.

Witnesses scheduled to testify should comply with the following rules:

(1) All witnesses must submit written statements of their testimony.

(2) Written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be delivered not later than noon on Tuesday, July 20, 1982.

(3) All witnesses must include with their written statements a summary of the principal points included in the statement.

(4) Oral presentations should be limited to a short discussion of principal points included in the one-page summary. Witnesses must not read their written statements. The entire prepared statement will be included in the record of the hearing.

(5) Not more than 5 minutes will be allowed for the oral summary.

Requests to testify.—Witnesses who desire to testify at the hearing on July 21 and 22, 1982, must submit a written request to Robert E. Lighthizer, Chief Counsel, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, to be received not later than 10:00 a.m. on Friday, July 16, 1982. Witnesses will be notified as soon as practicable thereafter whether it has been possible to schedule them to present oral testimony. If for some reason a witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. In such a case, a witness should notify the Committee as soon as possible of his inability to appear.

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, D.C. 20510

July 16, 1982

To: FINANCE COMMITTEE MEMBERS

From: FINANCE COMMITTEE TRADE STAFF

Subject: JULY 21, 22, 1982 HEARINGS ON TARIFF BILLS

On Wednesday and Thursday, July 21 and 22, 1982, the Subcommittee on International Trade will hold hearings on a number of miscellaneous tariff and trade bills pending before the Finance Committee. The hearings will begin at 9:30 a.m. each day in Room 2221 of the Dirksen Senate Office Building. The bills with respect to which testimony will be received are set forth below. Both Administration and private witnesses are expected to testify.

THE MISCELLANEOUS TARIFF BILLS

1902--In section 124 of the Trade Act of 1974 the President was given a limited authority to negotiate and implement tariff rate changes for a 2-year period following the date of enactment of the act. In its report the Finance Committee stated "this authority may be needed to eliminate tariff discrepancies and anomalies that often become apparent only after the results of the major tariff negotiations are more closely examined." Under section 124 this authority was restricted so that in either year duty-rate changes were limited to articles which account for not more than 2 percent of the total value of U.S. imports during the previous 12-month period. Reductions were limited to 20 percent below the existing rate and no duty could be reduced below a rate which could have been achieved under the general tariff cutting authority in section 101 of the Trade Act. In addition, the President was required to seek advice from the International Trade Commmission on the probable economic effect of any tariff rate change.

The President's authority to negotiate and proclaim tariff changes under section 124 expired on January 3, 1982. S. 1902 would extend the authority until January 3, 1984. The extension is strongly supported by the Administration.

S. 2685--This bill would implement the Nairobi Protocol to the Florence Agreement, an existing trade agreement that provides for duty-free trade in certain educational, scientific, and cultural materials, such as works of art, textbooks, and articles for the blind. The United States has adhered to the Florence

Agreement since the enactment of the Educational, Scientific, and Cultural Material Importation Act of 1966.

The Nairobi Protocol expands the coverage of the Florence Agreement by removing some of its restrictions on existing coverage and by broadening its scope to include certain categories of items not previously covered. For example, within current categories, coverage would be extended to scientific maps and charts and wood mosaics, and audiovisual materials will be accorded the same treatment as books. Perhaps the most significant change is a new category: "All materials specifically designed for the education, employment, and social advancement of physically or mentally handicapped persons." The Protocol allows signatories to restrict duty-free treatment to articles imported by specific institutions in some cases and to articles that are not equivalent to domestically produced ones.

The Foreign Relations Committee favorably reported the Protocol on May 21 (Exec. Rep. No. 97-53), recommending that the Senate give its advice and consent to ratification by the President. Consideration of S. 2685 may proceed without regard to Senate action on the treaty.

S. 2685 is designed to serve two implementing purposes: (1) to provide the minimum tariff proclamation authority necessary to meet the Protocol's obligations; and (2) to allow the President sufficient discretion in implementation to insure that other signatories will reciprocate in their application of the Protocol.

To accomplish the first goal, sections 5 - 8 authorize the President to proclaim duty-free treatment for the articles covered by the Protocol. Existing duties on the articles range from 0 to a high of 8.4 percent ad valorem. The duty-free treatment accorded certain scientific tools or apparatus and certain articles for the handicapped would not be limited, as allowed by the Protocol, only to articles imported by certain approved institutions and without domestic equivalents. The Administration believes these limitations are unwarranted in the United States, are not easily administered, and should not be adopted as an example for other countries.

Before the President ratifies the Protocol and permanently proclaims the tariff cuts, however, the Administration intends to insure that other signatories--principally the European Communities--intend to implement the Protocol in substantially the same way as the United States. The Administration therefore states that it will not make the Protocol legally binding on this country until consultations are satisfactorily completed, as expected; section 2 allows the President to set the effective date of his proclamation accordingly.

Pending that determination, the President, pursuant to section 3 of S. 2685, may put into effect for 2-1/2 years the tariff cuts that will ultimately be made permanent. Section 3(a) requires him to do so for articles for the handicapped; section 3(b) allows, but does not require, similar treatment for the other covered articles if the President determines such action is in the national interest. If at the end of the 2-1/2 period the President has not ratified the Protocol and proclaimed permanently the duty reductions, the temporary reductions will expire.

Section 4 of the bill provides a special safeguard relief mechanism for domestic industries that may suffer significant adverse impacts from imports of articles not covered by the Florence Agreement or Nairobi Protocol but to which the bill would nonetheless extend duty-free treatment. (As explained above, the Administration does not propose to restrict imports of these articles by designating importers or determining domestic availability). The President, after hearing the views of both Government and private sector representatives, is authorized to adjust the duty-free treatment of these articles to a level not exceeding the most-favored-nation rate otherwise applicable. For articles covered by the Agreement or Protocol, normal safeguard relief is available pursuant to section 201 of the Trade Act of 1974.

The International Trade Commission compiled the following preliminary estimate of recent imports and exports of articles covered by the Protocol:

	1978	1979	1980	1981
Imports	$155,907,000	158,288,000	193,279,000	201,520,000
Exports	$255,349,000	315,977,000	389,606,000	434,185,000
Net Balance	+99,442,000	+157,689,000	+196,327,000	+232,665,000

S. 2094, Section 8(c).--Although the Committee has already reported S. 2094, it agreed during the markup of this bill to authorize the Chairman to delete the authority to make tariff rate changes contained in section 8(c) because this provision makes the bill a revenue measure which should originate in the House. The Committee also authorized the Chairman, if appropriate after hearings, to place the tariff modification provisions on an appropriate tax bill.

Under section 8(c) the President would be authorized for a 5-year period following the date of enactment to negotiate and to proclaim such tariff modification, elimination, or continuance of any existing duty as he deems appropriate on the following articles in the Tariff Schedules of the United States:

(1) Accounting, computing, and other data processing machines provided in item 676.15;

(2) Data processing machines provided for in item 676.30;

(3) Parts of automatic data processing machines (and units thereof) provided for in item 676.52;

(4) Transistors provided for in 687.70;

(5) Monolithic integrated ciicuits provided for in item 687.74;

(6) Integrated circuits provided or in item 687.77; and

(7) Electronic components provided for in item 687.81.

The International Trade Commission estimates that if the President utilized the full tariff reduction authority proposed in section 8(c), there could be a possible loss of customs revenues of between $400 million and $500 million per year by 1987.

H.R. 4566--H.R. 4566 passed the House and was referred to the Senate on October 16, 1981. It contains proposals relating to 18 separate miscellaneous tariff items. By press release of October 19, 1981 the Subcommittee on International Trade requested written comments on all the provisions of H.R. 4566 as well as a number of other tariff bills introduced in the Senate. Although comments were received on most of the 18 substantive sections of H.R. 4566, conflicting comments were received concerning only the following four sections of the bill:

Section 2--Canned tuna not packed in oil enters the United States under a tariff quota established as 20 percent of the of the U.S. pack of canned tuna produced during the immediately preceding calendar year. The within-quota rate is 6 percent, ad valorem; the over-quota rate is 12.5 ad valorem. In 1980, the Customs Service began classifying shipments of canned tuna from American Samoa as "imports" which count against the quota. Tuna importers claim that as a result of this change the quota was filled and the over-quota duty rate was assessed for the first time. Section 2 would clarify that U.S. insular possessions should not be considered as an import shipment source. The Administration does not object to section 2.

Section 4--Pursuant to a law enacted during the last Congress (P.L. 96-609), the duty on chipper knife steel provided for in item 606.93 of the Tariff Schedules was temporarily reduced from 9.6 percent ad valorem (plus an additional duty which ranges between 0.6 percent and 1 percent depending on the amount of tungsten in the steel) to 4.6 percent ad valorem. The reduced duty expires on October 1, 1982. Section 4 of H.R. 4566 would amend current law to provide for a permanent reduction in annual stages of the column 1 rates on chipper knife as scheduled below on articles entered after the following respective dates:

Date	Rate of duty (percent ad valorem)
Sept. 30, 1982	4.4
Dec. 31, 1982	4.2
Dec. 31, 1983	4.0
Dec. 31, 1984	3.9
Dec. 31, 1985	3.7
Dec. 31, 1986	3.6

There are four chipper knife manufacturers in the United States. The cost of chipper knife steel, approximately two-thirds of which is supplied by imports, has been estimated to account for approximately 80 percent of the cost of finished chipper knives. Imported finished chipper knives currently enter the United States at a duty rate of 4.7 percent ad valorem (.1 percent above the temporary rate on the raw material). This rate is scheduled to be reduced to 3.7 percent ad valorem by January 1, 1987 (at which time the rate would remain .1 percent above the final rate proposed in the bill).

Section 7--Under current law parts of pipe organs provided for the TSUS items 726.60 and 726.62 are dutiable at 5.6 and 4.6 percent ad valorem, respectively. These duties will be reduced in stages to 4.2 and 3.2 percent by 1987. Section 7 of H.R. 4566 would amend the TSUS by eliminating the column 1 (most-favored-nation) rates on TSUS items 726.60 and 726.62. The column 2 rates of duty would remain at 60 and 35 percent, respectively. Finished pipe organs enter the United States free of duty. The purpose of the section is to remove the differential between finished pipe organs and parts of pipe organs, which it is argued is detrimental to the domestic pipe organ industry. The Administration does not object to the provision.

Section 11--Under current law (TSUS item 869.00) articles accompanying a person arriving in the United States), other than duty-free articles or articles acquired in a U.S. insular possession, for personal or household use, or as bona fide gifts, are subject to a flat duty of 10 percent of tha fair retail value in the country of acquisition if such value does not exceed $600. The flat 10 percent duty rate is applied on such noncommercial entries unless the Secretary of Treasury determines that it adversely affects the economic interest of the United States. If such a determination were made the regular rates of duty would apply. Under section 11 of H.R. 4566 the $600 value limitation subject to the 10 percent rate would be increased to $1000. The Administration does not oppose this provision.

Section 17--For approximately 40 years certain metal waste and scrap has entered the United States free of duty under a series of temporary duty suspensions. Section 17 of H.R. 4566 would make the duty suspension permanent except in certain circumstances with respect to copper waste and scrap and articles of copper. Under section 17 these items could also be entered free of duty unless the price of copper falls below 51 cents per pound for one calendar month. In that case, the otherwise applicable rates of duty would apply. The bill also provides that the column 2 rates of duty on copper waste and scrap and copper articles would remain unchanged and the column 2 duty previously suspended on other metal articles would be eliminated.

S. 11--Under current law (TSUS items 137.20 and 137.21), 114 million pounds of white or Irish potatoes, certified as seed potatoes, are entitled to entry at a duty rate of 37.5 cents per 100 lbs. certified seed potatoes entered above this limit are subject to a duty of 75 cents per 100 lbs. For potatoes not certified as seed potatoes only 45 million pounds per year are entitled to entry at 37.5 cents per 100 lbs. Over-quota potatoes are subject to a duty of 75 cents per 100 lbs. A large portion of the potatoes entered as certified seed potatoes currently is marketed as table stock potatoes and not used for seed. The intent of S. 11 is to limit imports of certified seed potatoes to those actually used as seed and to assure that entrees of certified seed potatoes are not used as table stock. Under the provisions of S. 11 this would be acomplished by mandating that the Secretary of the Treasury not process any potatoes for entry into the United States until the President has determined that the relevant Federal agencies have taken appropriate measures to assure that potatoes imported as seed stock are not substituted for potatoes intended for human consumption.

S. 231--Under section 498 of the Tariff Act of 1930 (19 U.S.C. 1498) imports of commercial merchandise up to a value of $250 may be entered under informal entry procedures. In general this relieves the importer of certain paperwork burdens, the posting of bonds, the use of customs house brokers, etc. The $250 limit was enacted into law in 1953. S. 231 would increase the $250 limit to $600. Legislation to increase the limit for informal entries has been offered several times in recent years, including during the consideration of the Customs Procedural Reform and Simplification Act of 1978.

S. 1552--Imported embroidered sachet parts of cotton or man-made fibers are currently classified under TSUS items 386.40 and 386.09 and are subject to column 1 rates of 37 percent ad valorem and 22.5 percent ad valorem, respectively. S. 1552 would amend the Tariff Schedules of the United States, by creating a new TSUS item number 385.65 providing for embroidered sachet parts of cotton or man-made fibers subject to a column 1 rate of duty of 7.5 percent and a column 2 rate of 20 percent.

S. 1565--Under TSUS item number 355.45 imported fish netting and fish nets of man-made fibers and salmon gill netting of nylon are duitable at a rate of 21 cents per pound plus 30.6 percent ad valorem. The column 2 rate is 82 percent ad valorem. S. 1565, if enacted, would lower the column 1 rate on item 355.45 to 17 percent ad valorem. The column 2 rate would remain the same. The rate would be equivalent to the final staged reduction pursuant to the most recent MTN negotiations.

S. 1588--Under TSUS item number 135.42 imported fresh, chilled, or frozen carrots, 4 inches and longer, are dutiable at a column 1 rate of .5 cents per pound and a column 2 rate of 4 cents per pound. S. 1588, if enacted, would suspend the column 1 rate of duty on fresh, chilled, or frozen carrots in packages with a net weight of more than 5 pounds. This duty suspension would take effect upon enactment and terminate on June 30, 1984. The legislation would have no effect on the column 2 rate of duty.

S. 1717--Under existing law (19 U.S.C. 1322(a), a freight container which is used for merchandise carried in foreign trade may be designated as an "instrument of international traffic", and thus be brought in without the payment of duty. However, in order to receive such a designation, a bond must be on file with the Customs Service. If the container is (1) of foreign origin or (2) of U.S. origin and increased in value abroad and if it is withdrawn from international traffic (i.e., "retired" or "domesticated"), it becomes subject to entry and the payment of applicable duties under TSUS item 640.30, currently 3.1% ad valorem for column 1 and 25 percent for column 2. S. 1717, if enacted would provide immediate duty-free treatment for these freight containers under both column 1 and colunn 2. These articles will be entitled to duty-free entry on January 1, 1987 under concessions granted during the MTN.

S. 1723--This bill, if enacted, would implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. The Convention was adopted by the Sixteenth General Conference of UNESCO in 1970 by a vote of 77 to 1. The Senate gave its advice and consent to U.S. ratification of the Convention on August 11, 1972, but the deposit of the instrument of ratification is being held until the passage of implementing legislation. To date 45 countries have become parties to the Convention.

Under the Convention each party agrees to cooperate in a number of important respects to help protect the cultural heritage of other states. The most significant part of the Convention is article 9 under which parties agree to "participate in a concerted international effort to determine and carry out" necessary corrective measures in cases in which a state's cultural patrimoy is in jeoparty from pillage of archaeological or ethnological materials. Another important provision, Article 7(b) of the Convention, requires parties to prohibit the import of cultural property stolen from museums, or religious or public monuments or similar institutions and to take appropriate steps to recover and return such cultural proerty.

S. 1723 focuses on these two main aspects of the Convention. Section 2 of the legislation deals with the pillage or archaeological or ethnological materials and provides that if the President has made certain determinations, and has considered the advice of a committee of experts, negotiations may be undertaken on agreements with other governments to restrict the importation of objects of archaeological or ethnological interest subject to or threatened by pillage. The agreements will define the objects to be protected. However, no agreement may enter the force with respect to the United States until the President determines that other nations having signficant import trade in the archaeological and ethnological material have implemented, as part of a concerted international effort, import restrictions comparable to those of the United States. Once the United States has entered into the agreement, the United States would then issue regulations precluding entry of the objects in question into the United States.

Section 7 of the legislation would prohibit the importation into the United States of objects stolen from museums or religious or public monuments or similar institutions of another country and sets up procedures for seizure and judicial forfeiture of such objects and for their return to the countries from which they have been stolen.

<u>S. 1746</u>--Prior to the conclusion of the Multilateral Trade Negotiations and their implementation in U.S. law certain imported products including benzenoid chemical products (of which the pesticide Dicofol is one) were subject to the American Selling Price (ASP) method of customs appraisement. Under the ASP method of appraisement products which were considered to be competitive with similar domestic products (because they accomplish results substantially equal to those accomplished by the domestic products when used in substantially the same manner) would be appraised on the basis of the U.S. wholesale price of the similar domestic product, without regard to the actual cost of the imported product. If there was no similar domestic product, the import was appraised on the actual wholesale price of the imported product. The MTN Customs Valuation Agreement required the U.S. to eliminate the ASP method of appraisement. Although implementation of the Customs Valuation Agreement required elimination of the ASP system the new system was designed to establish tariff classifications and rates of duty which would have provided an import duty during a representative period substantially equivalent to the amount collected as a

result of the ASP method. As a result of the new classification Dicofol was placed in TSUS item 408.28, which was designed to include imports previously classified as "competitive". The column 1 duty rate in item 408.28 is 19.6 percent. S. 1746 would amend the TSUS by specifically including Dicofol in TSUS item 408.24. Since this provision was designed to include those imported insecticides not produced in the United States and therefore "not competitive" the column 1 duty rate in item 408.24 is 12 percent ad valorem.

S. 1979--Under TSUS item 411.28 the drugs sulfaguanidine and sulfapyridine, are subject to a column 1 rate of duty 22.5 percent ad valorem and under TSUS item 411.80 the drug sulfathiazole is dutiable at the column 1 rate of duty of 29.4 percent ad valorem. S. 1979, if enacted, would eliminate the column 1 rate with respect to each of these 3 drugs thereby allowing imports of each to enter free of duty. The column 2 rate would remain the same as under current law.

S. 2031--Under current law (TSUS item 603.50) certain materials containing over 10 percent copper (such as copper scale) to be treated at a copper plant are subject to a column 1 rate of duty of 62 cents per pound on copper content plus varying other duties depending on lead or zinc content. S. 2031, if enacted, would amend the Tariff Schedules and would provide for a three year suspension of duties on copper scale beginning on the date of enactment.

S. 2247--Under current law imported footwear is dutiable under a number of provisions in schedule 7 of the Tariff Schedules of the United States. S. 2247, if enacted, would permit the duty-free entry of certain footwear provided for in 11 specificied TSUS items to be used in the Special Olympics program.

S. 2396--Under current law (TSUS item 522.81) imported mineral wool, including alumina fiber is dutiable at a column 1 rate of 6.5 percent ad valorem. S. 2396, if enacted, would amend the tariff schedules by creating a new temporary provision specifically for high alumina fiber and providing for the suspension of duty on high alumina fiber imported into the United States on or before September 30, 1985.

S. 2560--S. 2560 addresses the same issue, the importation of seed potatoes diverted for human consumption, as S. 11 described above. It represents a technical redraft of the earlier bill.

S. 2566--Under current law (TSUS item 670.02) certain imported machines used on the preparation of textiles and yarns are dutiable at a column 1 rate of 5.3 percent ad valorem. S. 2566, if enacted, would amend the Tariff schedules by eliminating the column 1 duty on imports of these texturing machines entered into the United States after March 1, 1982.

S. 2692--Under current law (Parts 5D, 5E, and 6A of Schedule 7 of the Tariff Schedules) certain imported small toys are subject to duties ranging between 7.7 percent and 22 percent. S. 2692, if enacted, would amend the Tariff Schedules by providing for the suspension of duties on certain of the small toys classified in these three parts (except balloons, marbles, dice, and die cast vehicles) imported into the United States on or before December 31, 1986.

S. 2699--Under current law (TSUS item 407.07) imports of 1,6-Hexanediol are dutiable at a column 1 rate of 13.5 percent ad valorem. S. 2699, if enacted, would amend current law by providing for the suspension of duties on Hexanediol imported into the United States on or before June 30, 1985.

S. 2705--Until June 30, 1981 the duties on mixtures of mashed or macerated hot red peppers and salt were suspended. At that time the temporary suspension was terminated and the applicable duty rate of 17.5 percent ad valorem in TSUS item 141.98 again became effective. S. 2705, if enacted, would again suspend the duties on hot red peppers. The suspension would be in effect for imports entering the United States on or before June 30, 1985. The bill would also provide that upon the filing of a request with Customs any duties which have been paid on imported red peppers since the duty suspension terminated would be repaid.

STATEMENT OF SENATOR BOB DOLE

Mr. Chairman, coming as they do in the midst of very important Senate debates on the Tax Equity and Fiscal Responsibility Act and the balanced budget amendment, and other pressing business, these hearings on various trade and tariff bills are conclusive evidence that you are a glutton for work! We consider today and tomorrow some twenty-five different measures; next week you will chair hearings on the extension of U.S. participation in the international coffee and sugar agreements; and the following week we will convene in full committee for a hearing on the Caribbean Basin Initiative. With other subcommittees also forging ahead with their business, we clearly will not escape the important responsibilities entrusted to us over these hot summer months.

I am happy with the opportunity afforded by these hearings to receive testimony on such a large number of pending bills. I look forward to hearing our witnesses discuss the merits of three bills in particular: First, the extension of the President's negotiating authority provided in section 124 of the 1974 Trade Act; second, the legislation I introduced, with a number of cosponsors, to implement the Nairobi Protocol to the Florence agreement on imports of scientific, cultural, and educational goods; and third, S. 1723, a bill to implement a treaty on trade in stolen cultural property.

SECTION 124

When the Congress adopted the 1974 Trade Act, it recognized that at the conclusion of the tariff negotiations authorized by the act that some residual adjustments would be needed to bring final order to the thousands of changes in tariffs that would be made. As the finance committee noted at the time, such authority "may be needed to eliminate tariff discrepancies and anomalies that often become apparent only after the results of the major tariff negotiations are more closely examined." A number of restrictions, however, were thought necessary by the committee to prevent this residual authority from being utilized as general tariff cutting authority once section 101 had expired.

The administration urges that section 124 be renewed because, prior to its expiration last December, it had been effectively employed as it was originally intended, and further harmonization and removal of anomalies are needed. We will hear from other witnesses today that section 124 should not be renewed because no further tariff cuts should be made in our present economic circumstances.

I have made no judgment on the need for renewal of section 124, and I will listen closely to the explanation of the administration as to what it will be used for if renewed and what, if any, safeguards should be included to restrict its use.

THE NAIROBI PROTOCOL

One bill I have made a judgment on is S. 2685—the legislation I introduced to implement the Nairobi Protocol to the Florence agreement. Senators East, Chafee, Danforth, Wallop, Roth, Grassley, Percy, Bradley, Durenberger, and Mathias have joined you in cosponsoring this bill, Mr. Chairman, and I think our other colleagues will be persuaded by today's testimony that this bill represents a very positive use of our trade agreements program. As I said in introducing the bill, the Nairobi Protocol is important for three reasons: (1) it expands the Florence agreement in one way particularly important to many of us—to embrace articles specifically designed to benefit the handicapped; (2) it will contribute to increased U.S. exports; and (3) it will contribute to greater international understanding by facilitating increased exchanges of those things that manifest our cultural heritage. I am pleased that we have a fine group of witnesses today that can demonstrate the wide range of beneficiaries of this protocol and legislation.

Let me acknowledge now my appreciation for their active work over the years with the State and Commerce Departments in preparing this agreement and bill.

S. 1723

Finally, I wish to note my interest in S. 1723, a bill to implement another international trade convention, this one dealing with theft of cultural property. Just as the Nairobi Convention will promote international understanding through facilitating increased exchanges of cultural materials and ideas through normal trade, I believe that S. 1723 may also contribute to international understanding in another way—by promoting mutual recognition of the importance of antiquities to the study and teaching by nations of their heritage. All nations, including our own, take increasing pride in unearthing and preserving the artifacts of their past. The Senate recognized this some 10 years ago in giving its advice and consent to U.S. ratification of a United Nations Convention promoting rules controlling the pillage of important historical sites. I hope the time has come when full U.S. participation in this endeavor can occur through enactment of the necessary implementing legislation. I look forward to our witnesses' testimony today on whether S. 1723 would accomplish this goal.

Thank you.

Opening Statement of Senator John Heinz

Mr. Chairman, I would like to make a few brief comments about S. 1902, which would extend the President's authority under section 124 to make tariff reductions for an additional 2 years.

I want to comment at the beginning of this hearing because I have serious reservations about this bill, and I hope the Committee will consider very carefully before taking it up. My reservations about this bill involve both principal and practical effect.

First, it is virtually unprecedented. Congress has historically guarded its prerogative to set trade policy jealously and has never granted broad tariff-cutting authority outside the context of a special negotiation like the Kennedy Round or the Tokyo Round. That was the original purpose of section 124 in the Trade Act of 1974. Its two-year extension in the trade Agreement Act of 1979 was specifically to "tie up loose ends" left over from the Tokyo Round. Those in the room today who were involved in the writing of that bill will remember that even that modest objective was the subject of considerable controversy for precisely the reason I have suggested—a dangerously broad grant of authority to the Executive.

My second reservation concerns the practical effect of this bill. Simply put, I believe the good it may do will be far outweighed by the damage it will do to already import-impacted industries.

The authority in this bill is broad; deliberately so says the Administration, so it can make the best deals possible. That makes good sense. But to get those good deals what must we relinquish? Clearly our tariffs on items other nations want to send here. And what might those items be? In all probability a good assortment of products from industries that are already vulnerable to competition from imports.

Take a look at the industries that oppose this bill—apparel, leather goods, specialty steel, footwear, lead and zinc, color televisions, among others—and you have a list of the industries in this country already reeling from imports, some fair and some not. These industries have serious problems by any standard of measurement. Yet we are now proposing to put an additional burden on them.

To understand that better, I suggest we ask the Administration why it opposes an amendment that will clearly exempt those industries from the scope of the bill. The answer, I suspect, will be the need for flexibility in negotiations. What that means to me is that the Administration realizes the point I just made—in order to get tariff reductions abroad that the private sector proponents of this bill want, we are going to have to reduce our tariffs in precisely the areas opponents of this bill fear will hurt them the most. And the damage we do thereby, in my judgment, far outweighs the gain the bill's proponents will obtain.

A better approach, it seems to me, is to handle the matter sectorally, as we have done with respect to certain high technology items that are also the subject of today's hearing. I hope the Committee will consider that alternative approach as well before it acts hastily on S. 1902.

Statement of Senator Steven D. Symms

Mr. Chairman, I would like to address my comments today to only one of the bills that the Committee will be reviewing. Specifically, I am very concerned about the desirability of extending the authority to reduce tariffs contained in Section 124 of the Trade Act of 1974.

At this time, I do not necessarily believe that it is appropriate to extend Section 124 without being furnished specifics as to what industries will benefit from the supposed increase in U.S. exports, to which countries will such exports go, and what U.S. industries and workers will be expected pay the price by having to face the consequences of lower tariffs on their products.

I am particularly concerned about the impact this would have on our domestic lead and zinc industry. The lead and zinc industry cannot afford to have the tariffs on its products cut further, nor can it afford to have the threat of tariff cuts hanging over it. The effects of the tariff cuts on lead and zinc in the Multilateral Trade Negotiations and subsequent action by Congress in enacting a three-year reduction in the lead metal duty, have contributed to the depressed state of the industry today.

Gulf Resources and Chemical Corporation pointed out in November 1981 when it announced the closing of its Bunker Hill Company operations:

In terms of constant dollars, there have been significant increases in the costs of production of lead, zinc and silver, particularly in labor and energy costs since 1970. In the same constant-dollar terms, today's price of lead and zinc is essentially the same as in 1970 . . . . In addition, significant operating and capital costs have been imposed upon Bunker Hill's operations by the requirements of the environmental and health and safety laws. Over-capacity for lead and zinc have developed on a worldwide basis, in part because foreign governments have encouraged and in some instances subsidized mining and smelting operations.

In 1980, Bunker Hill produced 20 percent of the total U.S. output of lead and zinc. At one time its facility in Idaho employed about 2,500 workers. However, the facility was closed permanently in early 1982 with a major loss of jobs for the region.

Bunker Hill was closing at a time when the Canadians were building a $360 million zinc smelter project in northeast New Brunswick, $35 million of which was financed by government grants.

The duties on lead and zinc metal are lower in the U.S. than they are in the European Community or Japan. This means in time of market glut, excess metal enters the U.S. market, the most open of the three major markets. Further reductions in lead and zinc tariffs would only add to this already serious problem and lead to further injury of this strategic domestic industry.

Senator DANFORTH. This begins a 2-day hearing on a number of miscellaneous trade bills.

I notice from looking at the witness list that it is very long, and for that reason I am going to ask all of the witnesses to abide by the time constraints that they have already been told about by the staff.

I want to start now and just go down the list and see who is here. I know that Ambassador Brock will be here in about 15 minutes. Is Delegate de Lugo here yet?

[No response.]

Senator DANFORTH. Denis Lamb.

Would you like to proceed, Mr. Lamb?

Mr. LAMB. May I summarize my statement?

Senator DANFORTH. Yes, sir.

And, all statements, if they could be summarized in the allotted time. Of course, they will be included in the record in full.

STATEMENT OF DENIS LAMB, DEPUTY ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS

Mr. LAMB. Mr. Chairman, I appreciate this opportunity to present the views of the Department of State on legislation to implement the protocol to the Agreement on the Importation of Educational, Scientific, and Cultural Materials, known as the Nairobi protocol.

The State Department agrees with the Commerce Department that the Nairobi protocol, if suitably implemented by the United States and other major trading partners, will provide important benefits to U.S. interests. These include lower costs to American consumers of books, films, sound recordings, and other educational, scientific, and cultural materials; expanded markets abroad for U.S. exports of these same products; and lower cost materials for the blind and other handicapped in the United States.

Ratification by the United States will also provide an important step toward a larger goal of this administration.

UNESCO's purpose in sponsoring this agreement is to further the international flow of ideas. Increased freedom for the exchange of information is a principal element in this administration's program to extend to the service sector the trade liberalization gained during the last two decades for the goods sector.

A key provision of this legislation is the 2½-year trial period. During this time, the State Department plans to continue consultations with our major trading partners, to encourage them to adhere to the Nairobi protocol and its more liberal provisions. We will also remain in close contact with the concerned industry groups in order to assure that their experiences with foreign implementation of the protocol are reflected in our official and diplomatic discussions. We believe that this consultative process can achieve the liberal implementation of the protocol by other nations which would justify our own approach to implementation; however, if adequate implementation matters are not adopted by others within the specified period, the proposed legislation will permit the administration to reassess U.S. ratification of the protocol.

Thus, the administration plans to deposit the agreement's instrument of ratification only after the President has determined that sufficiently broad duty-free treatment is being provided by other countries for our exports.

In summary, Mr. Chairman, I urge the committee to give favorable consideration to the proposed legislation to implement the Nairobi protocol.

I would be happy to answer any questions you may have.

Senator DANFORTH. All right. Thank you very much, Mr. Lamb.

[The prepared statement of Hon. Denis Lamb follows:]

STATEMENT OF

DEPUTY ASSISTANT SECRETARY OF STATE FOR
ECONOMIC AND BUSINESS AFFAIRS

DENIS LAMB

BEFORE THE
SENATE FINANCE COMMITTEE

JULY 21, 1982

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO PRESENT THE VIEWS OF THE DEPARTMENT OF STATE ON LEGISLATION TO IMPLEMENT THE PROTOCOL TO THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS, KNOWN AS THE "NAIROBI PROTOCOL". THE STATE DEPARTMENT AGREES WITH THE COMMERCE DEPARTMENT THAT THE NAIROBI PROTOCOL, IF SUITABLY IMPLEMENTED BY THE UNITED STATES AND OTHER MAJOR TRADING COUNTRIES, WILL PROVIDE IMPORTANT BENEFITS TO U.S. INTERESTS. THESE BENEFITS INCLUDE LOWER COSTS TO AMERICAN CONSUMERS OF BOOKS, FILMS, SOUND RECORDINGS AND OTHER EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS; EXPANDED MARKETS ABROAD FOR U.S. EXPORTS OF THESE SAME PRODUCTS; AND LOWER COST MATERIALS FOR THE BLIND AND OTHER HANDICAPPED IN THE UNITED STATES.

RATIFICATION BY THE UNITED STATES OF THE NAIROBI PROTOCOL WILL ALSO PROVIDE AN IMPORTANT STEP TOWARDS A LARGER GOAL OF THIS ADMINISTRATION. AS STATED EARLIER

BY DEPUTY ASSISTANT SECRETARY O'DAY, UNESCO'S PURPOSE IN SPONSORING THIS AGREEMENT IS TO FURTHER GREATER INTERNATIONAL FLOW OF IDEAS. INCREASED FREEDOM FOR THE EXCHANGE OF INFORMATION IS A PRINCIPAL ELEMENT IN THIS ADMINISTRATION'S PROGRAM TO EXTEND TO THE SERVICE SECTOR THE TRADE LIBERALIZATION GAINED DURING THE LAST TWO DECADES FOR THE GOODS SECTOR. LIBERAL IMPLEMENTATION OF THE NAIROBI PROTOCOL BY THE U.S., AS IS CALLED FOR BY THIS ACT, WILL SIGNAL TO OUR MAJOR TRADING PARTNERS OUR DETERMINATION TO MOVE TOWARD FREE TRADE FOR SERVICES.

THE NAIROBI PROTOCOL MODIFIES AN EARLIER AGREEMENT, THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS. THIS AGREEMENT, KNOWN AS THE FLORENCE AGREEMENT, WAS ADOPTED BY THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION (UNESCO) AT ITS GENERAL CONFERENCE OF JULY 1950, HELD IN FLORENCE, ITALY. THE UNITED STATES, ALONG WITH OUR PRINCIPAL TRADING PARTNERS, IS A PARTY TO THE FLORENCE AGREEMENT, WHICH SEEKS GENERALLY TO IMPROVE THE INTERNATIONAL FREE FLOW OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS. THE AGREEMENT PROVIDES PRINCIPALLY FOR THE EXEMPTION FROM DUTY FOR IMPORTS OF SUCH MATERIALS, INCLUDING BOOKS, PUBLICATIONS AND DOCUMENTS; WORKS OF ART

AND COLLECTORS' PIECES; VISUAL AND AUDITORY MATERIALS; SCIENTIFIC INSTRUMENTS AND APPARATUS; AND ARTICLES FOR THE BLIND. THE UNITED STATES PUT THE PROVISIONS OF THE FLORENCE AGREEMENT INTO EFFECT IN 1966 THROUGH LEGISLATION.

IN NOVEMBER 1976, AT NAIROBI, KENYA, THE UNESCO GENERAL CONFERENCE, WITH THE UNITED STATES PARTICIPATING, ADOPTED A DRAFT PROTOCOL AMENDING AND SUBSTANTIALLY EXPANDING THE COVERAGE OF THE FLORENCE AGREEMENT. ON MARCH 1, 1977, THE PROTOCOL WAS OPENED FOR SIGNATURE AT THE UNITED NATIONS TO ALL COUNTRIES PARTY TO THE FLORENCE AGREEMENT.

THE NAIROBI PROTOCOL MODIFIES AND EXTENDS THE PROVISIONS OF THE FLORENCE AGREEMENT IN A NUMBER OF WAYS, PRINCIPALLY BY ADDING PRODUCTS ELIGIBLE FOR DUTY-FREE TREATMENT AND BY DROPPING THE REQUIREMENT THAT SEVERAL PRODUCTS BE IMPORTED BY INSTITUTIONS OR ORGANIZATIONS APPROVED FOR THAT PURPOSE BY THE HOST GOVERNMENT. THE BASIC PROVISIONS ARE THOSE EXEMPTING FROM CUSTOMS DUTIES THE MATERIALS LISTED IN NINE ANNEXES. THE ANNEXES, WHICH INCLUDE AND BROADEN THE SCOPE OF THE ANNEXES TO THE FLORENCE AGREEMENT, COVER THE FOLLOWING CATEGORIES OF PRODUCTS:

-- ANNEX A COVERS BOOKS, PUBLICATIONS AND DOCUMENTS;

-- ANNEX B COVERS WORKS OF ART AND COLLECTORS' PIECES OF AN EDUCATIONAL, SCIENTIFIC, OR CULTURAL CHARACTER;

-- ANNEX C CONTAINS TWO ALTERNATIVE VERSIONS COVERING VISUAL AND AUDITORY MATERIALS SUCH AS FILM AND SOUND RECORDINGS;

-- ANNEX D. COVERS SCIENTIFIC INSTRUMENTS OR APPARATUS; AND

-- ANNEX E COVERS ARTICLES FOR THE BLIND AND OTHER HANDICAPPED.

THE UNITED STATES HAS DECIDED: 1) TO EXERCISE THE BROADER OPTION OF ANNEX C1, BUT 2) NOT TO ADOPT THREE ADDITIONAL AND OPTIONAL ANNEXES COVERING SPORTS EQUIPMENT, MUSICAL EQUIPMENT, AND MATERIALS AND EQUIPMENT USED FOR THE PRODUCTION OF BOOKS, PUBLICATIONS, AND DOCUMENTS. WE DECIDED THAT ADOPTING THESE ANNEXES WOULD LEAD TO AN INCREASE OF IMPORTS WITH A POTENTIAL FOR INJURING DOMESTIC INDUSTRY, AND WITHOUT PROVIDING SUFFICIENT OFFSETTING BENEFITS.

A NUMBER OF PRIVATE SECTOR GROUPS, INCLUDING SEVERAL INDUSTRY ASSOCIATIONS AND ORGANIZATIONS FOR THE HANDICAPPED, HAVE EXPRESSED TO US THEIR SUPPORT FOR THE U.S. BECOMING A PARTY TO THE PROTOCOL. THE U.S. RECORDING, PUBLISHING, AND MOTION PICTURE INDUSTRIES FIGURE PROMINENTLY AMONG THESE GROUPS. IN ADDITION, HOWEVER, CONCERNED FEDERAL AGENCIES, PARTICULARLY THOSE INVOLVED IN QUESTIONS OF TRADE POLICY, HAVE EXAMINED THE PROTOCOL AND CONCLUDED THAT U.S. ADOPTION, IF COUPLED WITH SUITABLE IMPLEMENTING LEGISLATION, WOULD STRONGLY BE IN THE NATIONAL INTEREST. THE STATE DEPARTMENT

IN PARTICULAR BELIEVES THAT U.S. CONSUMERS AND INDUSTRY WOULD BENEFIT SIGNIFICANTLY FROM THE LOWER COST IMPORTS FOSTERED BY THE PROTOCOL; MOREOVER, WHEN OTHER MAJOR TRADING COUNTRIES ADOPT THE PROTOCOL AND PROVIDE SATISFACTORY RECIPROCAL BENEFITS, IMPORTANT MARKETS FOR U.S. EXPORTS WILL BE OPENED. U.S. EXPORTS OF THESE PRODUCTS, INCLUDING MOTION PICTURES AND CERTAIN KINDS OF BOOKS, ARE HIGHLY COMPETITIVE AND WOULD BENEFIT FROM LOWER FOREIGN DUTIES.

WE HAVE EXAMINED THE OTHER SIDE OF THE COIN: THE POTENTIAL FOR INJURY TO DOMESTIC INDUSTRY FROM INCREASED IMPORTS OF PRODUCTS COVERED BY THE PROTOCOL. THE MAJOR INDUSTRIES THAT WOULD BE AFFECTED BY LIBERALIZED IMPORTS UNDER THE AGREEMENT HAVE NOT EXPRESSED SERIOUS CONCERN ABOUT THIS POSSIBILITY. WE BELIEVE THAT RISKS ALONG THESE LINES ARE MINIMAL.

LIBERAL ADOPTION AND IMPLEMENTATION BY A LARGE NUMBER OF NATIONS CAN SUBSTANTIALLY BENEFIT U.S. EXPORTERS, THUS RECIPROCITY IS IMPORTANT. WE BELIEVE THAT OUR OWN LIBERAL IMPLEMENTATION OF THE PROTOCL ON A PERMANENT BASIS COULD ONLY BE JUSTIFIED IF OUR EXPORTERS RECEIVE GENERAL RECIPROCITY FROM OTHER IMPORTANT NATIONS. THEREFORE, THE ADMINISTRATION PLANS TO DEPOSIT THE AGREEMENT'S INSTRUMENT OF RATIFICATION ONLY AFTER THE PRESIDENT HAS DETERMINED THAT ADEQUATE RECIPROCOAL DUTY-FREE TREATMENT TO OUR EXPORTS WILL BE PROVIDED BY OTHER COUNTRIES.

IN THE MEANTIME, THE LEGISLATION BEING CONSIDERED TODAY WOULD ALLOW THE U.S. TO IMPLEMENT ALL OR PORTIONS OF THE PROTOCOL ON A TEMPORARY BASIS. THE ACT WOULD PROVIDE DUTY-FREE TREATMENT TO CERTAIN ARTICLES COVERED BY THE PROTOCOL AS SOON AS THE AGREEMENT COMES INTO FORCE FOR THE UNITED STATES--I.E., SIX MONTHS AFTER THE U.S. DEPOSITS ITS INSTRUMENTS OF RATIFICATION. UNTIL THEN TEMPORARY DUTY-FREE TREATMENT WOULD BE ACCORDED TO ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS FOR A TWO-AND-ONE-HALF YEAR PERIOD BEGINNING ONE MONTH FROM THE DATE OF ENACTMENT OF THE BILL. IN ADDITION, THE PRESIDENT WOULD BE GIVEN DISCRETIONARY AUTHORITY TO GRANT SIMILAR TEMPORARY DUTY-FREE TREATMENT FOR ARTICLES IN SOME OTHER CATEGORIES COVERED BY THE BILL. ALL TEMPORARY DUTY-FREE TREATMENT ACCORDED BY THE BILL WOULD LAPSE AT THE END OF THE TWO AND ONE-HALF YEAR PERIOD UNLESS THE BILL AS A WHOLE HAD BECOME PERMANENTLY EFFECTIVE AFTER DEPOSIT OF THE U.S. INSTRUMENT OF RATIFICATION BASED ON A PRESIDENTIAL DETERMINATION OF ADEQUATE RECIPROCITY FROM OTHER COUNTRIES.

THIS LEGISLATION WOULD PROVIDE DUTY-FREE TREATMENT FOR ARTICLES IN SOME OF THE CATEGORIES WHICH IS BEYOND THE STRICT REQUIREMENTS OF THE PROTOCOL. IN THESE TWO CATEGORIES--ARTICLES FOR THE BLIND AND OTHER HANDICAPPED AND TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS--WE SEE A PARTICULAR NEED TO ENSURE THAT U.S. INDUSTRIES AND EXPORTERS

ARE NOT HARMED BY OUR VOLUNTARY AND UNILATERAL GRANTING OF DUTY-FREE TREATMENT ABOVE AND BEYOND THE PROVISIONS OF THE PROTOCOL. FOR THIS REASON THE LEGISLATION AUTHORIZES THE PRESIDENT TO PLACE CONDITIONS UPON OR TO NARROW TO THE STRICT OBLIGATIONS OF THE PROTOCOL THE SCOPE OF THE DUTY-FREE TREATMENT ACCORDED UNDER THE BILL FOR ARTICLES IN THESE TWO CATEGORIES.

DURING THE TWO AND A HALF YEARS THAT THE PROVISION OF THIS BILL WOULD BE IN EFFECT, THE PRESIDENT WILL BE EMPOWERED TO RATIFY THE PROTOCOL AND MAKE THESE TARIFF CHANGES PERMANENT. THERE ARE SEVERAL FACTORS THAT THE PRESIDENT WILL TAKE INTO ACCOUNT IN DETERMINING IF U.S. TRADING PARTNERS ARE IMPLEMENTING THE PROTOCOL IN A MANNER THAT JUSTIFIES U.S. RATIFICATION OF THE AGREEMENT. HE WILL CONSIDER THE LEVEL OF OBLIGATIONS ASSUMED BY OUR TRADING PARTNERS UNDER THE PROTOCOL, THE METHOD OF IMPLEMENTATION OF THE OBLIGATIONS, AND THE BENEFITS OF U.S. RATIFICATION FOR U.S. CONSUMERS AND EXPORTERS. IN MAKING THESE DETERMINATIONS, THE PRESIENT WILL RELY ON INFORMATION AND EVIDENCE GATHERED BY BOTH THE STATE DEPARTMENT AND THE COMMERCE DEPARTMENT. DURING THE NEXT TWO AND A HALF YEARS THE ADMINISTRATION INTENDS TO REMAIN IN CLOSE CONTACT WITH U.S. MANUFACTURERS TO ASK ABOUT THEIR EXPERIENCES WITH FOREIGN IMPLEMENTATION OF THE PROTCOL, AND TO SEEK THEIR GUIDANCE ABOUT AREAS OF CONCERN THAT SHOULD BE ADDRESSED IN THE ADMINISTRATION'S ONGOING CONSULTATIONS

WITH OUR MAJOR TRADING PARTNERS.

THE PROCESS OF CONSULTING WITH OUR MAJOR TRADING PARTNERS ABOUT THEIR INTENTIONS WITH REGARD TO THE PROTOCOL HAS ALREADY BEGUN. AS SOON AS THE U.S. BEGINS TO IMPLEMENT THE PROVISIONS OF THE LEGISLATION BEFORE THIS COMMITTEE TODAY, THE CONSULTATIVE PROCESS WILL INTENSIFY. THE ADMINISTRATION WILL MAKE CLEAR IN THESE DISCUSSIONS THE STRONG INTEREST OF THE U.S. IN SEEING OTHER GOVERNMENTS ADOPT THE BROADEST POSSIBLE IMPLEMENTATION. WE WILL ALSO INFORM OUR INTERLOCUTORS THAT OUR CONCERNS EXTEND BEYOND THE PROMULGATION OF REGULATIONS TO IMPLEMENTATION, AND THAT WE WILL WATCH TO SEE THAT THERE IS A CLEAR AND CONSISTENT PATTERN OF ENFORCEMENT. THE ADMINISTRATION REMAINS OPTIMISTIC THAT THIS PROCESS AND THE NATURAL INTERESTS OF OUR MAJOR TRADING PARTNERS WILL LEAD THEM TO IMPLEMENT THE PROTOCOL ON A LIBERAL BASIS SUBSTANTIALLY EQUIVALENT TO OUR OWN, THEREBY MAKING U.S. RATIFICATION OF THE PROTOCOL POSSIBLE.

IF, HOWEVER, AT THE END OF THE TWO AND A HALF YEAR TRIAL PERIOD THERE IS NOT EVIDENCE THAT OUR TRADING PARTNERS ARE IMPLEMENTING THEIR PROTOCOL ON A FORTHCOMING BASIS CONSISTENT WITH OUR OWN IMPLEMENTATION, THE PRESIDENT NEED NOT DEPOSIT U.S. INSTRUMENTS OF RATIFICATION. IN THIS CASE, THE ALTERNATIVES AVAILABLE WILL INCLUDE A DECISION NOT TO RATIFY AT ALL, A DECISION TO RATIFY ON A MORE RESTRICTIVE BASIS THAN IS NOW ENVISIONED, OR A DECISION TO DELAY FINAL ACTION WHILE CONSULTATIONS WITH OUR MAJOR TRADING PARTNERS CONTINUE.

IN SUMMARY, MR. CHAIRMAN I URGE THE COMMITTEE TO GIVE FAVORABLE CONSIDERATION TO THE LEGISLATION BEFORE IT TODAY, AND RECOMMEND THAT THE SENATE GIVE ITS ADVICE AND CONSENT TO RATIFICATION OF THE PROTOCOL AT THE EARLIEST POSSIBLE DATE.

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Senator DANFORTH. Senator Grassley.

Senator GRASSLEY. Thank you, Mr. Chairman.

Let me ask the indulgence of the people who are here so I can make a statement on S. 1979, so I can go to the floor of the Senate to be there when the tax bill is discussed.

Senator GRASSLEY. Mr. Chairman, I appear before you this morning to seek your support for S. 1979, a bill to suspend duties on certain sulfa drugs.

This legislation, and its companion bill in the House, H.R. 4890, addresses the need to reduce the cost of sulfa to make medicine, which includes the three compounds mentioned in these bills. These drugs are used in a high percentage of pork production in the United States, either for therapeutic purposes or in the feed supply. The sulfa drugs help cure diseases, maintain certain healthy animals, and thereby cut production costs.

The existing duty on these drugs adds approximately 20 to 30 cents per ton to the cost of feed. This may not amount to much per animal, but production of pork averages between 80 and 90 million animals per year, so you can see that the added 4 to 6 cents per head counts up in increased pork prices to the consumer.

Mr. Chairman, I honestly believe that the elimination of this duty would not only reduce the cost of pork production in this country but will stimulate competition in a highly competitive market of sulfa drugs, further benefiting the livestock industry in the United States.

In closing, I would remind the committee, there is no U.S. manufacturer of sulfathiazole or sulfapyridine, two of the three sulfa drugs included in this bill. The only manufacturer of the third drug, sulfaguanidine, uses it as an intermediate and does not offer it for sale.

Mr. Chairman, I ask that I may submit testimony that details more thoroughly the reasons for elimination of duties on these drugs. The testimony I submit is the same as that submitted before the Subcommittee on Trade for the House Ways and Means Committee in support of H.R. 4890 by users of the drug as well as the pork industry.

Senator DANFORTH. Fine. Without objection, the testimony will be included in the record.

[The prepared statement of Senator Grassley and other testimony follows:]

STATEMENT
by the

HONORABLE SENATOR CHARLES E. GRASSLEY

for the hearing record on
S. 1979
of the Subcommittee on
International Trade
of the
Senate Finance Committee

21 July - 1982

Mr. Chairman and Members of the Subcommittee:

I appear before you this morning to seek your support for S. 1979, a bill to suspend duties on certain sulpha drugs. This legislation and its companion bill in the House, H.R. 4890, addresses the need to reduce the cost of sulfonamides, which include the three compounds mentioned in these bills. These drugs are used in a high percentage of all hogs produced in the United States either for therapeutic purposes or in the feed supply. The sulphonamides help cure diseases, maintain healthy animals and thereby cut production costs.

The existing duty on these drugs adds approximately 20 - 30 cents per ton to the cost of feed. This may not amount to much per animal, but production of hogs averages between 80 and 90 million animals per year, so you can see the added 4 to 6 cents per head counts up in increased pork prices to the consumer.

Mr. Chairman and Members of this Committee, I honestly believe that the elimination of this duty will not only reduce the cost of pork production in this country but will stimulate competition in the highly competitive market of supha drugs, further benefitting the livestock industry in the United States.

In closing, I would remind the Committee there is no U.S. manufacture of sulphathiozole or sulphapyridine, two of the three sulphonamides included in this bill. The only manufacturer of the third drug sulphaguanidine uses it as an intermediate and does not offer it for sale.

Mr. Chairman, I ask that I may submit testimony that details more thoroughly reasons for the elimination of duties on these drugs. The testimony I submit is the same as that submitted before the Subcommittee on Trade of the House Ways and Means Committee in support of H.R. 4890.

STATEMENT OF G. J. SKAPEK OF DIAMOND SHAMROCK CORPORATION BEFORE THE HOUSE WAYS AND MEANS COMMITTEE ON HOUSE BILL 4890

My name is Gus Skapek. I am speaking on behalf of Diamond Shamrock Corporation, which produces a variety of agricultural chemicals and animal health products for domestic and foreign markets. I have been directly involved in purchasing sulfathiazole for approximately four years.

Two of the major products of Diamond Shamrock's Animal Health Division are CSP-250 and CSP-500, combinations of chlortetracycline, sulfathiazole and penicillin, used widely by pork producers to prevent and control disease, promote growth and improve feed efficiency. Diamond Shamrock holds approved New Animal Drug Applications from the Food and Drug Administration to make and sell CSP-250 and CSP-500 for feed use. FDA has recognized the effectiveness of these products in reducing the incidence of cervical abscesses, in treating bacterial swine enteritis and in maintaining weight gains in the presence of atrophic rhinitis.

Diamond Shamrock purchases all of its requirements of sulfathiazole abroad, since the drug is no longer produced domestically. Indeed, before the current tariff schedule became effective, all domestic production had come to an end. We formerly purchased the drug from a major American pharmaceutical house, but that company was unwilling to increase its capacity to meet Diamond Shamrock's growing needs and ultimately discontinued production of sulfathiazole completely. Diamond Shamrock was forced to find a foreign source of supply, since there was, and continues to be, no other domestic producer.

Because of low profitability due to the relatively small volume of sulfathiazole consumption and environmental problems associated with its manufacture, we do not believe that domestic production of sulfathiazole will be resumed.

The current tariff schedule is based upon a survey of chemicals produced in the United States as of a particular date. On that date, the previously-mentioned American supplier was still producing sulfathiazole. Shortly after that date, however, it discontinued production and has not produced it since.

Given the announced intention of the Multilateral Trade Negotiations to reduce tariffs, we are unable to explain the dramatic increase in the duties assessed on sulfathiazole from 12.5% to 35.1% in the first year. We must assume, however, that no increase would have occurred, had there been no domestic production in the first place. Unfortunately, the law made no provision for the downward adjustment of duties upon the discontinuance of domestic production. It is our understanding that such adjustment may only be accomplished by legislation and that it would not be an appropriate subject for international negotiation. In our view, reducing the duty on sulfathiazole is simply lifting a burden imposed upon American industry for no apparent reason.

CSP-250 and CSP-500 are directly competitive with several other combination drugs produced in the United States (one of which accounts for 60-65% of the market for such products). These other combinations also include chlortetracycline and penicillin, but use sulfamethazine instead of sulfathiazole.

As a practical matter, Diamond Shamrock cannot substitute sulfamethazine for sulfathiazole to offset the competitive disadvantage imposed by the increased duties; because sulfathiazole affords certain advantages in use over sulfamethazine, we would not wish to make that change.

Because it protects no domestic source of sulfathiazole, the current tariff structure represents an unneccessary cost which must either be passed on to the consumer, if market conditions permit, or reduce profits, if they do not.

While the impact of the increased duty upon the individual American farmer may be small, its cumulative effect upon my company and its ability to compete is very substantial, ranging from several hundred thousand to over a million dollars annually, depending upon volume and prices. For this reason, we support passage of House Bill 4890.

I would be happy to answer any questions you may have. Thank you for the opportunity of presenting our views.

G. J. Skapek
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Diamond Shamrock

Law Department
Chemical Unit

June 3, 1982

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Gibbons:

Thank you again for the opportunity to appear before your subcommittee last Wednesday in support of Congressman Cooper Evans' bill (H.R. 4890) to suspend the duty on sulfaguanadine, sulfapyridine and sulfathiazole. A copy of our statement is enclosed for your convenience.

The purpose of this letter is to respond to certain issues raised in the testimony of American Cyanamid to the effect that sulfamethazine (the sulfa component in its product) and sulfathiazole (the sulfa component in our product) are "interchangeable products in animal disease therapy and prophylaxis." While that claim may be true in the sense that the two products are used for the same purposes, it obscures important differences between the products, differences which make our product a desirable alternative to products containing sulfamethazine in the view of a substantial percentage of American pork producers.

The principal differences between products containing sulfathiazole and products containing sulfamethazine have to do with withdrawal times and the incidence of violative residues, as follows:

1. Withdrawal Time. As part of its approval process, FDA establishes the "withdrawal time", the number of days between the last use of the drug and slaughter. The length of the withdrawal time depends upon how long it takes for the drug to pass through the animal's system. The withdrawal time is established to assure that the animal is not slaughtered before all residues of the drug have been excreted. Our sulfathiazole product has been granted a seven-day withdrawal time, while sulfamethazine products are required to be withdrawn fifteen days before slaughter. The longer withdrawal period imposes a significant economic burden on the livestock producer.

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2. Sulfa Residue Violations. In the late 1970's, the number of swine carcasses rejected by USDA inspectors began to rise substantially, evidencing perhaps the considerable pressure on the livestock producer imposed by the withdrawal period. Governmental studies of this problem disclose that violations were almost exclusively attributable to the use of sulfamethazine, rather than sulfathiazole. While the rate of violations has been substantially reduced through education and improved management techniques, the sulfamethazine residues continue to be a problem. Notwithstanding reformulation of the product to reduce the amount of residues attributable to cross-contamination of feeds, the problem remains because of the manner in which the animal metabolizes sulfamethazine. Meanwhile, FDA has rejected petitions to relax its standards on sulfamethazine residues.

3. The enclosed articles provide greater detail on the drug residue problem and suggest methods to resolve it, including the substitution of sulfathiazole (Penumarthy, L., Trabosh, H.M., Clark, A.M., Conrey, J.S., Rader, W. A. and Spaulding, J.E.: Sulfa Drug Residues in Uncooked Edible Tissues of Cattle, Calves, Swine and Poultry. Feedstuffs (October 13, 1975); Biehl, L.G.: The Sulfa Issue. Feed Management (March, 1979); Sulfa Drug Management and Surveillance. Pig American (January, 1982).

For the above reasons, it is clear that products containing sulfathiazole may very well be preferred by the American pork producer. They also strongly suggest that it would be inadvisable to continue a punitive tariff on a drug which may be an important solution to the continuing sulfa residue problem. Indeed, if studies now being conducted as part of the National Toxicology Program disclose additional problems with sulfamethazine, the desirability of an alternative will increase.

American Cyanamid also claimed that passage of H.R. 4890 would put it at such a competitive disadvantage that the jobs of the hundred people involved in the production of sulfamethazine would be lost. This claim suggests that American Cyanamid makes all of its sulfamethazine requirements in this country, using sulfaguanadine as a raw material. While we cannot provide you with detailed information, it is our understanding that American Cyanamid in fact imports a substantial quantity of sulfamethazine, which is subject to a rate of duty considerably below that imposed upon sulfathiazole.

As to the hundred sulfamethazine jobs, we doubt that suspension of the duty on sulfathiazole would eliminate them. It must be remembered that American Cyanamid already has 60-65% of the market for these products. One must question whether the American consumer is likely to benefit where the market is dominated by a product protected by a duty of almost thirty percent. As we indicated in our presentation, we do not seek an unfair advantage over anyone. We do not believe it is conducive to a competitive

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market, however, to assess a 30% penalty on a small competitor, especially where it is unable to procure its needs domestically.

Finally, American Cyanamid proclaims that "tariffs on these products are already being significantly reduced as a result of the last round of multilateral trade negotiations", and that "by 1987, U.S. tariffs on these sulfa drugs will be reduced to approximately 50% of their current level." This statement deliberately ignores the fact that the rate of duty on sulfathiazole was almost tripled to approximately 35% and that the 1987 rate, while it may be 50% of the current rate, will still be substantially higher than the rate in effect before implementation of the Trade Agreements Act of 1979. Clearly, the tariffs are not "already being significantly reduced.

Diamond Shamrock is an American producer of a competitive product which affords attractive advantages over sulfamethazine-bearing combinations. We are competitively disadvantaged by a punitively excessive tariff on a raw material unavailable to us from domestic sources.

For these reasons, we strongly support H.R. 4890. Should you be interested in additional information on this subject, please let us know.

Very truly yours,

Robert W. Hill
Senior Counsel

Enclosures
dp

cc: Hon. Cooper Evans

bcc: R. Dezember
G. Skapek
D. Thanjan
M. Anderson
M. Gullett
S. Flick
[redacted]
C. Galloway

ANIMAL HEALTH

Sulfa Drug Residues in Uncooked Edible Tissues of Cattle, Calves, Swine and Poultry

Residue problems can most often be traced to one of five management errors by the producer. However, the drug industry, feed manufacturers, veterinary practitioners, and regulatory agencies also have essential roles in a residue prevention program.

By L. Penumarthy, H.M. Trabosh, G.M. Clark, J.S. Conrey, W.A. Rader and J.E. Spaulding

Residue Evaluation and Planning Staff, Scientific and Technical Services
APHIS, U.S. Department of Agriculture
Washington, D.C.

The Meat and Poultry Inspection Program (MPI) of the Animal & Plant Health Inspection Service (APHIS), under the U.S. Department of Agriculture (USDA), is responsible for assuring the wholesomeness of meats to the consumer. In addition to disease control, this agency continually monitors the livestock and poultry slaughtered at federal inspection plants for drug and chemical residues. The results of calendar year 1974 monitoring for sulfa drug residues in tissues of cattle, calves, swine and poultry are presented in this report. Also included are the findings of a special survey conducted in turkeys originating from the states of North Carolina and South Carolina.

Sulfa drugs have enjoyed popular veterinary use for many years, primarily due to their low cost and general effectiveness. They are administered to animals either by incorporating them in feeds and/or drinking water, or by parenteral routes. If not administered according to label directions, however, violative residues will occur in the edible tissues of treated animals at the time of slaughter. Meats containing such residues are judged unfit for human consumption and subject to condemnation.

Under the New Animal Drug Regulations (NAD), the Food & Drug Administration (FDA) publishes the drug usage, pre-slaughter drug withdrawal requirements and permissible tolerances for residues of those sulfa drugs that can safely be used in various species of animals (Tables 1-3) (1,3). The list of sulfas is not complete; there are several sulfa drugs that do not come under the NAD classification of FDA at the present time. These sulfa drugs not under the NAD have been in wide use for many years because of their proven effectiveness. But, the pre-slaughter drug withdrawal requirements necessary for assuring absence of their residues in meats have not been established. In view of their frequent usage in livestock and poultry industry, FDA researchers have recently generated residue depletion data on a few of these sulfas (Table 4) (2,4-8).

Sulfa Residue Monitoring Findings

Under the MPI Residue Monitoring Program, animals are randomly chosen at the time of slaughter, the producers identified, and the liver, kidney and muscle tissue collected. The tissues are individually packaged and frozen before shipping to an MPI laboratory for sulfa analysis. The kidney tissue is analyzed first, and the liver and muscle tissues analyzed only if the kidney tissue is found positive. The residues are identified by the method of Tishler et al (9), and further identification and confirmation of specific sulfa residue is accomplished by employing thin layer and gas-liquid chromatography (10). The results of the survey are presented in Tables 5 and 6.

Swine had the highest incidence of sulfa residue violations. Of the 341 samples analyzed, 25 were positive (7.3% incidence). Sulfamethazine accounted for 84% of the sulfas identified and the residue quantities were comparatively higher than those of other identified sulfa residues.

Of the total 232 cattle tissue samples analyzed, three were positive for sulfa residues (1.3% incidence). Sulfamethazine was identified in two of the three positives and sulfaquinoxaline in the third. In calves, four of the total 298 samples were positive (1.3% incidence). Two of the positives were sulfamethazine and two sulfabromomethazine. Although the incidence of occurrence of sulfa residues was low, when sulfa residues were found, the levels were high, suggesting possible drug misuse.

In poultry, the residue incidence rate was higher in turkeys than in chickens: 6.0% and 1.9% respectively. Seven of 13 positives in turkeys were sulfadimethoxine, and four were sulfaquinoxaline. The other two positives in turkeys were sulfachloropyrazine and sulfamethazine. In chickens, six samples were positive in a total of 321 samples analyzed. Sulfamethazine accounted for four and sulfadimethoxine for two of the total six positives.

Special Sulfa Residue Survey in Turkeys of North Carolina and South Carolina

Some areas in North Carolina and South Carolina have had, in previous years, a high incidence of sulfa residue violations in turkeys. Several thousand pounds of processed birds were destroyed because of sulfa residues. Therefore, MPI conducted a special

TABLE 1. Sulfonamide Drugs Officially Approved for Use in Cattle (Including Calves) Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Sulfaethoxypyridazine	121.200 520.2240 522.2240 566.6.0	Feed: 25 mg/lb body weight/day for 4 days	16	0.1
		Intravenously: 2.5 g/100 lb body weight/day for 4 days	16	0.1
		Drinking water: 2.5 g (in 1 gal)/100 lb body weight/day for 4 days	16	0.1
		Oral: a) Tablet: 25 mg/lb body weight/day for 4 days	16	0.1
		b) Controlled Release Tablet: 160 mg/lb body weight	16	0.1
Sulfamethazine	121.200 548.110a 520.2240 556.670	Feed: 350 mg/head/day of each of sulfamethazine and chlortetracycline for 28 days	7	0.1
		Oral: a) 2.5 g sulfamethazine + 125 mg chlortetracycline: 1 tablet/100 lb body weight/day for 3 days	5	0.1
		b) 22.5 g bolus: 1 bolus/200 lb body weight	21	0.1
Sulfabromomethazine	522.2220 520.2220a 556.640	Intravenously: Initial dose of 25 mg/lb followed by 12.5 mg/lb/day	5	0.1
		Oral: 2.5 g/100 lb for one day followed by 1.25 g/100 lb/day for 4-5 days	7	0.1
Sulfachloropyridazine	522.2200 520.2200 556.630	Intravenously: 30-45 mg/lb/day for 1-5 days	5	0.1
		Oral (as bolus, in milk or milk replacer for calves only): 30-45 mg/lb/day for 1-5 days	7	0.1

TABLE 2. Sulfonamide Drugs Officially Approved for Use in Swine Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Sulfaethoxypyridazine	121.200 520.2240a 556.660	Feed: 1000 g/ton in complete feed for 4-10 days	10	0
		Drinking water: 3.0 g/gal on first day followed by 1.9 g/gal for 3-9 days	10	0
Sulfamethazine	548.113b 556.630 556.670	Feed: Tylosin + Sulfamethazine, each 100 g/ton	5	0.1
		Drinking water: Chlortetracycline + sulfamethazine (both as bisulfate), 250 mg of each/gal for 28 days	7	0.1
Sulfathiazole	558.155 556.690	Chlortetracycline + Procaine penicillin + Sulfathiazole: 100 + 50 + 100 g/ton	7	0.1
Sulfachloropyridazine	520.2200b 556.630	Drinking water: 20-35 mg/lb body weight/day for 1-5 days	4	0.1

TABLE 3. Sulfonamide Drugs Officially Approved for Use in Poultry Raised for Meat

Drug	Reference	Dose and Route of Administration	Withdrawal requirements (days)	Tolerance in uncooked edible tissues (ppm)
Chickens Sulfanitran	121.262 121.263 121.264 520.2320 556.680 558.35	Feed: Sulfanitran at levels of 267 or 181.6 g/ton is approved in combination with various amounts of other drugs	5	0
		Drinking water: Sulfanitran and aklomide: 747 and 954 mg of each/gallon for first 2 days followed by 374 and 477 mg of each/gal for 5 days	5	0
Sodium sulfachloropyrazine monohydrate	520.2184 556.625	Drinking water: 0.03% for 3 days	4	0
Sulfadimethoxine	520.2220a 556.640 558.575 121.262	Drinking water: 1.875 g/gal for 6 days	5	0.1
		Feed: a) Sulfadimethoxine + ormetoprim: 113.5 and 68.1 g/ton as sole ration	2	0.1
		b) Sulfadimethoxine + ormetoprim + 3-nitro-4-hydroxyphenylarsonic acid at 113.5 + 68.1 + 22.7 g/ton	5	0.1
Turkeys Sulfadimethoxine	520.2220a 556.640 558.575	Drinking water: 0.938 g/gal for 6 days	5	0.1
		Feed: sulfadimethoxine + ormetoprim: 56.75 + 34.05 g/ton	2	0.1
		Feed: sulfadimethoxine + ormetoprim + roxarsone: 56.75 + 34.05 + 45.4 g/ton	4	0.1

TABLE 4. Sulfonamide Drugs Used for Therapy and Prophylaxis in Meat Producing Animals and Poultry and Not Covered Under New Animal Drug Classification

Drug	Species	Dose and Route of Administration	Withdrawal requirements (days)
Sulfamethazine	Chickens	Feed 0.5% or Drinking water 0.1%	> 10
	Turkeys	Oral 143 mg/kg/day for 5 days or 0.1% in water	> 14
Sulfathiazole	Swine	Oral 330 mg/kg/day for 3 days	10
Sulfaquinoxaline	Chickens	Feed 0.025% or Drinking water 0.025% for 14 days	> 7
	Turkeys	Drinking water 0.0175% for 7 days or 0.1% for 3 days	> 10
Sulfabromomethazine	Cattle calves	Oral 60-90 mg/lb	10
		Intravenously or intraperitoneally 30 mg/lb body weight	10

TABLE 5. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Cattle, Calves and Swine Slaughtered Under Federal Inspection: USDA Drug Residue Monitoring Survey, 1974.

Species	Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified	Residue Quantity (ppm)
Cattle	232	3	1 Sulfaquinoxaline	L 1.3
				K 0
				M 0
			2 sulfamethazine	L 13.9, 2.5
				K 8.6'
				M 5.4'
Calves	290	4	2 sulfamethazine	L 14.8, 0.3
				K 20.9, 0.3
				M 14.4'
			2 sulfabromomethazine	L 9.6, 0.8
				K 10.4, 1.1
				M 7.6, 0.5
Swine	341	25	21[1] sulfamethazine	L 0.2-3.8 (1.6)
				K 0.5-3 (1.3)
				M 0.2-8 (0.7)
			2 sulfabromomethazine	L 0.7, 0.8
				K 0.1, 0.5
				M 0, 0.3
			1 sulfanilamide	L 2.5
				K 1.7
				M 0.8
			1 sulfathiazole	L 0.8
				K 0
				M 0

1 The range of residues are represented for the three tissues and the average values are given in parentheses.
2 Sample not analyzed

TABLE 6. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Poultry Slaughtered Under Federal Inspection, USDA Drug Residue Monitoring Survey, 1974

Species	Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified	Residue Quantity (ppm)
Chickens	321	6	4 sulfamethazine	L 0.2-0.8 (0.5)
				K 0-1.3 (0.4)
				M 0
			2 sulfadimethoxine	L 0.8, 1.1
				K 0
				M 0
Turkeys	217	13	1 sulfamethazine	L 0.8
				K 0.2
				M [2]
			7[1] sulfadimethoxine	L 0.4-5.4 (2.8)
				K 0.5-10.0 (3.5)
				M 0-1.4 (0.4)
			4 sulfaquinoxaline	L[3] 0.2-3.5 (1.3)
				K[3] 0.1, 1.2
				M[3] 0.4, 1.1
			1 sulfachlorpyrazine	L 3.1
				K 7.2
				M 0.3

1 The range of residues are represented for the tissues and the average values are given in parentheses.
2 Sample not analyzed
3 Only two tissue samples analyzed

TABLE 7. Sulfonamide Residues in Liver (L), Kidney (K) and Muscle (M) Tissues of Turkeys Slaughtered in North Carolina and South Carolina States Under Federal Inspection: USDA Drug Residue Surveillance Survey, August to December 1974

Samples Analyzed	Samples Positive	Number of Specific Sulfas Identified		Residue Quantity (ppm)
170	8	2 sulfaquinoxaline	L	4.2, 0.2
			K	10.8, 0.8
			M	1.1, 0
		3 sulfadimethoxine	L[1]	0.2-0.8 (0.3)
			K[1]	0.6-2.4 (1.3)
			M[2]	0, 0.2
		3 sulfamethazine	L[1]	0.4-0.5 (0.4)
			K[2]	0.4, 1.1
			M[2]	0, 0.5

1 The range of residues are represented for the tissues and the average values are given in parentheses.
2 Only two tissue samples analyzed.

survey in addition to the monitoring program of sulfa residues in young turkeys originating from these states. The special survey was conducted in the third and fourth quarters of 1974, since peak production of turkeys occurs during the latter half of the year.

Samples of liver, kidney and muscle tissues were obtained from each of six turkeys (five to six months old) from a producer. The tissues were individually frozen and sent immediately to chemistry laboratories for sulfa residue followed the procedure described under the monitoring survey. Results of the special survey are presented in Table 7.

Eight of 170 samples were positive for sulfa residues (4.7% incidence). The residues consisted of 3-sulfadimethoxine, 3 sulfamethazine and 2-sulfaquinoxaline.

Significance of Residue Findings

The survey results indicate that sulfa residues are a frequent problem in the livestock and poultry industry. Excessive residues should not occur if sulfas are used properly and the withdrawal requirements are observed carefully.

Approximately 50% of the sulfa residues identified in poultry belong to those not under the NAD category. While, withdrawal times of less than five days are established for sulfas approved for poultry under the NAD Regulations, studies indicate that the sulfas not under NAD generally require greater than 10 days for avoiding violative tissue residues.

Violative sulfa residues can be prevented. Primarily this is the responsibility of livestock producers. When MPI finds violative residues it is primarily indicative of a misuse. The livestock producer should take every precaution to prevent the occurrence of residues. Most often, the problem can be traced to one of the following management errors: (1) neglecting to follow the approved withdrawal time, (2) administering the drug over the recommended dose, (3) administering feed and water additives simultaneously when they should not be, (4) failure to clean storage tanks and feeders of medicated feed prior to changing to a non medicated feed, and (5) improper storage.

However, the drug industry, feed manufacturers, veterinary practitioners and regulatory agencies also have essential roles in a residue prevention program. The drug industry has the obligation to advise the livestock producers on proper usage of sulfas and to conduct research to determine adequate withdrawal

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(Continued from page 20)

times. Feed manufacturers must exercise extreme caution in preparation, identification and proper delivery of medicated feeds. They should establish a quality control program accompanied by good manufacturing techniques. Veterinarians should prescribe proper drugs and advise their clients of the restrictions imposed on drug usage. The regulatory agencies should issue the necessary recommendations for those sulfas creating residue problems.

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USA

Sulfa drug management and surveillance

Sulfa residues in hog carcasses can lead to condemnations and other serious problems for producers. Quite often the residues are a result of cross-contamination of feed from delivery, handling, mixing and storage of ingredients and feeds. It has been estimated 70 to 80% of all hogs marketed in the US receive some form of sulfa during their lifetime. Due to the fact over 90% of the swine marketed are free of residue, it is obvious the drug can be handled so residues are not a problem.

Talk to your feed supplier, and make sure he knows what you want done to help prevent residues and make sure you understand what he can do to help. Non-medicated withdrawal feeds and medicated feeds should not be delivered in the same truck load. Request the truck be cleaned if used to deliver medicated feed prior to delivering non-medicated feed to your farm. If possible, be present at time of delivery to know exactly what feed was delivered. Make sure all ingredients or feeds are clearly identified and labeled and the feed is put into the proper bin. Make sure bins are clearly labeled.

Keeping your mixing and storage area clean and orderly will help prevent accidental mix-ups, the experts say. Keep medicated pre-mixes in their original containers separate from non-medicated ingredients used in withdrawal rations. If using containers such as garbage cans, label the can, not just the lid. Promptly clean up and dispose of any spilled medicated feed where it will not contaminate other feed.

Mixing equipment is notorious for cross-contamination of feed. Such equipment should be properly grounded to prevent electrostatic buildup which can cause sulfa particles to stick to the inside. A granular form of sulfa, rather than powdered, will help prevent this also. A master formula should be made up to insure accuracy during feed preparation. This list should include the proper order in which medicated and non-medicated feeds are added to the mixer. The items should be carefully checked off and initialed by the person making the feed to verify inclusion of all ingredients at the proper levels.

Add high potency pre-mixes into relatively large amounts of mixed ingredients for proper distribution throughout the batch. A good rule of thumb is not to add less than two percent of any ingredient in a vertical mixer nor less than one percent in a horizontal mixer. Follow manufacturers recommendations to determine the minimum amount of a premix to add to the mixer.

Mixing equipment should be flushed with several hundred pounds of cracked or ground grain following mixing of sulfa-containing ration. This flush material should be set aside for use in the mixing of a sulfa-medicated ration. Equipment should be cleaned thoroughly periodically using a vacuum cleaner or similar device to remove all the dust and buildup inside as well as outside the mixer.

Keep in mind the delivery system (wagons, augers, conveyors, storage bins and feeders) can be guilty of causing cross-contamination. As little as a quarter-teaspoon of sulfa per ton of feed is enough to create unsafe cross-contamination.

Careful planning of slaughterings can also help prevent problems due to sulfa residues. Do not market any hogs which have not met the withdrawal requirements for the sulfa drug used. Avoid unplanned marketings of any hogs such as sows or crippled hogs which may violate regulations. Delay marketing if in doubt. Naturally, label directions should be closely followed with any drug.

Drinking water provided in the withdrawal stage should be free of sulfa. If sulfa is used in finishing feeds, scrape and wash pens or move pigs to clean pens 48 to 72 hours after sulfa removal unless the floor is completely slatted with no manure buildup. Hogs continue to excrete sulfa in their urine for two or three days after removal. For this reason, it is not wise to use lagoon water which may contain drugs to flush finishing floors where market hogs could possibly consume the water.

Sulfamethazine is currently the sulfanamide involved in the residue problem. This sulfa gained prominence as a feed additive primarily due to research showing its efficacy in the elimination of Bordetalla bronchiseptica (a principal cause of atrophic rhinitis) for the nasal cavity of swine. The ability of a combination of antibiotics and sulfamethazine to maintain gains in the presence of atrophic rhinitis has also contributed to the popularity of its use.

Sulfonamides (either sulfamethazine or sulfathiozole) are used in swine feeds to reduce cervical abcesses, treat bacterial swine enteritis and vibrionic dysentery, maintain weight in the presence of atrophic rhinitis and control swine pneumonia caused by bacterial pathogens.

Since very low levels of sulfamethazine in finishing feed may cause residue problems, producers may want to explore alternatives to the use of the drug on their farms If the diseases for which it is approved are not present on the farm, the necessity of the drug might be questioned.

Sulfathiazole or one of several atrophic rhinitis bacterins offer alternatives to sulfamethazine if you're trying to conquer AR on your farm. Likewise, other drugs may be equally or more effective in the treatment and/or prevention of salmonellosis and vibrionic dysentery as well as the reduction of cervical abscesses. Finally, other growth promotants may be as effective in pigs up to 75 pounds.

If you're still intent on using sulfamethazine, maybe you should consider changing forms to either granular or liquid. As mentioned above, the granular form is less likely to contaminate mixing equipment. The liquid, on the other hand, bypasses the mixing equipment entirely. Dr. R. L. Morter of Purdue University recommends dosing individual sow's feed in the farrowing house with an automatic syringe.

Improper use of sulfonamides is a threat, not only to the entire swine industry, but also to the person who makes the decision for use. The individual producer may lose profit on a daily basis through increased cost of the sulfa-containing feed as well as the loss he may face if a residue is discovered in the hogs.

When a violative level is found, the producer must send five hogs to slaughter for "pre-market" testing. This test period usually requires two weeks. If the test hogs are not in violation, the producer may resume marketing. Otherwise, he will need to continue "pre-testing" until the test hogs are below the maximum residue level of 0.1 ppm. ■

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The sulfa issue

LeRoy G. Biehl, D.V.M., University of Illinois College of Veterinary Medicine

In spite of increased sulfa residue knowledge and precautions, the swine tissue residue rate remains high and is a cause of concern to Food and Drug Administration (FDA) and United States Department of Agriculture (USDA) officials USDA meat inspectors initiated the monitoring of swine tissues for sulfa residues in 1973, and the violative rate has consistently ranged between 9 5-15%. During the first ten months of 1978, the USDA analyzed 5172 samples of swine tissue for sulfonamides. A violative residue was found in 483 (9 3%) of the samples — the lowest level since monitoring began Research and on-the-farm investigations have revealed that determining the cause of a residue can be a difficult and complex problem.

Under the Food, Drug and Cosmetic Act — administered by the FDA — it is illegal to send live animals to market if they contain drug residues above established tolerances. Likewise under the Federal Meat Inspection Act — administered by the USDA — meat cannot be sold for human consumption if it contains residues above the tolerances set by the FDA. The current established tolerance for sulfas in swine tissue is 0.1 part per million (ppm). This tolerance level is based on limited 90-day toxicity studies designed to provide a 2,000-fold margin of safety for humans. During the past year, the FDA decided not to raise the tolerance level because of insufficient data to justify lowering the safety margin.

LeRoy G. Biehl, a native of West Salem, Illinois, received the B.S. degree from the University of Illinois in 1956 and the DVM degree in 1958. From 1958 to 1963 he was a general veterinary practitioner in Olney, Illinois. In 1963, Dr. Biehl built the Albion Veterinary Clinic and practiced in Albion, Illinois until joining the University of Illinois clinic staff in 1972. He received his M S. degree in veterinary medicine from the University of Illinois and became assistant professor in veterinary clinical medicine and veterinary extension in 1975.

Dr. Biehl is a member of the Eastern Illinois Veterinary Medical Association, the Illinois Veterinary Medical Association, American Veterinary Medical Association, the American Association of Swine Practitioners and the Illinois Academy of Veterinary Medicine.

The problem is not new because swine tissues have probably contained sulfa residues since the early 1950's when sulfonamides began to be added extensively to swine rations.

The causes of violative sulfa residues in swine can be manyfold but essentially narrow down to two reasons: either inadequate withdrawal time or consumption of low level sulfa up to the time of slaughter. Field investigations of producers who have marketed hogs with violative tissue residues indicate 92% of the producers did follow proper withdrawal procedures. Therefore, most of the violations are the result of accidental low-level contamination of rations and water during the withdrawal period. Another source is the ingestion of sulfa contaminated feces and urine.

Research at the University of Illinois College of Veterinary Medicine indicates that as little as 2 gm. of sulfamethazine (approximately 1/4 teaspoon) in a ton of complete mixed feed is enough to cause a tissue violation. This means forty pounds of medicated feed will contaminate a ton of clean feed. Between 70-120 pounds of residual feed may be left in the bottom of an auger-wagon, mixer-grinder, bulk bin or delivery truck. Carryover of sulfa can occur in the mixing equipment, delivery equipment or the farm or commercial mill. Other sources of sulfa residues may be a mix-up by the producer or delivery truck in unloading medicated feed. And drug carryover in water lines from water medications has been reported up to 2 1/2 months after use.

Manure and urine from pigs on sulfa-medicated feeds serve as a sulfa source of sufficient magnitude to cause a residue. Recent studies by Illinois veterinary researchers have shown that sulfa-free pigs placed into pens containing manure from pigs fed sulfonamides had violative tissue residues within 48 hours.

The USDA in cooperation with the swine industry and FDA has launched a multi-phase campaign to eliminate the violative residues so that sulfonamides can continue to be used. During phase one of this program, epidemiologic information was gathered. Animal and Plant Health Inspection Service (APHIS) diagnosticians visited 100 producers — 75 producers whose hogs had previous violative residues and 25 producers who routinely fed sulfa but had never experienced sulfa violations. Feed, soil, manure and lagoon water samples were collected and sent to Dr. Richard Bevill's laboratory at the University of Illinois College of Veterinary Medicine for analysis. All of the analyses have not been completed, but 93 samples of withdrawal ration have been analyzed with the following results:

44.0% — contained no sulfa
36.5% — contained 0-1.0 ppm sulfa
7.5% — contained 1.0-2.0 ppm sulfa
2 2% — contained 2 0-3.0 ppm sulfa
1.1% — contained 4.0-5.0 ppm sulfa
6 5% — contained > 5 0 ppm sulfa

When the finishing ration contained sulfa, the individual ingredients were analyzed if possible. Soybean meal was analyzed only when the complete finished ration was contaminated with sulfa. Twelve such soybean meal samples were analyzed with the following results:

41.7% — contained no sulfa
41.7% — contained 0-5 ppm sulfa
16.6% — contained > 5 ppm sulfa

Two samples of vitamin premix from sulfa-contaminated rations contained 0 and 10.9 ppm respectively. Fourteen samples of supplement from contaminated finishing rations contained sulfa as follows:

21.4% — contained no sulfa
42.9% — contained 0-1 ppm sulfa
28 6% — contained 1-2 ppm sulfa
7.1% — contained 3-4 ppm sulfa

Frequently in our investigations we have found several sources of sulfa contamination which by themselves are low but added together are above the 1-2 ppm concentration. For example, one producer had the following contamination. His penicillin-streptomycin additive contained 15 ppm sulfamethazine and his vitamin-mineral premix 2 ppm, leaving him with a withdrawal finishing ration containing more than 1 ppm.

During phase two of the USDA campaign to eliminate sulfa residues, an investigative survey by extension or APHIS personnel is made on a farm in violation at the producer's request. Samples are taken at different points in the feed delivery systems to determine the entry and source of sulfa contamination. FDA officials have agreed not to prosecute any producer who cooperates with the survey in an attempt to find the source of sulfa. The FDA has given the producers and USDA approximately 14 months to substantially decrease the rate of sulfa violations. If violations are not reduced, it is likely sulfonamides will be removed as an approved feed additive and perhaps as a medication for swine. It is decreasing, but we still have a long way to go.

Although preventing violative tissue residues should be easy, i.e., feeding a sulfa-free diet for 15 days prior to slaughter; it has not been that simple. Some producers who have taken stringent precautions or were not even feeding sulfas have had violative residues. As indicated in the Phase 1 investigations, the ration or components of the ration are frequently contaminated with sulfa. The producer may be purchasing a feed ingredient inadvertently that has been contaminated further up the line. For this reason we are recommending sampling of finishing rations as well as ingredients. If the finishing ration contains sulfa, the rest of the ingredients are analyzed.

To minimize the opportunity for sulfa residues, the following practices should be considered:

1. Thoroughly clean feed system and feeders when switching to non-medicated finishing feed, then wash manure and urine off of floors and pens for at least two days.
2. Install separate mixing, storage and feeding systems for non-sulfa finishing feeds including separate building for finishing.
3. Talk to your feed supplier about your concerns. Sample all deliveries of finishing feed and analyze them for sulfa carryover.
4. Consider using sulfathiazole instead of sulfamethazine. Sulfathiazole is eliminated from the blood stream faster than sulfamethazine and has a shorter withdrawal time (7 days as opposed to 15 days with sulfamethazine). Therefore, the opportunities for tissue residue probably are not as great with sulfathiazole.

When tissues have been found to contain a violative level, the producer is contacted by the USDA's Food Safety and Quality Service (FSQS). A USDA representative offers to visit the farm and help the producer determine the cause of residue. The producer can sell future hogs subject to slaughter testing or send five hogs for a pre-market test. The five hogs are slaughtered and tissue samples analyzed. Packers will discount the price for these five hogs because they must be frozen until the results are known and cannot be sold for fresh pork. If the tissues are negative, the producer is cleared and may resume marketing hogs without restriction.

To prevent the price loss for the five pre-market test hogs, the producer can test a random five hogs and the withdrawal feed before presentation for slaughter. If both are negative, the hogs should pass the pre-market slaughter test. Although producers still suffer a price discount on the five hogs, the procedure prevents the total loss of income from these hogs. We have used this procedure with success in Illinois.

Every effort should be taken by the producer and commercial feed supplier to prevent sulfa residues. If the violation rate is not reduced substantially, we may lose an important drug from our arsenal. FM

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STATEMENT
by the
NATIONAL PORK PRODUCERS COUNCIL
for the hearing record on
S. 1979
of the
Subcommittee on International Trade
of the
Senate Finance Committee

July, 1982

Mr. Chairman and Members of the Subcommittee:

The National Pork Producers Council has over 110,000 dues-paying, producer farm families as members. It is funded entirely by a voluntary checkoff program which collects two dimes per market hog at the market place. Producers who voluntarily participate number well over 200,000. The goal of our relatively young organization is to improve the profitability of pork production. We provide consumers with information concerning the nutrition and the economic value of pork. In addition to increasing demand for the product, our Council's job is to reduce the costs of production by improving efficiency.

The sulfonamides, which include the three compounds addressed in this legislation, are very important to pork producers. These drugs, when used for therapeutic purposes to treat diseases, are administered by addition to the animal's food or water or by direct administration. In addition, the sulofnamides are added to the feed supply in an effort to control diseases and thus improve the rate of growth or the efficiency of production.

Two sulfonamides which are used widely in feed are sulfathiazole and sulfamethazine. H.R. 4890 addresses sulfathiazole directly. Sulfaguanadine, also addressed in this legislation, is further processed into sulfamethazine. Sulfathiazole and sulfamethazine are used by pork producers in two and three-way combinations with antibiotics in the feed for their animals. A high percentage of all hogs produced in the United States receive a sulfonamide drug either for therapeutic purposes or in the feed supply sometime during their growth. Consequently, these drugs are important to pork producers both for their use in curing diseases and maintaining a healthy animal and because of their wide use, they are important as a cost reduction item in the production of the animals.

It has been estimated that the duty on these sulfa drugs adds approximately 20-30 cents per ton to the cost of feed. It is estimated that each hog marketed will consume about 400 pounds of sulfa medicated feed. The added cost per animal on the average would be approximately 4-6 cents for the sulfonamide used in the feed supply. Elimination of the duty on these drugs would hopefully be passed on to producers, although not necessarily by the direct amount saved by the elimination of the duty. Actually, the amount saved by the elimination of the duty could be greater because of the add on that would have been expected to take place during the various stages of production and distribution. In addition, we recognize that the elimination of the duty may not have any marked bearing on the market price of the drugs, but we are still confident that the drugs would be cheaper to producers with the elimination of the duty after supply and demand has established a market price for the drugs. Although the few cents savings per animal might not appear significant, when you consider that U.S. production is between 80 and 90 million hogs per year and that a high percentage of these animals receive sulfonamides, the aggregate impact on the industry is significant.

Further, it is our understanding that presently there is no authority for negotiating a comparable concession for the elimination of duty on the three drugs addressed in H.R. 4890, even if Congress extends the authority of Section 124 of the Trade Act of 1974. While the Section does authorize the President to negotiate U.S. duty rates, the size of such reductions is very limited and the elimination of duties is not allowed. Consequently, after considering all factors, the National Pork Producers Council supports H.R. 4890 and urges that the Subcommittee move forward with prompt and favorable consideration of this measure.

Thank you Mr. Chairman. This concludes our statement and I will be glad to respond to any questions.

jk

Testimony of Clarus M. Galloway, Materials Manager of Salsbury Laboratories, Inc., Charles City Iowa

In support of H.R. 4890 to eliminate U.S. tariffs on chemical products Sulfaguanidine, Sulfapyridine, and Sulfathiazole.

Subcommittee on Trade of the

Committee on Ways and Means

U.S. House of Representatives

May 26, 1982

Mr. Chairman, by way of introduction, Salsbury Laboratories, Inc., is a small to medium size company, which has a long-term commitment to supplying products and services to the animal health industry. Quality products at competitive prices have enabled the company to earn the confidence of livestock raisers in their efforts to produce meat and eggs at a profit.

Salsbury favors passage of H.R. 4890 because we feel it represents a realistic tariff reduction of benefit to American manufacturers producing and marketing sulfa products to agriculture -- within the frame work of world supply and demand.

In addition, H.R. 4890 makes possible substantial savings to the American livestock producer in his battle to realize a profit and ultimately to the consumer in better prices for meat and eggs.

Elimination of the tariff is not going to guarantee the price of sulfa products to the farmers will stay at their present levels. However, elimination of the tariff will allow American manufacturers to purchase these sulfa products on the world market without the duty of 22 to 30 percent being added on top of the purchase price depending on which sulfa is purchased. The animal health business is highly competitive and for this reason we are confident that these savings of 22 to 30 percent in duties will work to an advantage for the farmer and consumer.

The Bureau of Economics, Chemical Division, Department of Commerce, in a recent survey, sampled the chemical industry, particularly those who have an interest in the sulfa market, and found a response generally favoring the passage of this bill.

In contact with other suppliers of sulfa drugs to the animal health industry, we found strong support for the passage of this bill. Their support apparently is based on the stong hope that sulfa-bearing products can be supplied to the livestock industry at a lower cost -- no doubt they also feel this provides a competitive position.

There has been some concern registered about the illegal use of sulfaguanidine and sulfapyridine because they allegedly are not approved by the U.S. Food and Drug Administration (FDA) for veterinary use. We disagree with this contention as there are a number of companies who presently have sulfapyridine approved for interim use in combination with other sulfa drugs. Also, because of the government effort to eliminate sulfa residues in slaughter animals, it makes little sense that producers would take the chance of using these drugs other than according to the label directions.

Sulfapyridine also has application outside the animal health industry. It is used as an intermediate in the manufacture of sulfasalazine (SASP), a highly effective therapeutic drug for treatment of ulcerative colitis in humans. Salsbury Laboratories is the only domestic manufacturer of SASP. Yet, due to the cost of the raw material sulfapyridine, a substantial portion being duty, we capture less than 25% of the total product sold in the United States.

The chemical product sulfaguanadine has no direct uses in the animal health industry. However, it is an intermediate in the manufacturing of widely used sulfamethazine and sodium sulfamethazine.

Importation of sulfaguanadine duty-free, and used to manufacture sulfamethazine and sodium sulfamethazine will not only result in competition to benefit livestock producers and consumers, but will also increase American employment vs. chemical manufacture in other countries.

Sulfathiazole is also a very widely used sulfa drug in the animal health industry. Sulfathiazole and its sodium salt are used in near equal volume in the industry. Removal of the import duty of sulfathiazole will encourage conversion of chemical products to its salt form, sodium sulfathiazole. Presently, substantial quantities of sulfathiazole from China, which does not have FDA approved plants, is being converted to sodium sulfathiazole in West European countries having FDA approved plants and it then becomes the product of the converting company. Passage of H.R. 4890 will allow the importation of sulfathiazole for conversion by American industry at a competitive edge over sodium sulfathiazole from other companies.

In summary, it is our contention, along with the support of many companies who are our competition, that through passage of H.R. 4890, American manufacturers will be able to offer more economical sulfa-bearing products to the animal and agricultural industry and lower priced end products to the ultimate consumer. At the same time, passage of this bill will serve to stimulate American manufacturing of end use sulfa drugs now being produced in other countries.

Additional Testimony of Clarus M. Galloway, Materials Manager of Salsbury Laboratories, Inc., Charles City, Iowa

In support of H.R. 4890 to eliminate U.S. tariffs on chemical products Sulfaguanidine, Sulfapyridine, and Sulfathiazole.

Subcommittee on Trade of the

Committee on Ways and Means

U.S. House of Representatives

May 26, 1982

Mr. Louis Schneider, Counsel for Pharmacia Laboratories, Inc., a Swedish company, referred to the opening of a sulfasalazine (SASP) production facility in the Virgin Islands. If H.R. 4890 is rejected by this committee, Pharmacia will be able to bring SASP into the U.S. duty free. This will put the only U.S. producer, Salsbury Laboratories, Inc., out of SASP production and will encourage monopolistic practices on a world wide basis. Thus it is to the distinct advantage of Pharmacia to have H.R. 4890 rejected and the duty remain on sulfapyridine. At the same time, rejection of H.R. 4890 will work to the disadvantage of the American livestock producer who must buy sulfapyridine drugs at higher prices because of the duty on the product.

American Cyanamid has registered opposition to the removal of duty from sulfaguanidine use in production of sulfamethazine. It is a well known fact in the industry that American Cyanamid is one of the largest buyers of sulfamethazine in the world marketplace. It is our belief Cyanamid purchases nearly 50% of their total requirements. If duty-free sulfaguanidine is a threat to American Cyanamid's plant employment, why doesn't Cyanamid support H.R. 4890 and purchase sulfaguanidine on the world market for their production of sulfamethazine? This would result in reduced sulfamethazine prices to the livestock industry and would maintain employment at the Cyanamid plant.

Senator DANFORTH. Senator Heinz.

Senator HEINZ. Mr. Chairman, thank you.

I want to commend you for calling these hearings. You have a lengthy witness list and a variety of important issues. I would, however, like to take a little time to make a few brief comments about S. 1902, which is the first bill that is before us today.

That bill, as we know, would extend the President's authority under section 124 to make tariff reductions for an additional 2 years.

I want to comment at the beginning of this hearing because I do have serious reservations about this bill. I hope the committee will consider those reservations very carefully before taking it up.

My reservations involve both the principle and the practical effect.

Senator DANFORTH. Excuse me, Senator Heinz. Do you have any questions for Mr. Lamb? I thought I would just excuse Mr. Lamb if you don't have any questions.

Senator HEINZ. Why don't you go ahead and do that, Mr. Chairman.

Senator DANFORTH. All right.

Thank you very much, Mr. Lamb.

Mr. LAMB. Thank you, Mr. Chairman.

Senator DANFORTH. Mr. Lamb, Senator Dole will have some questions for the record.

Mr. LAMB. We would be glad to answer those.

[The questions from Senator Dole and the answers from the Administration follow:]

QUESTIONS FOR THE ADMINISTRATION FROM SENATOR DOLE

QUESTION: Do the E.C. procedures and practices differ significantly in implementation and effect from U.S. procedures with regard to imports entitled to duty-free treatment under the Florence Agreement? Does the Administration regard E.C. practices as affording U.S. exporters reciprocal treatment compared to U.S. practices?

ANSWER:

EEC procedures and practices with regard to imports entitled to duty-free treatment under the Florence Agreement do differ significantly from those applied by the United States. However, it should be noted that the Administration believes that the EEC has generally complied with the terms and spirit of the Florence Agreement. The one sector in which the differences have sometimes adversely affected U.S. interests concerns the scientific instruments industry.

Procedures in EEC member states are much less formal and open than our own. In some member states applicant institutions and their U.S. suppliers experience difficulty learning the rationale for denial decisions involving U.S. instruments denied duty-free treatment. Some negative decisions involving U.S. instruments are difficult to justify in terms of U.S. practices under the agreement. The EEC appears to use decisions on some cases as precedents for other entries rather than viewing each entry on its own merits. The EEC interpretation of scientific instruments also is somewhat more restrictive than our own. Nevertheless, the vast majority of EEC decisions appear to be in conformity with the terms of the Agreement.

Shipments of scientific instruments represent a very small percentage of total U.S. trade under the Florence Agreement. The United States enjoys a very favorable balance of trade under the Agreement both overall and for scientific instruments alone. This may be the reason that, except for a handful of complaints, U.S. scientific equipment manufacturers and associations have demonstrated little interest in the EEC Annex D problem and the Nairobi Protocol. By contrast, manufacturers of the products covered by other annexes, which represent the significant majority of total U.S. trade under the Florence Agreement, are strongly in favor of the Protocol.

The Administration believes U.S. exporters are being afforded reciprocal treatment in most cases.

QUESTION: What is the U.S. Government doing to protect the rights of U.S. exporters derived by them under the terms of the Florence Agreement?

ANSWER:

The U.S. Government intervenes diplomatically with the concerned government when specific problems are brought to its attention.

So far as the EEC is concerned, bilateral discussions have been held since 1978 to discuss the differences between the two countries in implementation of Annex D provisions (duty-free treatment of scientific instruments). These bilateral discussions will continue in an attempt to resolve problems and produce better information during the 2-1/2 year period of provisional U.S. implementation of the Protocol envisioned by the pending legislation.

QUESTION: S. 2685 would provide the President with discretion to ratify the Nairobi Protocol, but provides no guidelines controlling that determination. What specific evidence of reciprocity in implementation will the Administration seek from the E.C. before ratifying the Protocol? Should specific guidelines be included in the legislation as a condition of implementation?

ANSWER:

The Administration will be looking at various criteria in deciding whether it continues to be in the economic interests of the United States to ratify the Nairobi Protocol. The President will take into account the level of obligations assumed by our trading partners under the Protocol, the method of implementation of the obligations, and the benefits of U.S. ratification for U.S. consumers and exporters.

In relation to the EEC specifically, we will be looking for open and accessible procedures at least roughly comparable to those of the United States; adoption of the more liberal Annex C.1; strengthened recognition of the EEC Commission's competence in all Florence Agreement matters and a clear improvement of its ability to adopt and enforce uniform standards for imports under the Agreement and the Protocol; and as complete and detailed an understanding as can be reached on the specific tariff coverage of the various annexes.

It should be noted that S.2685 does not itself address the issue of ratification. Rather, the bill implements on a provisional basis, until the Protocol comes into force for the United States, and thereafter on a permanent basis, the U.S. treaty obligation. Senate guidance on depositing the instrument of ratification could more appropriately be included in the Committee Report of the Senate Foreign Relations Committee in reporting out the Resolution on Advice and Consent, or possibly in the Senate Resolution itself. We believe, nevertheless, that legislative history developed during Senate advice and consent hearings and during the hearings on this bill provide adequate guidance to the Administration regarding ratification.

Senator HEINZ. I do want to say that S. 1902 seems to me to be virtually unprecedented. Congress has historically guarded its prerogative to set trade policy, and has never granted broad tariff-cutting authority outside the context of a specific negotiation like the Kennedy round or the Tokyo round. That was the original purpose of section 124 in the Trade Act of 1974. Its 2-year extension in the Trade Agreement Act of 1979 was specifically to tie up loose ends left over from the Tokyo round.

Those in the room today—if they are still in the room, if they don't move too quickly—who were involved in the writing of that bill will remember that even that modest objective was the subject of considerable controversy for precisely the reason I have suggested, the dangerously broad grant of authority to the Executive.

Mr. Chairman, my second reservation about this bill concerns the practical effect. Simply put, I believe, the good it will do or may do will be far outweighed by the damage it will do to already heavily import-impacted industries.

The authority in the bill is extremely broad—deliberately so, says the administration, so it can make the best deals possible. I suppose that makes some sense; but to get those good deals, what do we have to give up or relinquish? Clearly our tariffs on items other nations want to send here. What might those items be? In all probability, a good assortment of products from industries that are already vulnerable to competition from abroad.

Take a look at the industries that oppose this bill: apparel, leather goods, specialty steel, footwear, lead and zinc, color televisions, among others, and you have a list of the industries in this country already reeling from imports—some fair and some not. These industries have serious problems by any standard of measurement; yet, what this grant of authority proposes to do is to put an additional burden on them.

To understand that better, I suggest we ask the administration why it opposes an amendment that will clearly exempt those industries from the scope of the bill. The answer, I suspect, would be the need for flexibility in negotiations. What that means to me is that the administration realizes the point I just made; that's why they wanted to leave.

In order to get the tariff reductions abroad that the private-sector proponents of this bill want we are going to have to reduce our tariffs in precisely the areas opponents of this bill fear will hurt them the most. The damage we do thereby, in my opinion, Mr. Chairman, far outweighs the gains the bill's proponents will obtain. A better approach, it seems to me, is to handle the matter sectorally, which we are doing with respect to certain high technology items that are also the subject of today's hearing, and I hope that the committee will consider that alternative approach carefully before it acts hastily on S. 1902.

I do have a couple of questions I would like to submit for the administration. You said Mr. Lamb was going to leave; I didn't realize everybody else was going to leave.

Senator DANFORTH. Thank you, Senator Heinz.

Senator DANFORTH. It is my understanding that Congressman de Lugo is present now, and if that is so we would appreciate hearing from him.

Mr. DE LUGO. Thank you very much, Senator.

Senator DANFORTH. Thank you, sir, for being here.

STATEMENT OF HON. RON DE LUGO, DELEGATE, U.S. VIRGIN ISLANDS

Mr. DE LUGO. I would like to thank you for extending the courtesy to appear before your committee this morning.

Mr. Chairman and members of the committee, I greatly appreciate this opportunity to share my views with you on certain critical aspects of adopting the increase in value limitations for duty-free importations of personal articles by persons returning from the insular possessions of the United States, as proposed under H.R. 4566.

As we all know, the U.S. possessions and in particular my community, the U.S. Virgin Islands, rely heavily on tourism to keep their economies thriving. In addition to climate and hotel accommodations and cultural attractions and fishing, one of the major inducements for a would-be visitor is the shopping values that can be found in the territories. Bargain-conscious travelers often find it less expensive to buy certain items outside the U.S. mainland and to bring them back home. Coming from the U.S. Virgin Islands, for example, a person can return with items such as liquor, jewelry, and perfume at substantial savings.

In the bill currently before this subcommittee, the duty-free ceiling for hand-carried purchases from U.S. possessions is increased to $800 from the present $600 and from $40 to $100 for gifts mailed to the United States. These levels maintain the traditional 2 to 1 advantage in favor of the U.S. possessions over items brought in from foreign lands. The Congress has consistently recognized this advantage as one of great importance to the tourism-based economies of our territories, with whom the United States has a very special and unique relationship.

I caution the members of this committee, though, against any increase in the duty-free ceilings above these present levels. In fact, these are compromise levels. To tell you the truth, I wouldn't mind the levels staying at what they are today; but the original proposal was to increase them to $1,200 to the Virgin Islands and $600 foreign, which would have just about made it meaningless for the Virgin Islands. So this is a compromise that we can live with, but I urge you not to raise it any further.

Further increases could jeopardize the incentives for travel to the U.S. territories, when you consider what the average tourist actually spends.

If we raise the ceiling for purchases made in Europe, for example, a person might be more inclined to travel there, particularly when you consider that air fares are almost the same to Europe these days as they are to the Virgin Islands, unfortunately.

The House Ways and Means Committee recognized this diminishing return factor, the damage it would have on the territories, and acted to amend downward the higher ceiling that were originally called for in this bill.

In closing, I simply urge that the increases in the duty-free ceilings proposed in H.R. 4566 not be raised further, and that the 2-to-1 ratio be maintained.

[The prepared statement of Hon. Ron de Luga follows:]

TESTIMONY OF RON DE LUGO

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I GREATLY APPRECIATE THIS OPPORTUNITY TO SHARE MY VIEWS WITH YOU ON CERTAIN CRITICAL ASPECTS OF ADOPTING THE INCREASE IN VALUE LIMITATIONS FOR DUTY-FREE IMPORTATIONS OF PERSONAL ARTICLES BY PERSONS RETURNING FROM THE INSULAR POSSESSIONS OF THE UNITED STATES, AS PROPOSED UNDER H.R.4566.

AS WE ALL KNOW, THE POSSESSIONS AND IN PARTICULAR MY COMMUNITY, RELY HEAVILY ON TOURISM TO KEEP THEIR ECONOMIES THRIVING. IN ADDITION TO CLIMATE, HOTEL ACCOMODATIONS, AND CULTURAL ATTRACTIONS, ONE OF THE MAJOR INDUCEMENTS FOR A WOULD BE VISITOR IS THE SHOPPING VALUES THAT CAN BE FOUND IN THE TERRITORIES. BARGAIN-CONSCIOUS TRAVELERS OFTEN FIND IT LESS EXPENSIVE TO BUY CERTAIN ITEMS OUTSIDE THE U.S. AND BRING THEM BACK HOME. COMING FROM THE VIRGIN ISLANDS, FOR EXAMPLE, A PERSON CAN RETURN WITH ITEMS SUCH AS LIQUOR, JEWELRY AND PERFUME AT SUBSTANTIAL SAVINGS.

IN THE BILL CURRENTLY BEFORE THIS SUBCOMMITTEE, THE DUTY-FREE CEILING FOR HAND CARRIED PURCHASES FROM THE U.S. POSSESSIONS IS INCREASED TO $800 FROM $600 AND FROM $40 TO $100 FOR GIFTS MAILED TO THE U.S. THESE LEVELS MAINTAIN THE TRADITIONAL TWO TO ONE ADVANTAGE IN FAVOR OF THE POSSESSIONS OVER ITEMS BROUGHT IN FROM FOREIGN LANDS. THE CONGRESS HAS CONSISTENTLY RECOGNIZED THIS ADVANTAGE AS ONE OF GREAT IMPORTANCE TO THE TOURISM-BASED ECONOMIES OF OUR TERRITORIES, WITH WHOM THE UNITED STAES HAS A VERY SPECIAL AND UNIQUE RELATIONSHIP.

I MUST CAUTION THE MEMBERS THOUGH, AGAINST ANY INCREASE IN THE DUTY-FREE CEILINGS ABOVE THESE LEVELS. FURTHER INCREASES COULD JEOPARDIZE THE INCENTIVES FOR TRAVEL TO THE TERRITORIES, WHEN YOU CONSIDER WHAT THE AVERAGE TOURIST ACTUALLY SPENDS. IF WE RAISE THE CEILING FOR PURCHASES MADE IN EUROPE, FOR EXAMPLE, A PERSON MIGHT BE MORE INCLINED TO TRAVEL THERE, PARTICULARLY WHEN YOU CONSIDER THAT AIR FARES ARE ALMOST THE SAME TO EUROPE AS THEY ARE TO THE VIRGIN ISLANDS. THE HOUSE WAYS AND MEANS COMMITTEE RECOGNIZED THIS DEMINISHING RETURN FACTOR, THE DAMAGE IT WOULD HAVE ON THE TERRITORIES, AND ACTED TO AMEND DOWNWARD THE HIGHER CEILINGS THAT WERE ORIGINALLY CALLED FOR IN THIS BILL.

IN CLOSING, MR. CHAIRMAN, I SIMPLY URGE THAT THE INCREASES IN THE DUTY-FREE CEILINGS PROPOSED IN H.R. 4566 NOT BE RAISED FURTHER AND THAT THE 2 TO 1 RATIO BE MAINTAINED.

Senator DANFORTH. All right. Thank you very much, Congressman.

It is my understanding that this provision is not particularly controversial, this provision in H.R. 4566, but I appreciate your being here and giving us your views.

Senator Heinz.

Senator HEINZ. No questions at this time, Mr. Chairman.

Senator DANFORTH. Thank you very much, sir.

The next witness is Paul O'Day, Deputy Assistant Secretary for Commerce's Trade Development.

STATEMENT OF PAUL T. O'DAY, DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT, U.S. DEPARTMENT OF COMMERCE

Mr. O'DAY. Thank you, Mr. Chairman. I appreciate this opportunity to join with my colleagues from the State Department in supporting S. 2685. In view of the long list of witnesses you have I would like to, with your approval, submit my statement for the record, and perhaps just briefly summarize.

Senator DANFORTH. Right. No witness even has to ask to submit their statement. They will all be included in the record, and if you would all just summarize your comments in the allotted time it would be very much appreciated.

Mr. O'DAY. Thank you, Mr. Chairman.

The bill before the committee, S. 2685, would implement the Nairobi protocol to the Florence agreement. The Nairobi protocol amends and expands the coverage of the basic agreement to take into account technological changes since 1950.

Basically, the legislation would:

One, require the immediate granting of temporary duty-free treatment for articles specifically designed for the use of physically or mentally handicapped persons other than the blind;

Two, authorize the President to grant temporary duty-free treatment for any other articles covered by the bill for a temporary period not to exceed 2½ years; and

Three, provide a safeguard mechanism for U.S. producers of products for the handicapped which allows for a strict adherence to the provisions of the protocol as a remedy to any significant adverse effect from imports.

The legislation provides that permanent duty-free treatment may be granted if the President finds within 2½ years that our trading partners are acting in an equivalent manner, taking into account their level of obligations, method of implementation, and the benefits to U.S. producers and consumers.

If S. 2685 is enacted, the United States would adhere to five of the nine annexes in the Nairobi protocol: Annex A on books and periodicals, annex B on works of art, annex C on audiovisual materials, annex D on scientific instruments and related tools, and annex E on articles for the blind and otherwise handicapped individuals.

We would not propose to adhere to annexes F, G, and H, covering sports equipment, musical instruments and equipment, and materials and machines used in the production of books.

Mr. Chairman, we believe that there are significant export opportunities within the context of the Nairobi protocol, should it be adopted in a widespread way across the world. Those benefits are worth the support of the Commerce Department, the State Department, and the administration. And, therefore, we propose and urge the committee to adopt the legislation now before it on this subject.

I would be pleased to answer any questions you may have.

Senator DANFORTH. Thank you very much, Mr. O'Day.

[The prepared statement of Hon. Paul T. O'Day follows:]

STATEMENT OF

PAUL T. O'DAY

DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT

U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

WASHINGTON, D.C.

July 21, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE ON S. 2685, A BILL "TO IMPLEMENT THE NAIROBI PROTOCOL TO THE FLORENCE AGREEMENT ON THE IMPORTATION OF EDUCATION, SCIENTIFIC, AND CULTURAL MATERIALS."

THE BASIC FLORENCE AGREEMENT WAS NEGOTIATED IN 1950 AND PROVIDES PRINCIPALLY FOR EXEMPTION OF DUTIES FOR IMPORTS OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS. THE NAIROBI PROTOCOL AMENDS AND EXPANDS THE COVERAGE OF THE BASIC AGREEMENT TO TAKE INTO ACCOUNT TECHNOLOGICAL CHANGES SINCE 1950 TO INCLUDE ADDITIONAL CATEGORIES AND MATERIALS.

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THE PROPOSED LEGISLATION WOULD:

1. REQUIRE THE IMMEDIATE GRANTING OF TEMPORARY DUTY-FREE TREATMENT FOR ARTICLES SPECIFICALLY DESIGNED FOR THE USE OF PHYSICALLY OR MENTALLY HANDICAPPED PERSONS OTHER THAN THE BLIND;

2. AUTHORIZE THE PRESIDENT TO GRANT TEMPORARY DUTY-FREE TREATMENT FOR ANY OTHER ARTICLES COVERED BY THE BILL FOR A TEMPORARY PERIOD NOT TO EXCEED 2-1/2 YEARS FROM DATE OF ENACTMENT; AND

3. PROVIDE A "SAFEGUARD" MECHANISM FOR U.S. PRODUCERS OF PRODUCTS FOR THE HANDICAPPED WHICH ALLOWS STRICT ADHERENCE TO THE PROVISIONS OF THE PROTOCOL AS A REMEDY TO SIGNFICIANT ADVERSE IMPACT FROM IMPORTS.

IN ADDITION, THE LEGISLATION PROVIDES THAT PERMANENT DUTY-FREE TREATMENT MAY BE GRANTED, IF THE PRESIDENT FINDS WITHIN THE 2-1/2 YEAR PERIOD THAT OUR TRADING PARTNERS ARE ACTING IN AN EQUIVALENT MANNER, TAKING INTO ACCOUNT THEIR LEVEL OF OBLIGATIONS AND METHOD OF IMPLEMENTATION, AND THE BENEFITS FOR U.S. CONSUMERS AND EXPORTERS.

S. 2685 WOULD ENABLE THE UNITED STATES TO IMPLEMENT THE PROVISIONS OF THE NAIROBI PROTOCOL. THE MAJOR BENEFITS TO BE DERIVED FROM THE PROTOCOL ARE CONTAINED IN THE PROVISIONS EXEMPTING FROM CUSTOMS DUTY THOSE MATERIALS LISTED

IN THE NINE ANNEXES, SOME OF WHICH ARE MANDATORY AND SOME OPTIONAL. IF S. 2685 IS ENACTED, THE UNITED STATES WOULD ADHERE TO FIVE OF THE NINE ANNEXES IN THE NAIROBI PROTOCOL:

ANNEX A - BOOKS AND PERIODICALS

ANNEX B - WORKS OF ART

ANNEX C - AUDIO VISUAL MATERIALS

ANNEX D - SCIENTIFIC INSTRUMENTS AND RELATED TOOLS

ANNEX E - ARTICLES FOR THE BLIND AND OTHERWISE HANDICAPPED INDIVIDUALS

THE UNITED STATES WOULD NOT PROPOSE TO ADHERE TO ANNEXES F, G, AND H, COVERING SPORTS EQUIPMENT, MUSICAL INSTRUMENTS AND EQUIPMENT, AND MATERIALS AND MACHINES USED IN THE PRODUCTION OF BOOKS, RESPECTIVELY.

THE COMMERCE DEPARTMENT BELIEVES THAT WIDESPREAD ADOPTION OF THE PROTOCOL COULD RESULT IN SIGNIFICANT NEW TRADE OPPORTUNITIES FOR U.S. EXPORTERS. THE LIBERAL DUTY-FREE TREATMENT PROVISIONS IN S. 2685 CAN BE JUSTIFIED ON A PERMANENT BASIS ONLY IF THERE IS GENERALLY EQUIVALENT APPLICATION OF THE PROTOCOL BY OTHER MAJOR TRADING NATIONS.

WE BELIEVE THAT THE AUTHORITY TO GRANT, OR WITHHOLD, DUTY-FREE TREATMENT FOR THE MAJORITY OF THE ARTICLES UNDER THE PROTOCOL WILL PROVIDE EFFECTIVE INCENTIVES TO INDUCE ADEQUATE IMPLEMENTATION OF THE PROTOCOL BY OTHER NATIONS. IT WILL PERMIT EARLY U.S. IMPLEMENTATION OF THE PROTOCOL, BUT ONLY ON A TEMPORARY BASIS TO ENSURE THAT THE UNITED STATES WILL NOT BECOME OBLIGATED UNDER THE PROTOCOL TO GRANT DUTY-FREE TREATMENT ON A PERMANENT BASIS UNTIL ADQUATE RECIPROCITY IS ASSURED.

IN CLOSING, I WOULD LIKE TO STATE THAT WE BELIEVE THAT THIS LEGISLATION PROVIDES OVERALL TRADE BENEFITS FOR U.S. INDUSTRY. THEREFORE, THE COMMERCE DEPARTMENT SUPPORTS THE ENACTMENT OF S. 2685.

Senator DANFORTH. Senator Heinz.

Senator HEINZ. No questions.

Senator DANFORTH. Thank you very much, sir.

Mr. O'DAY. Thank you, Mr. Chairman.

Senator DANFORTH. All right, the next witness is David Elliott, chairman of the Joint Industry Group, with Eleanor Talmadge, president, Andrus Campflow of America.

STATEMENT OF DAVID J. ELLIOTT, CHAIRMAN OF THE JOINT INDUSTRY GROUP OF THE CHAMBER OF COMMERCE

Mr. ELLIOTT. Good morning, Mr. Chairman, Senator Bentsen, Senator Heinz.

As requested, I will summarize my statement.

My name is David Elliott. I am manager of customs, export, and trade affairs for Procter & Gamble. I am here today as chairman of the Joint Industry Group, and I am accompanied by Frank Samolis of Patton, Boggs & Blow.

The Joint Industry Group is a coalition of 21 business associations broadly representative of American businesses involved in international trade. A listing of the members who support this statement is included in my written testimony.

Mr. Chairman, the Joint Industry Group strongly supports S. 1902, which would extend for 2 additional years the President's very limited authority to negotiate tariff reductions under section 124.

Despite the accomplishments achieved in the Tokyo round and the publicity recently given to nontariff barriers in world trade, the fact remains that many of our trading partners retain prohibitively high tariffs on selected imports.

While undoubtedly the subcommittee is aware of the general nature of the authority embodied in section 124, it may not be as aware of the extent to which existing tariff difficulties are burdening U.S. exporters in specific foreign markets where, without high tariffs, the United States could compete effectively.

A few examples may illustrate the need for extending this authority:

U.S. chocolate manufacturers are trying to penetrate a potentially lucrative market in Asia. They are inhibited, however, by tariffs of 30 percent in Japan, 60 percent in Korea, and 100 percent in Taiwan. U.S. tariffs are 5 percent on solid chocolate bars and 7 percent on other chocolate confectionery.

American furniture manufacturers face an effective 30 percent tariff on their finished furniture products in Canada. This compares with a tariff range in the United States of 2.4 to 16 percent for the same products.

The tariff on disposable diapers is currently 80 percent in the Philippines and 56 percent in Korea, compared to the current U.S. rate of 3 percent.

High Common Market duties effectively exclude U.S.-made aluminum truck wheels from Europe, even though there is no production there.

Semiconductor duties are around 17 percent in Europe compared with 4.2 percent in the United States and Japan.

U.S.-made specialty and other papers could significantly expand their markets if Japanese and European duties could be lowered.

Job creation through improved export performance depends upon the elimination of all trade-distorting obstacles, and the problem of unreasonably high tariffs abroad is, in selected cases, as vital as the problem of nontariff barriers. In this regard it is worth noting that section 124 already has a proven track record of success. It has been used twice—once as the result of a petition by the U.S. semiconductor industry to USTR, which resulted in a bilateral agreement with Japan, in which Japan accelerated previously agreed upon reduction from 10.1 to 4.2 percent, and the United States accelerated its reductions from 5.6 to 4.2 percent.

In the section 124 agreement with Taiwan, the other agreement, U.S. duties were reduced on goods which had already been accorded GSP duty-free treatment. In exchange, the Taiwanese made approximately 50 percent rate reductions on many items of particular interest to U.S. exporters. For example, while the disposable diaper reductions should create an additional 300 jobs in this country, we gave up duty protection on bamboo shoots in cans, and I doubt that that cost us very many jobs.

The group is aware of the concern among some that section 124 will be used to negotiate tariff reductions in import-sensitive industries such as footwear or textiles. The group is very sensitive to this issue, but we believe the fear to be unfounded.

First of all, the renewed authority is very limited and will contain the same safeguards as previous law: no more than 20 percent reductions on any item, and the President is limited to negotiations on no more than 2 percent of our U.S. imports in the most recent year.

In addition, in the House counterpart of this bill, the Ways and Means Subcommittee on Trade adopted an amendment which prohibits the President from entering into any trade agreement under section 124 with regard to articles designated by the President as import-sensitive.

The report language defines several products as being import-sensitive: Automotive products, textiles and apparel, steel, and footwear, and provides an appropriate mechanism for identifying others. The group supports both this amendment and the report language as an appropriate means of preventing job losses at a very difficult economic time.

We are confident that this committee, through its oversight and authorization powers, has the ability to insure that the congressional intent is fulfilled. We urge expeditious action on the legislation. Many U.S. industries with a highly efficient, pinpointed export potential need tariff negotiations to accomplish it.

We would be pleased to provide any additional information and answer questions.

Senator DANFORTH. Thank you very much, Mr. Elliott.

[The prepared statement of David Elliot follows:]

STATEMENT OF
THE JOINT INDUSTRY GROUP
OF THE U.S. CHAMBER OF COMMERCE
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ON S. 1902

Good morning. My name is David J. Elliott, manager of customs and international trade affairs for Procter & Gamble. I am accompanied here today by Mr. Frank R. Samolis, of the Washington law firm Patton, Boggs & Blow. We are appearing on behalf of the Joint Industry Group, an ad hoc coalition of trade associations representing many segments of American business involved in international trade, including exporters, importers, customs brokers, and others. A listing of the members who support our statement is included as part of my written testimony.

The Joint Industry Group is very appreciative of this opportunity to testify in support of S. 1902, which would extend for two additional years the President's authority to negotiate tariff reductions pursuant to section 124 of the Trade Act of 1974.

Mr. Chairman, the Joint Industry Group strongly believes that the President and the United States Trade Representative need renewal of this trade negotiation authority. Despite the accomplishments achieved in the Tokyo Round of trade negotiations, and the publicity recently given to the issue of non-tariff barriers in world trade, the fact remains that many of our trading partners retain prohibitively high tariffs on selected imports.

As you know, Presidential action under section 124 is premised upon a determination that existing duties or other import restrictions are "unduly burdening and restricting the foreign trade of the United States." The Joint Industry Group fully supports the Administration's continuing efforts to seek reductions in existing tariff obstacles which are excluding U.S. goods from foreign markets. However, without extension of section 124 authority, the President is severely restricted in his ability to correct this situation. We believe that the President should at least be given the authority to negotiate trade agreements which will open new markets and expand U.S. exports.

Renewal of section 124 authority will facilitate the narrowing of trade-distorting disparities between certain low U.S. and high foreign tariffs. At this moment, there are several instances where negotiations on tariff barriers are at a stalemate because the USTR does not have the requisite statutory authority. While the Subcommittee is aware of the general nature of the authority embodied in section 124, it may not be aware of the extent to which existing tariff difficulties are burdening U.S. exporters in specific foreign markets where -- without the high tariffs -- the U.S. could compete. A few examples may illustrate the urgency of renewing section 124 authority:

-- U.S. chocolate manufacturers are trying to penetrate a potentially lucrative market in Asia. They are inhibited, however, by tariffs of 30% in Japan, 60% in Korea and 100% in Taiwan. U.S. tariffs on chocolate are 5% on solid chocolate bars and 7% on other chocolate confectionary.

-- American furniture manufacturers face an effective 30% tariff on their finished furniture products entering Canada. This compares with a tariff range in the U.S. of 2.4% to 16% for the same products.

-- The tariff on disposable diapers is currently 80% in the Philippines and 56.5% in Korea, compared to the current U.S. rate of 3.1%.

-- American manufacturers of semiconductors face a 17% tariff on their exports to the European Economic Community. This is compared to a 4.2% tariff on imports of these articles into the United States.

Job creation through improved export performance depends upon the elimination of all trade-distorting obstacles, and the problem of unreasonably high tariffs abroad is every bit as vital as the problem of non-tariff barriers. Particularly with respect to those industries like furniture and wood products manufacturing that are relying on improved export performance to counter the effects of a stagnant domestic market, the reduction in foreign tariffs is absolutely essential.

In this regard, it is worth noting that the utilization of section 124 in the recent past has been successful: the U.S. semiconductor industry petitioned the USTR to negotiate a bilateral agreement with Japan, in which Japanese duties were reduced from 10.1 to 4.2 percent, while U.S. duties were reduced from 5.6 to 4.2 percent. In another section 124 trade agreement with Taiwan, U.S. duties were reduced on goods which had already been accorded GSP duty-free treatment. In exchange, the Taiwanese made 50% reductions on many items of particular interest to U.S. exporters. Taiwan's reduction in duties on one item alone -- disposable diapers -- could expand exports enough to create about 300 additional jobs in the United States. Obviously, the larger the market which U.S. manufacturers can reach overseas, the greater the number of jobs there will be at home.

The Joint Industry Group is aware of the concern among some that section 124 authority will be used to negotiate tariff reductions affecting import sensitive industries such as footwear or apparel. We believe this fear to be unfounded for several reasons:

1. The renewed section 124 authority will contain the same safeguards as did previous law. In any trade agreement that is concluded under this authority, the President cannot reduce the tariff more than 20% on any one item. In addition, imports of products subject to section 124 tariff cuts are limited to 2% of all U.S. imports.

2. The statutory framework of the Trade Act of 1974 provides for other safeguards by requiring the President to consult with the International Trade Commission, Executive agencies, and representatives from the private sector in determining the domestic economic impact of any trade agreement negotiated under section 124. The President also must apprise the House Committee on Ways and Means and the Senate Finance Committee of the progress of any trade agreement negotiations. Given the direct limitations on the amount of tariff reductions the President is allowed to make, and the indirect checks arising out of the consultations with government and private sector interests, the power of the President to make tariff reductions with section 124 authority is quite narrow.

3. In the House counterpart of S. 1902, the Subcommittee on Trade of the Committee on Ways and Means adopted an amendment which would impose additional safeguards for troubled domestic industries. The amendment specifically provides that the President cannot enter into any trade agreement under section 124 authority "with regard to articles that are designated by the President as import sensitive." The Joint Industry Group accepts this amendment as a compromise which will allow the President to continue to seek reductions in foreign tariffs, while ensuring that our import sensitive industries will not be adversely affected by any resulting trade agreement.

4. The past history of the use of section 124 authority provides a further assurance of how it will be used in the

future. In the two agreements mentioned above, the tariff reductions implemented by the United States were small in comparison to the reductions received in exchange. As far as the Joint Industry Group knows, no import sensitive industries were affected by those trade agreements.

The Joint Industry Group strongly urges the Senate Finance Committee to act expeditiously on this legislation. A number of highly efficient U.S. industries have pinpointed potential export markets in which they are ready, willing, and able to compete head-on with their foreign counterparts. We ask only that they be given the chance to compete on reasonably even terms. The Joint Industry Group firmly believes that extension of the President's trade negotiating authority will lead to a worthwhile improvement in U.S. export performance, which will help revitalize the business climate in the U.S. and create new job opportunities. We would be pleased to supply the Committee with any additional information which would expand on our statement today. Thank you for your consideration of our position.

THE JOINT INDUSTRY GROUP

U.S. CHAMBER OF COMMERCE
WASHINGTON, D.C.

DAVID J. ELLIOTT, CHAIRMAN
P O BOX 599, CINCINNATI OHIO 45201

In making this statement, the Joint Industry Group has the support of the following associations and businesses they present:

The Air Transport Association of America - represents nearly all scheduled airlines of the United States.

The American Electronics Association - has over 1,900 high technology electronics companies as members. Its members are mostly small to medium in size, with more than half employing fewer than 200 people.

The American Association of Exporters and Importers - represents over 1,200 companies, many small to medium in size, plus 200 customs brokers, attorneys and banks.

The American Paper Institute - represents companies which account for 90% of U.S. production of pulp, paper, and paperboard.

The American Retail Federation - an umbrella organization encompassing thirty national and fifty state retail associations that represent more than one million retail establishments with over 13,000,000 employees.

The Chamber of Commerce of the United States - represents over 236,000 companies and 2,800 state local Chambers of Commerce.

The Chocolate Manufactures Association - A nationwide organization representing approximately 95% of the manufacturers and distributors of cocoa and chocolate confectionery products. The industry employs around 18,000 individuals.

The Cigar Association of America - includes 75% of all U.S. cigar sales and major cigar tobacco leaf dealers.

The Computer & Business Equipment Manufacturers Association - includes nearly forty members with 1,000,000 employees and in excess of $50 billion in worldwide revenues. Members range from the smallest to the largest in the industry.

The Electronic Industries Association - its 400 member companies, which range in size from some of the very largest American businesses to manufacturers in the $25-50 million annual sales range, have plants in every State in the Union.

The Foreign Trade Association of Southern California - represents 250 firms in Southern California in the import-export trade.

The International Hardwood Products Association - an international association of 250 importers, suppliers and allied industry members. Members handle 75% of all imported hardwood products and range in size from small private businesses to the largest in the industry.

The Motor Vehicle Manufacturers Association - its 9 members produce 99% of all U.S.-made motor vehicles.

The National Association of Furniture Manufacturers; The Southern Furniture Manufacturers Association - over 275,000 employees representing NAFM and SFMA with over $10 billion in sales produced by the domestic furniture manufacturers.

The National Association of Photographic Manufacturers - its corporate membership employs approximately 115,000 individals and represents over 90% of domestic shipments of photographic products.

The National Committee on International Trade Documentation - includes many of the major U.S. industrial and service companies.

The National Customs Brokers & Forwarders Association of America, Inc. - a nationwide organization composed of licensed Customs brokers and ocean/air freight forwarding firms. The national association has 26 regional and local affiliated associations of brokers and forwarders; the affiliates are located in every major U.S. port. The combined membership handles most of the general cargo imported into and exported from this country.

The National Foreign Trade Council - is the oldest and largest private, non-profit organization exclusively concerned with the expansion of American foreign trade and investment. More than 650 firms make up the membership of the NFTC with council members accounting for over 70% of all U.S. exports and over 70% of all U.S. foreign direct private investment.

The National Forest Products Association - An organization of 2,500 companies which are engaged in the manufacture and marketing of a wide variety of wood products.

The Scientific Apparatus Makers Association - represents manfacturers and distributors of scientific, industrial, and medical instruments and related equipment.

<u>The U.S. Council for International Business</u> - a business policy-making organization which represents and serves the interests of several hundred multinational corporations before relevant national and international authorities.

Senator DANFORTH. Senator Heinz.

Senator HEINZ. Yes. Thank you, Mr. Chairman.

Mr. Elliott, as I said a few minutes ago, my concern in granting this authority, besides the fact that it is unprecedented, is that it would harm a number of industries that are easily harmed, had been harmed, are being harmed by imports. Would you agree or disagree with that?

Mr. ELLIOTT. I am aware that many industries feel that they have been harmed and injured by imports. There is a significant evidence of that in many different ways. The Joint Industry Group is not interested in pursuing tariff reductions that would in any way further threaten those industries.

Senator HEINZ. Well, that means, therefore, you would support a policy that would prevent the administration from cutting tariffs on industries that are being hurt by imports?

Mr. ELLIOTT. We would certainly support a policy that precluded negotiations under 124 on the duties of import-sensitive industries. That may go beyond those now being injured.

Senator HEINZ. All right. One way to do that is to say that we will not grant authority for negotiations on anything that is not already on the GSP list. Would you support that policy?

Mr. ELLIOTT. The concern we have with that particular formulation, sir, is that the GSP eligibles list is not per se a definition of import-sensitive industries. I understand from conversations with USTR there are a number of products that are not import-sensitive, that are not on the GSP eligible list because no one ever thought it was interesting to put them on.

Senator HEINZ. Would you be willing to support a policy that started by saying we are not going to grant authority for anything that is not on the GSP list, with the exception of certain specified product categories that you or the administration demonstrate are not import-sensitive?

Mr. ELLIOTT. Did you say start with the GSP eligibles list and then add nonsensitive items to that? That would certainly be an approach that could be considered. Yes.

Senator HEINZ. Are you able to specify what you believe are non-import-sensitive product categories?

Mr. ELLIOTT. We have not gone through that process, Senator. No.

Senator HEINZ. I think that might be helpful.

Mr. ELLIOTT. I will make due note and pursue your suggestion.

Senator HEINZ. Thank you very much.

Thank you, Mr. Chairman.

Senator DANFORTH. Senator Bentsen.

Senator BENTSEN. No questions. Thank you.

Senator DANFORTH. Thank you, Mr. Elliott.

Ambassador Brock, glad to have you back.

Ambassador BROCK. Thank you, Mr. Chairman.

Do I have a prepared text? I don't know if I do or not. It's irrelevant. I'm not going to use it, obviously.

Senator HEINZ. If the chairman will yield, I will be happy to lend you my statement.

Ambassador BROCK. I wouldn't take that for all the tea in China. [Laughter.]

I am trying to present a factual case here today, Senator. [Laughter.]

Senator HEINZ. I can't wait for the question session, Mr. Chairman. [Laughter.]

Senator BENTSEN. You are off to a great start now. I had planned to go right back to the floor, but I think I'll stay. [Laughter.]

Senator DANFORTH. Ambassador Brock, it was my understanding that you have some other appointment this morning and that you were hoping to get out in about 45 minutes. Good luck.

Senator HEINZ. Mr. Chairman, I thought that his years in the Senate would not be lost on him.

Ambassador BROCK. Occasionally I forget about it, sometimes deliberately.

STATEMENT OF AMBASSADOR WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

Ambassador BROCK. I do want to just be very brief, because I do want to reserve a time for questions.

Senator HEINZ. We're developing a long list of them, starting now.

Ambassador BROCK. Well, there are serious questions about this study, and I respect the differences that do exist on both sides; but, for myself, I seek it for a very simple reason, and that is that we need the ability to negotiate to advantage U.S. exports and to do so in a fashion that does not create problems for imports and for import-sensitive industries.

It seems to me that what we have tried to do over the period of years of this authority is to have the ability to take that kind of action and to do so very, very carefully. It's been done in a limited fashion; it's been done in a way that, in my judgment, has created no new problems.

The basic thrust of the request is to simply leave us with the ability to use every tool that we can in negotiating new business opportunities for American firms and workers wherever they may want to engage in commerce outside of the United States. That is the purpose of the request, and to me it is a very simple one that we would appreciate an affirmative response to.

I should say, because I know we will get into some questions, that I have an extensive list of steps that are taken now to preclude the kind of concerns that have been expressed, to insure that we do not do violence to those industries that are import-sensitive. In that particular regard, if you wish, I can either handle that in response to questions or provide the committee with a complete listing of the steps that we go through in making the determination for 124 authority use or for the reduction of tariffs. That would be entirely up to you; but I do want to stress the fact that it is an exhaustive and extensive process that is carefully described both by law and by procedure to insure that we do accommodate the concerns of the Members of this body, because there are valid reasons for the expression of such concerns on the basis of the current economic difficulty we find ourselves in.

I think that's enough for me to stop on, Mr. Chairman, and try to get to whatever questions you have and see if we can resolve the issue.

[The prepared statement of Ambassador Brock follows:]

STATEMENT OF

WILLIAM E. BROCK

MEMBERS OF THE SUBCOMMITTEE, LADIES AND GENTLEMEN:

GOOD MORNING. I WELCOME THIS OPPORTUNITY TO MAKE A FEW, BRIEF REMARKS IN SUPPORT OF S. 1902, LEGISLATION WHICH WOULD RENEW FOR TWO YEARS THE PRESIDENT'S RESIDUAL TARIFF AUTHORITY UNDER SECTION 124 OF THE TRADE ACT OF 1974.

AS YOU KNOW, SECTION 124 TARIFF AUTHORITY EXPIRED ON JANUARY 3, 1982. UNDER SECTION 124, THE PRESIDENT HAS THE AUTHORITY TO MAKE MODEST REDUCTIONS OF NO MORE THAN 20 PERCENT IN U.S. TARIFFS IN EXCHANGE FOR OFTEN MUCH LARGER CUTS IN FOREIGN TARIFFS.

OUR OFFICE DOES NOT CONSIDER SECTION 124 TO BE A GENERAL NEGOTIATING AUTHORITY. WE INTEND TO USE THIS AUTHORITY ONLY IN SPECIFIC CASES IN WHICH GOOD OPPORTUNITIES TO NEGOTIATE REDUCCTIONS IN FOREIGN TRADE BARRIERS ARISE.

OUR OFFICE REGULARLY RECEIVES COMPLAINTS FROM AMERICAN FIRMS AND WORKERS REGARDING HIGH FOREIGN TARIFFS, PARTICULARLY IN TARIFF DISPARITY CASES IN WHICH FOREIGN TARIFFS EXCEED THOSE FOR THE UNITED STATES ON THE SAME

PRODUCTS. WE MADE PROGRESS IN REDUCING FOREIGN TARIFFS AND TARIFF DISPARITIES DURING THE TOKYO ROUND OF MULTILATERAL TRADE NEGOTIATIONS, BUT THERE IS STILL ROOM FOR FURTHER MOVEMENT. THE NEWLY INDUSTRIALIZED AND OTHER DEVELOPING COUNTRIES PRESENT PARTICULARLY ATTRACTIVE OPPORTUNITIES FOR SECTION 124 TARIFF NEGOTIATIONS, SINCE MANY OF THESE COUNTRIES DID NOT ACTIVELY PARTICIPATE IN THE MULTILATERAL TRADE NEGOTIATIONS. SEVERAL OF THEM NOW APPEAR WILLING TO NEGOTIATE THEIR HIGH TARIFFS WHICH LIMIT OUR EXPORT SUCCESS. CANADA AND THE EC HAVE ALSO INDICATED AN INTEREST IN SECTION 124 TARIFF NEGOTIATIONS, IF OUR AUTHORITY IS RENEWED.

WITHOUT PASSAGE OF S. 1902 (AND ITS HOUSE COMPANION BILL, H. R. 4761), WE WILL FORFEIT VALUABLE OPPORTUNITIES TO EXPAND AMERICAN EXPORTS AND THE JOBS INVOLVED IN THOSE EXPORTS. OFTEN, TARIFFS IN DEVELOPING COUNTRY MARKETS ARE PROHIBITIVELY HIGH. EVEN THE MORE MODERATE TARIFF LEVELS IN DEVELOPED COUNTRIES CAN SERIOUSLY DAMAGE OUR EXPORT COMPETITIVENESS.

WE ARE ALSO FORFEITING OPPORTUNITIES TO OBTAIN NEGOTIATING CREDIT FROM OUR TRADING PARTNERS FOR REDUCTIONS IN U.S. TARIFFS. THE CONGRESS HAS OFTEN

FAVORABLY RESPONDED TO PRIVATE SECTOR REQUESTS FOR U.S. DUTY REDUCTIONS BY APPROVING UNILATERAL U.S. TARIFF CUTS IN MISCELLANEOUS TARIFF LEGISLATION. BY GIVING THE EXECUTIVE BRANCH AN EXTENSION OF THE MODEST TARIFF AUTHORITY UNDER SECTION 124, OUR OFFICE COULD ATTEMPT TO NEGOTIATE RECIPROCAL REDUCTIONS IN FOREIGN TARIFF AND NON-TARIFF BARRIERS IN EXCHANGE FOR THESE U.S. TARIFF REDUCTIONS.

OUR OFFICE HAS RECEIVED ABOUT A HUNDRED LETTERS FROM OUR INDUSTRY, LABOR, AND AGRICULTURAL ADVISORS REGARDING EXTENSION OF SECTION 124 AUTHORITY. THE MAJORITY OF THESE LETTERS WERE VERY SUPPORTIVE OF AN EXTENSION. IN ADDITION, WE HAVE RECEIVED MANY PRIVATE SECTOR REQUESTS FOR USE OF SECTION 124 AUTHORITY. SOME EXAMPLES INCLUDE REQUESTS FOR FOREIGN TARIFF CUTS ON: TOBACCO PRODUCTS, CITRUS PRODUCTS, ALUMINUM WHEELS, SILICONES EXPORTED TO THE EC; FURNITURE, ALUMINUM AND FIBERGLASS SCREENS, WALLCOVERINGS, DENTAL MATERIALS, MOLDS, AND COBALT CHEMICALS SHIPPED TO CANADA; COLOR TELEVISIONS, HANDTOOLS, CAMERAS AND FILM, MOTORS, TALLOW, AND SQUID EXPORTED TO THE PHILIPPINES; CHOCOLATE PRODUCTS SHIPPED TO KOREA; AND SALMON IMPORTED INTO NEW ZEALAND.

THERE IS OPPOSITION TO RENEWAL OF THIS SECTION 124 AUTHORITY. SOME BELIEVE THAT WE WILL USE SECTION 124 AS A GENERAL NEGOTIATING AUTHORITY. AS I MENTIONED EARLIER, THAT IS NOT OUR INTENTION.

SOME OF THE WITNESSES YOU WILL HEAR TODAY MAY EXPRESS CONCERNS ABOUT THE POTENTIAL USE OF SECTION 124 AUTHORITY ON IMPORT-SENSITIVE ITEMS. I WANT TO ASSURE THIS COMMITTEE THAT, BASED ON OUR TRACK RECORD IN USING THIS AUTHORITY AND THE PROCEDURAL SAFEGUARDS EMBODIED IN THE TRADE ACT OF 1974, SUCH CONCERNS ARE UNFOUNDED.

DURING 1981, OUR OFFICE NEGOTIATED TWO SECTION 124 AGREEMENTS -- ONE WITH JAPAN AND THE OTHER WITH TAIWAN. THE U.S.-JAPAN 124 AGREEMENT ACCELERATED THE IMPLEMENTATION OF MTN TARIFF REDUCTIONS ON SEMICONDUCTORS BY BOTH COUNTRIES. THE UNITED STATES AGREED TO IMPLEMENT THE MTN CONCESSON DUTY OF 4.2 PERCENT BY 1983 RATHER THAN WAITING UNTIL 1987. IN RETURN, JAPAN MADE AN EVEN GREATER CONCESSION IN AGREEING TO ACCELERATE ITS SEMICONDUCTOR TARIFFS FROM 10.1 TO 4.2 PERCENT BY APRIL 1982. THUS, THIS SECTION 124 AGREEMENT REMOVED THE EXISTING DISPARTIY BETWEEN JAPAN'S HIGH TARIFFS ON SEMICONDUCTORS AND THOSE OF THE UNITED STATES.

UNDER THE U.S.-TAIWAN SECTION 124 TRADE AGREEMENT, TAIWAN CUT TARIFFS ON 28 AGRICULTURAL AND INDUSTRIAL PRODUCTS BY AN AVERAGE OF 26 PERCENT. THE UNITED STATES REDUCED TARIFFS BY 20 PERCENT ON EIGHT PRODUCTS, ALL OF WHICH ALREADY RECEIVED DUTY-FREE TREATMENT WHEN SHIPPED BY ELIGIBLE DEVELOPING COUNTRIES UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP). TAIWAN HAD EXCEEDED THE COMPETITIVE NEED CEILINGS ON SIX OF THE ITEMS. ESSENTIALLY, TAIWAN PAID FOR MINOR TARIFF CONCESSIONS ON PRODUCTS FOR WHICH IT HAD ONCE ENJOYED DUTY-FREE TREATMENT UNDER GSP.

NOW, I WOULD LIKE TO BRIEFLY OUTLINE THE EXTENSIVE PROCEDURAL REQUIREMENTS FOR USE OF SECTION 124 AUTHORITY. FIRST, BEFORE WE CAN EVEN CONSIDER CUTTING U.S. TARIFFS, WE MUST SEEK AND RECEIVE THE ADVICE OF THE U.S. INTERNATIONAL TRADE COMMISSION ON THE "PROBABLE ECONOMIC EFFECT" OF A 20 PERCENT TARIFF CUT ON THE RELEVANT U. S. INDUSTRIES AND ON CONSUMERS. IF SECTION 124 AUTHORITY IS RENEWED, OUR OFFICE INTENDS TO SEEK NEW USITC ADVICE ON A LIMITED NUMBER OF ITEMS TO BE CONSIDERED FOR POSSIBLE USE IN SECTION 124 TRADE AGREEMENTS. WE PLAN TO CONSULT CLOSELY WITH OUR PRIVATE SECTOR ADVISORY COMMITTEES IN FORMULATING THE LIST OF PRODUCTS FOR WHICH USITC ADVICE WILL BE REQUESTED.

THERE ARE TWO SEPARATE SETS OF PUBLIC HEARINGS HELD -- ONE BY THE USITC AND THE OTHER BY THE INTERAGENCY TRADE POLICY STAFF COMMITTEE.

UNDER SECTION 135 OF THE TRADE ACT, WE MUST SEEK PRIVATE SECTOR ADVICE WITH RESPECT TO NEGOTIATING OBJECTIVES AND BARGAINING POSITIONS BEFORE ENTERING INTO A SECTION 124 AGREEMENT. OTHER SECTIONS OF THE 1974 TRADE ACT REQUIRE US TO SEEK ADVICE FROM CTHER EXECUTIVE BRANCH AGENCIES AND TO CONSULT WITH CONGRESSIONAL ADVISORS AND STAFF ON THE STATUS AND PROGRESS OF ANY NEGOTIATIONS UNDER SECTION 124.

THESE PROCEDURAL REQUIREMENTS ARE ADEQUATE TO SAFEGUARD THE INTERESTS OF IMPORT-SENSITIVE U. S. INDUSTRIES AND WORKERS. OUR TRACK RECORD OF USING SECTION 124 AUTHORITY DEMONSTRATES THAT WE HAVE BEEN EXTREMELY CAREFUL TO AVOID ACTIONS WHICH MIGHT BE DETRIMENTAL TO IMPORT-SENSITIVE U.S. INDUSTRIES.

IN MARKING-UP H.R. 4761, THE HOUSE COUNTERPART TO S. 1902, THE HOUSE WAYS AND MEANS TRADE SUBCOMMITTEE ADDED TWO AMENDMENTS. THE FIRST AMENDMENT PROVIDES FOR A FULL, TWO-YEAR RENEWAL OF SECTION 124 AUTHORITY RATHER THAN A TWO-YEAR EXTENSION FROM THE EXPIRATION DATE OF

SECTION 124 OF JANUARY 3, 1982. WE FULLY SUPPORT THIS AMENDMENT AND WOULD ENCOURAGE THIS COMMITTEE TO TAKE SIMILAR ACTION. WE WILL NEED AT LEAST SIX MONTHS IN ORDER TO SEEK AND RECEIVE NEW USTIC ADVICE UNDER SECTION 124. THE REMAINING 18 MONTHS WILL BE NEEDED TO COMPLY WITH THE OTHER PROCEDURAL REQUIREMENTS I'VE MENTIONED EARLIER AND TO ENTER INTO AND COMPLETE NEGOTIATIONS WITH OUR TRADING PARTNERS.

THE SECOND AMENDMENT WAS INTRODUCED BY THE CHAIRMAN OF THE TRADE SUBCOMMITTEE TO ALLEVIATE CONCERNS ABOUT USE OF SECION 124 AUTHORITY ON IMPORT-SENSITIVE PRODUCTS. THIS AMENDMENT PROVIDES THAT THE PRESIDENT CANNOT USE SECTION 124 AUTHORITY ON ITEMS HE DEEMS TO BE IMPORT-SENSITIVE. IN ADDITION, THE WAYS AND MEANS COMMITTEE REPORT LANGUAGE IDENTIFIES SEVERAL SECTORS WHICH, IN THE COMMITTEE'S VIEW, SHOULD NOT BE INCLUDED IN SECTION 124 NEGOTIATIONS. OUR OFFICE CAN ACCEPT THIS AMENDMENT.

BEFORE CONCLUDING MY REMARKS, I'D LIKE TO EMPHASIZE THE IMPORTANCE OF HAVING THIS AUTHORITY RENEWED BEFORE THE NOVEMBER GATT MINISTERIAL MEETING. MANY OF OUR TRADING PARTNERS ALREADY HAVE THE AUTHORITY TO LIBERALIZE TRADE BY CUTTING TARIFFS. IF THE UNITED STATES DOES NOT HAVE

SIMILAR AUTHORITY, I WILL BE PLACED IN A WEAKER POSTURE VIS-A-VIS OUR KEY TRADING PARTNERS. WHAT IS AT ISSUE HERE IS OUR TRADING PARTNERS' PERCEPTION OF OUR COMMITMENT TO TRADE LIBERALIZATION AND OF OUR ABILITY TO MAKE GOOD ON THAT COMMITMENT. PASSAGE OF THIS LEGISLATION IS CRITICAL TO OUR INTERNATIONAL EFFORTS TO FURTHER OPEN FOREIGN MARKETS AND TO PROMOTE AN OPEN WORLD-TRADING SYSTEM.

THIS CONCLUDES MY PREPARED REMARKS. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS MEMBERS OF THIS COMMITTEE MIGHT HAVE.

Senator DANFORTH. Mr. Ambassador, you have mentioned this subject to me a number of times over a fairly long period of time, and the bill was introduced, really, at your request. But I have gathered over this long period of time that this is not just a matter of pro forma support for legislation by the administration, but that it is a matter about which you feel quite strongly.

I would like you to tell the committee why you feel strongly about it. Why is this such an important matter to you?

Ambassador BROCK. Well, basically it is one area where we almost give up nothing in order to get a great deal. There is no way you are going to get into the use of this authority without having carefully quantified the cost of any action you might take and measuring it against the potential benefit that this country can provide.

I mentioned the process. We have talked to labor, we have talked to business, we have talked to the congressional committees of the Senate and the House, particularly this committee. Before we even begin this kind of a process we look at the requests that we have from other governments or the requests we have from U.S. business, and we measure the relative merit of what we give for what we get. And invariably we can posture this kind of program. It is not always true in other cases, but in this program we can generally assume that we will gain more than we give, and that seems to me to be a logical thing for the United States to do.

But beyond that, there are times when entering into up to a 20-percent reduction in tariffs, which is what this allows, can achieve results in something more than direct quantity-of-trade terms; it can achieve for us an ability to negotiate with other countries in areas that have much broader application.

We are going, Senator, into the GATT ministerial of the small. We will need the support of a lot of small countries—badly need their support. They could destroy the ministerial if they see fit, just by being negative. Our opportunity to offer them real, tangible reasons for being constructive could be constrained if we don't have this kind of an authority. So it goes to the immediate substance of getting more than you get, in tangible terms, but it also goes to the broader application of trade policy and to the more fundamental U.S. trade objective in the international trading system.

Senator DANFORTH. Senator Heinz.

Senator HEINZ. Thank you, Mr. Chairman.

As I understand what the administration seeks, you are seeking a broad grant of authority to negotiate that is unlike any previous grant inasmuch as previous grants have been tied to a specific negotiation, the Tokyo round, for example. Is that not correct?

Ambassador BROCK. No, I don't think so. I think we've got a good example of authority not specific to any particular round, and that is the 123 authority in the 1974 Trade Act. That section permits the President to negotiate compensation packages in cases where we have had to increase duties to protect industries hurt by increasing imports.

Even the 124 authority itself, although established at the time of the MTN negotiations, was meant to be used outside of the framework of the major negotiations.

It seems to me that what we are saying is we are simply asking for a renewal of an authority—granted, it has only been used twice, but a renewal—that does have a life of its own. And it is unrelated to these central thematic negotiations.

Senator HEINZ. My concern is that you may cut tariffs on items that are already very import-sensitive. Now, I do understand that the administration would not object to the so-called "Gibbons language" which states that the authority in the section could not be exercised with regard to articles that are designated by the President as import-sensitive. Is that correct?

Ambassador BROCK. That's right.

Senator HEINZ. Now, frankly, I would like to see that amendment strengthened. I would like to see it strengthened at a minimum by stating that articles which are as of the date of enactment not on the GSP list wouldn't be negotiable. What is the problem with that?

Ambassador BROCK. Well, I just don't know. It is the same argument, I guess, that I will make to you when next we meet on the Caribbean Basin Initiative, and that is that the addition of product lists to any such approach tends to negate the value of the approach and the flexibility that you need going in.

Senator HEINZ. What you are saying is, it restricts your latitude in negotiating. Is that right? You would like to be able to say everything is negotiable, on the one hand, but on the other hand you are saying here that everything isn't negotiable and the President is going to act in good faith to protect import-sensitive—is that accurate?

Ambassador BROCK. I think that is pretty accurate, and generally fair.

Senator HEINZ. Now, are you kidding us or are you kidding them?

Ambassador BROCK. Hopefully neither. I just don't think we live in a static world. I think things change real fast. And anytime you write something like that into law, you are locked. I guess what would worry me—teasing aside—in looking at the Congress and the pressure that you all are under today, and it's enormous, really enormous, with the degree of unemployment that we have in this country, with the economic circumstance that you have to face——

Senator HEINZ. You are not facing those problems, either, in the administration?

Ambassador BROCK. We all are. But the fact is that a lot of your colleagues in the House and the Senate are facing an electorate this year that is pretty angry. In that kind of a setting there is a reason, frankly, to exclude almost every product that you can think of.

Senator HEINZ. Well, let's be factual. Let's discuss the process by which you would determine what was negotiable, what was not import-sensitive, what was import-sensitive, for these negotiations, if you decide to enter into tariff cutting. As I understand the procedure you propose, you consult with the ITC, you consult with the private sector, and then after you have done that you have got to go to an ITC hearing. Right? Is that correct?

Ambassador BROCK. First we have our own hearing.

Senator HEINZ. Yes.

Ambassador BROCK. Then we have the ITC hearing. During this entire process, before and after, we are in consultation with labor, with business, with agricultural interests; then we consult with all other departments of Government to be sure there is no concern there.

Senator HEINZ. My point is it is a very substantial, consultative hearing process.

Ambassador BROCK. Yes.

Senator HEINZ. Mr. Chairman, I heard the bell go off. I have about 2 or 3 more minutes. If I have the permission of my colleagues, you and Senator Bentsen, I would appreciate it if I could just finish this line of questioning. Unless that is a problem for you, of course.

Senator DANFORTH. Sure.

Senator HEINZ. You are as aware as I am of the process by which a petitioner avoids being on the GSP list. A petition is made annually. There is an ITC hearing, and there are consultations. It is a very similar process, as I understand it. Is that not correct?

Ambassador BROCK. Yes, in a lot of ways it is.

Senator HEINZ. So, procedurally there are many similarities. Now, my question to you is, since we know the procedure is similar, and the result ought to be similar since the procedure is similar, as a practical matter, can you envisage coming up with a list of import-sensitive articles, as the Gibbons amendment would require, that is at all different in practice, practically speaking, from the non-GSP list?

Ambassador BROCK. Well, there would be a great deal more consonance with that list than there would be difference, obviously. It would be hard to come up with——

Senator HEINZ. There would be a lot of similarities?

Ambassador BROCK. Sure there would. It would not, obviously, be identical, but it would be similar.

Senator HEINZ. Thank you, Mr. Chairman.

Senator DANFORTH. Senator Bentsen.

Senator BENTSEN. Thank you, Mr. Chairman.

Mr. Ambassador, supposing you get access to the $5 billion in exports, what about the other $35 billion? I am really concerned about the enforcement of the various trade codes and how you go about it. Senator Heinz was making reference to other legislation. We have some that will be facing us. You were talking about the pressures that we are under, that you are under, that would deal with it in a much more arbitrary way.

I really want to see, as much as we can, that we take advantage of the dispute settlement procedures under GATT and that we very actively and aggressively enforce the things that we have that we can utilize.

Would you care to comment further on that? Because unless that is done, unless there is the impression that that is being done, it would be very difficult to resist these other more arbitrary approaches.

Ambassador BROCK. You know, I really can't argue it, I can't disagree with it. Sometimes it is a little frustrating, even with all the pressures here, to have the criticism made that we are not enforcing the present agreements on one side, and then have an almost desperate plea from a number of people in Europe, for example, that we are being too aggressive.

We are trying to take these cases through dispute settlement, and we are pressing very hard for an equitable resolution of the dispute within the range of the international agreement that we have.

It is absolutely fair to suggest, both in terms of international law and domestic law, that this administration or any other should act to enforce the agreements and the code that we live by. I think we are doing that. I think the action of the Commerce Department recently on steel gave a pretty good example of our willingness to enforce U.S. law. When it is clear, and when there is an egregious violation, we have to enforce that law.

So I think we are doing precisely what you suggest, at least I hope we are.

Senator BENTSEN. Well, I look at the situation where I understand we are talking about not pressing as aggressively, for example on citrus. That has been a long-term concern of mine because of my own State and what they do in citrus; but I am told that the United States should not push that case against the European preference now. I don't understand that.

Ambassador BROCK. There has been no such decision in my office. We haven't pulled back on that at all.

Senator BENTSEN. Well, I'm pleased to hear that. Perhaps I have been misadvised.

How about the question of the subsidized exports of poultry products and that type of thing?

Ambassador BROCK. We have a case pending before the GATT on that, also, at the present time. We have had a little difficulty in getting it to move as fast as we had hoped, but we are pursuing it. And there has been no withdrawal or a weakening of the position, again, in that particular area.

My General Counsel was just over there. Don, I think that is factual, is it not?

Mr. DEKIEFFER. That is correct.

The problem, Senator, of course, that we have in Geneva and dealing with the Europeans in general is that Europe is closed throughout most of the summer. We have pressed that case, and we intend to continue to press it.

Senator BENTSEN. Thank you very much.

Senator DANFORTH. Ambassador Brock, I would like to ask you a totally unrelated question.

There is considerable activity, I am told, in the House on the question of domestic content legislation. Thus far in the Senate, to my knowledge, there have been no hearings on it. As a matter of fact, the bill has been referred to the Commerce Committee, not to the Finance Committee. And I know that you are not prepared for a hearing on the issue today, and this doesn't purport to be one; but I wonder if you could, just in about 2 minutes, give us your or the administration's views on the advisability of enacting domestic content legislation, what the effect would be of doing so?

Ambassador BROCK. Mr. Chairman, it is my personal judgment that if we want to take the largest single risk that we can take to recreate 1929, that's one way to do it.

I think it is as close to a Smoot-Hawley approach as any I can think of. The idea that this country can solve its domestic problems by imposing a domestic content requirement on the products sold here is just irrational.

You are talking about a possibility of increasing the price sold in the United States, all cars, by $1,000 to $1,500. You are talking about taking that action in total disregard of the fact that we are going into what may be the most crucial trading meeting of the last many years this November at a time when the whole world trading system is under economic pressure and political pressure, when protectionism is rampant and getting increasingly so. And you are talking about taking an action in which the United States would abandon its total commitment for the last several decades to the process of liberalized trade in response to a short-term economic circumstance, without considering the fact that that action would destroy the GATT ministerial, any prospect of success could trigger a massive trade war, and that all would lose but particularly the United States.

It is a fact that we presently, and have for many years exported more manufactured parts than we import, we export more farm products than we import, we export more services than we import, because we are a competitive productive country.

If we start taking actions of that sort, then we will invite others to take a similar course of action, and we will lose more than we gain. You are talking about the potential for losing hundreds of thousands of jobs, billions of dollars' worth of net income, all in an exercise in political futility because it doesn't solve the problem.

If I thought about it for a while I could give you a stronger response. [Laughter.]

Senator DANFORTH. Well, I wanted to make it clear. Obviously this is not a hearing on this particular issue, but I wanted you to at least have the opportunity to give us a preview of your reaction, and I think you have done that.

I would say that obviously the auto industry is in a terribly weak condition, as are a number of other sectors of the economy. I think that the best way for the administration to diffuse this particular issue is to examine the problems of the U.S. auto industry and figure out if there is something that could be done to help it other than this strategy, because a lot of us take very seriously the fact that that industry is crucial, central in our economy. And really, it is not just an economic question; it has a lot to do with the pride of the country. The auto industry has been our international pride. So we want to help it. We want to do something for it. We want to try to improve its lot.

And yet, I think you have indicated that the administration does have very strong views that this particular measure is, at least as viewed by you, a repetition of Smoot-Hawley and a return to 1929.

Ambassador BROCK. I do feel that way, Senator, and yet I am totally in sympathy with your more fundamental comments about the American automobile industry. There are a quarter of a million good men and women in this country who are perfectly willing and able to work, and skilled, and competent, who for factors unrelated to their own desire and will are unemployed in that particular direct field today. And if you add the people in related industries, you are talking about a lot more than that.

The problem goes more to interest rates than it does to imports, but whatever we can do to ease that problem we have got to do as soon as we can. I am sympathetic to that and will do whatever I can to be supportive.

I must recall that we have already taken steps in the administration to ease the outside pressure. We did talk to the Japanese about limiting the sale of those cars, and they have agreed, and they have lived by that agreement. In the first year they were right on the money—they missed by one car. That shows a certain lack of precision on their part, out of the 1,699,000, or whatever it was. [Laughter.]

But they have put the same limit on for this year, and what we have to have is a domestic economic recovery, and whatever steps we can take we ought to take.

Senator DANFORTH. Thank you very much.

Ambassador BROCK. Thank you.

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QUESTION FOR U.S. TRADE REPRESENTATIVE BILL BROCK
FROM THE HONORABLE RUSSELL B. LONG

Question:

I am informed that a number of so-called tariff disparities exist, where the same product is produced in the United States and elsewhere, but the U.S. duty is low and the foreign duty is high. Here, for example, is the case on a product called "melamine":

DUTY COMPARISON ON U.S. MELAMINE
(Cents Per Pound)

	United States	European Community
Ex factory price	40.0	40.0
Packing cost (bags)	1.0	1.0
Ocean freight	----	6.0
Insurance	----	1.0
Dutiable value	41.0	48.0
Duty rate	4.6%	9.8%
DUTY	1.89	4.70

Will renewing section 124 authority resolve this kind of disparity?

Answer:

Yes, this is precisely the type of situation in which we intend to use the section 124 authority. In most such cases, the current U.S. duty was bound during the MTN. Because of these international commitments, any unilateral increase in those tariffs will obligate us to offer compensatory U.S. duty reductions on other items or accept retaliatory foreign duty increases. On the other hand, if we enter into negotiations aimed at achieving foreign duty reductions, we will avoid breaking any of our international commitments and, at the same time, promote greater liberalization of the international trading system. Thus, Extension of the 124 authority would give us the opportunity to make positive changes by permitting the President to negotiate meaningfully with our trading partners on items such as this.

Jerry Cooper July 21-22

from to Mr. Cooper, for the record of

Questions ~~for~~ Senator Max Baucus, ~~at~~ the Hearing before the Trade Subcommittee of the Senate Finance Committee on Miscellaneous and Tariff Bills

1. You stated before the House Ways and Means Committee that the domestic shoe manufacturers and the rubber shoe manufacturers association were unaware that there was a need for shoes for organizations that sponsor athletic events for the handicapped. Do you know the number of children that participate in those programs? What steps have the rubber manufacturers association and their member companies taken to help satisfy those needs?

2. I also notice in your testimony before the House Ways and Means Committee that Converse had given somewhere in the neighborhood of 750,000 shoes to, I believe, Catholic Relief Service and Care International. Were any of those shoes distributed within the United States?

3. NIKE has given over 250,000 shoes by its testimony, to the Special Olympics from September of last year until this date. You stated before the House Ways and Means Committee when questioned by Congressman Jenkins, that the rubber shoe manufacturers and domestic manufacturers could meet the needs of the Special Olympics. Were you referring to the over 700,000 kids from economically deprived backgrounds that participate in Special Olympics and cannot afford athletic shoes?

Senator DANFORTH. We will recess for about 60 seconds, and I will be right back.

[Whereupon, at 10:27 a.m., the hearing was recessed.]

AFTER RECESS

Senator DANFORTH. Mr. Koplan, it is good to have you back. Thank you.

STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, AFL-CIO

Mr. KOPLAN. Mr. Chairman, thank you. It's good to be here.

I will not read my entire statement.

At the outset I would like to just make one brief comment. I appreciate the chairman soliciting the views of Ambassador Brock with regard to the domestic content issue, and I am not going to sit here and get into the chapter and verse of the position of the AFL-CIO. We are obviously on the opposite side from where Mr. Brock comes down; but I would ask, with the Chair's permission, that our testimony in the House on that issue, if I could just include it in the hearing record in response to the comment that Ambassador Brock has made.

Senator DANFORTH. Sure.

Mr. KOPLAN. I thank you.

Senator DANFORTH. Although, I do want to make it clear that this bill in the Senate was referred to the Commerce Committee, not that committee. We have asked for a sequential referral, and there has been no response to the Commerce Committee, and clearly this is not a hearing on that issue.

Mr. KOPLAN. No, I understand that.

Senator DANFORTH. I just wanted to give Ambassador Brock an opportunity to at least agree with the administration's position.

Mr. KOPLAN. Right.

Senator DANFORTH. And I want to make it clear, as you know, for the past couple of years the auto industry has been something of an obsession of mine.

Mr. KOPLAN. I am well aware of that. We have worked with you on that issue.

Senator DANFORTH. I desperately want to help it, and I want to do whatever is necessary to help it. To me, it is not helping it much to just dish out the veto bait; it has got to be some practical strategy for doing something constructive for the U.S. auto industry. I don't know what that is going to be. We went down the road on the Lugar bill for housing, and that got us nowhere. Maybe there is nothing that we could——

Mr. KOPLAN. Well, that is why I thought it might be helpful if we just submitted the comments that we made previously in the House, for the record.

Senator DANFORTH. Sure.

Mr. KOPLAN. Thank you.

Mr. Chairman, the AFL-CIO appreciates the opportunity to share its views in opposition to certain of the tariff bills pending before this subcommittee.

We are strongly opposed to S. 1902, a proposal to extend for 2 additional years Presidential tariff negotiating authority under section 124. That authority expired on January 3 of this year.

We urge that Congress retain its authority over tariff cutting by rejecting renewal of section 124 authority.

I appreciated listening to Senator Heinz's introductory remarks as he discussed the problems that he has with renewing this particular legislation. We join in that.

Present economic conditions alone should be reason enough to reject renewal of this authority that would now extend to some 1,500 items that, according to the administration, have already gone through the procedural requirements and are available for negotiations.

The administration's request for this legislation comes at a time when the unemployment rate in this country is at 9½ percent—over 10 million men and women. Employment in every manufacturing industry showed a decline in June, with textiles and machinery the biggest losers.

American industries are suffering from the combined impact of recession and high imports. The renewal of this authority will only aggravate the serious erosion of this Nation's industrial base.

The Tokyo round staging of tariff reductions, averaging 32 percent over 8 years starting in 1979, obviously will not be complete for some time. Additional tariff cutting authority for Presidential negotiations during this staging process will undercut much of the hard-won bargains and concessions from the Tokyo round.

S. 1902 will compound the adjustments already required by the tariff cuts in the MTN.

Mr. Chairman, the Congress limited section 124 to 2 years, not to continue tariff cutting but to provide for housekeeping or cleanup of details that could not be taken care of during the 5-year period of the multilateral negotiations. S. 1902 is no more than an administration end run to give the President a blank check to cut tariffs on at least 1,500 identifiable items without prior scrutiny by the Congress.

The administration has not provided convincing reasons for renewal of section 124. For example, contrary to administration claims, the Japanese semiconductor negotiations have not, in the view of many in organized labor, been successfully concluded. Our disagreement is detailed in my prepared statement.

We believe that what American workers are experiencing in the semiconductor industry is typical of what other U.S. industries will have in store for them if this legislation is passed.

I realize that there were many requests to testify today. I would just note that certain AFL-CIO affiliates had also wished to appear. For example, the garment workers have already submitted a statement, and the clothing and textile workers as well, and I know there were others.

Mr. Chairman, we are similarly unimpressed with the administration's claim that the United States will be placed in a weakened negotiating posture at the upcoming GATT ministerial meeting in November if Congress fails to provide the blank check for tariff cutting called for in S. 1902. We believe that our bargaining position will be weakened by this legislation; that is because other nations will be on notice that the President has nothing to withhold from them, and they thus can demand more while giving less.

We urge this subcommittee to carefully examine each of the 1,500 items reportedly listed in three separate editions of the Federal Register to determine, for example, the effect that duty reductions of up to 20 percent of the existing rates of duty will have on employment in those U.S. industries now manufacturing those items. It is imperative that such a study be made by the Congress before any further action is taken on this proposal.

The administration has asserted that any such tariff cutting is merely intended to get foreign countries who are parties to such negotiations to reduce their tariff barriers to U.S. exports. That argument ignores the fact that under the most-favored-nation doctrine imports from all over the world unilaterally receive the benefit of such cuts. The result would be to further tip the balance in favor of surges of U.S. imports and accompanying higher U.S. unemployment.

Mr. Chairman, the AFL-CIO believes that passage of S. 1902 will simply encourage increased production abroad for shipment to the U.S. market at the expense of U.S. jobs. We urge that the subcommittee recommend its rejection.

If I may have just one more minute, unlike S. 1902, most of the other proposals listed for subcommittee consideration call for specific action, often temporary action, by Congress on identified tariffs.

On November 5 of last year we submitted our views to the subcommittee in opposition to certain provisions of H.R. 4566, and those views are attached and are made part of my statement. Those views included opposition to S. 231, a proposal to amend the Tariff Act of 1930 to increase from $250 to $600 the amount for informal entry of commercial goods.

Last, we appreciate the opportunity to comment on section 8(c) of S. 2094 which would grant the President for 5 years the authority to reduce or eliminate existing U.S. tariffs, already under 5 percent, on seven high-technology items relating to computers and semiconductors.

The AFL-CIO is opposed to granting such authority for the reasons detailed in my prepared statement.

I thank you, Mr. Chairman.

[The prepared statement of Stephen Koplan follows:]

STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
SENATE COMMITTEE ON FINANCE
ON S. 1902, AND OTHER TARIFF BILLS

July 21, 1982

The AFL-CIO appreciates the opportunity to share its views in opposition to certain of the tariff bills pending before this Subcommittee.

First, we are strongly opposed to S. 1902, a proposal to extend for 2 additional years Presidential tariff negotiating authority under Section 124 of the Trade Act of 1974. Such authority expired on January 3, 1982. We urge that Congress retain its authority over tariff cutting by rejecting renewal of Section 124 authority.

Present economic conditions alone should be reason enough to reject renewal of this authority that would now extend to some 1,500 items that according to the Administration have already "gone through the procedural requirements and are available for negotiations." The Administration's request for this legislation comes at a time when the unemployment rate in this country is at 9.5 percent -- over 10 million men and women. Employment in every manufacturing industry showed a decline in June, with textiles and machinery the biggest losers. American industries are suffering from the combined impact of recession and high imports. Renewal of this authority will only aggravate the serious erosion of this nation's industrial base.

The Tokyo Round's staging of tariff reductions averaging 32 percent over 8 years, starting in 1979, obviously will not be complete for some time. Additional tariff-cutting authority for Presidential negotiations during this staging process will undercut much of the hard-won bargains and concessions from the Tokyo Round. S. 1902 will compound the adjustments already required by the tariff cuts in the Multilateral Trade Negotiations (MTN).

Mr. Chairman, the Congress limited Section 124 to 2 years -- not to continue tariff cutting, but to provide for housekeeping or cleanup of details that could not be taken care of during the 5-year period of the multilateral negotiations. The time allotted for winding up such details ended last January 3rd. S. 1902 is nothing more than an Administration end-run to give the President a blank check to cut tariffs on at least 1,500 identifiable items, without prior scrutiny by the Congress. Such a proposal will undermine agreements and assurances obtained by private sector groups in the United States who supported the Tokyo Round.

The Administration has not provided convincing reasons for renewal of Section 124. For example, contrary to Administration claims, the Japanese semi-conductor negotiations have not, in the view of many in organized labor, been "successfully concluded." As a result of the multilateral trade negotiations, the United States and Japan now have a 4.2 percent tariff on semi-conductors. Although Japanese tariffs have thus been reduced, Japanese practices, which effectively require and/or encourage production in Japan for export, have not changed. In addition to existing Japanese non-tariff barriers, U.S. exports are stifled by a 17 percent European tariff. However, the Europeans, as well as other countries thoughout the world can ship to the United States under the new U.S. tariff rate on semi-conductors of 4.2 percent. The result will be expansion of semi-conductor production in Japan and the European Economic Community (EEC) because the U.S. has reduced its tariffs (unilaterally for Europe). These factors are aggravating a collapsing U.S. semi-conductor market. We believe that what American workers are experiencing in the U.S. semi-conductor industry is typical of what other U.S. industries will have in store for them if this legislation is passed.

Mr. Chairman, we are similarly unimpressed with the Administration's claim that the United States will be placed in a weaker negotiating posture at the upcoming General Agreement on Tariffs and Trade (GATT) Ministerial Meeting in November, if Congress fails to provide the blank check for tariff cutting called for by S. 1902. We believe that our bargaining position will be weakened by this legislation. That is, because other nations will be on notice that the President has nothing to withhold from them, and they can thus demand more while giving less.

On October 15, 1981, the AFL-CIO transmitted to United States Trade Representative William Brock (copy attached), its opposition to any further extension of Section 124. However, our opposition was somehow omitted from the communications forwarded to the House Subcommittee on Trade by the Office of STR on October 27, 1981. We urge this Subcommittee to carefully examine each of the 1,500 items reportedly listed in three separate editions of the Federal Register to determine for example, the affect that duty reductions of up to 20 percent of the existing rates of duty will have on employment in those U.S. industries now manufacturing those items. It is imperative that such a study be made by the Congress before any further action is taken on this proposal.

The Administration has asserted that any such tariff cutting is merely intended to get foreign countries who are parties to such negotiations to reduce their tariff barriers to U.S. exports. That argument ignores the fact that under the most-favored-nation doctrine, imports from all over the world unilaterally receive the benefit of such cuts. The result will be to further tip the balance in favor of surges of U.S. imports and accompanying higher U.S. unemployment.

Mr. Chairman, the AFL-CIO believes that passage of S. 1902 will simply encourage increased production abroad for shipment to the U.S. market at the expense of U.S. jobs. We urge that the Subcommittee recommend its rejection.

Second, unlike S. 1902 most of the other proposals listed for Subcommittee consideration call for specific action -- often temporary action -- by Congress on identified tariffs. On November 5, 1981, the AFL-CIO submitted its views to the Subcommittee in opposition to certain provisions of H.R. 4566, an omnibus tariff bill. Specifically, we objected to those sections relating to the importation of canned tuna, chipper knife steel, pipe organ parts, and to the increase in value limitations applicable to informal entries of noncommercial imported merchandise. In addition, our submission included opposition to S. 231, a proposal to amend the Tariff Act of 1930 to increase from $250 to $600 the amount for informal entry of commercial goods. (Attached is a copy of our November 5, 1981, submission).

Lastly, we appreciate the opportunity to comment on Section 8(c) of S. 2094 which would grant the President for 5 years the authority to reduce or eliminate existing U.S. tariffs -- already under 5 percent -- on seven high technology items relating to computers and semi-conductors. The AFL-CIO is opposed to granting the President such authority.

In technology, the policies of most governments seek to attract, maintain and develop technology within their nations for defense and economic purposes. If the United States seeks only to reduce foreign practices while the U.S. remains virtually open, the result will be the loss of the basis for the future development of our newest industries.

We believe this proposal will worsen prospects for growth in the U.S. computer industry. The reasons for our opposition are similar to those already given for our disagreement with the action taken by the Administration regarding semi-conductors. This measure would encourage similar results in the field of computers and encourage further harm to the U.S. semi-conductor industry. U.S. companies will be encouraged to move abroad protected by a variety of tariff and non-tariff barriers, while the U.S. will have unilaterally reduced its tariffs. The result will be the U.S. export of highly skilled jobs.

For example, tariffs in the Philippines and Taiwan are as high as 100 percent on some "electronic components." Should the U.S. and Japan reach an agreement for zero tariffs on such items, the result will be a decrease in U.S. production with an accompanying surge in U.S. imports. In the computer world, Mexico -- a relative newcomer -- has doubled its tariffs, tightened its licenses and taken other steps to nourish Mexican production. A lowering of modest existing U.S. tariffs will only encourage production of these items abroad.

In summary, the United States cannot afford to pretend that the world is ready to welcome increased U.S. exports, nor can we pretend that lower tariffs negotiated with a few countries abroad will result in benefits for U.S. industry. In the real world of the 1980's, the United States needs realistic trade policies to assure that there will be U.S. industries in the 1990's.

The proposals that we have commented upon fail to take into account the real needs of our nation -- a diversified U.S. industrial economy that includes fully competitive high technology and service industries.

American Federation of Labor and
Congress of Industrial Organizations
815 Sixteenth Street N W
Washington, D C 20006
(202) 637-5000

October 15, 1981

The Honorable William Brock
Office of the United States Trade
Representative
600 17th Street, N.W.
Washington, D.C. 20506

ATTENTION: Phyllis C. Bonanno

Dear Ambassador Brock:

I am enclosing the views of the AFL-CIO on the proposed extension of Section 124 of the Trade Act of 1974 in accordance with the request made to the Advisory Committee on Trade Negotiations.

Sincerely,

Rudy Oswald, Director
Department of Economic Research

Enclosure

AFL-CIO

STATEMENT ON SECTION 124 TARIFF AUTHORITY

October 8, 1981

The AFL-CIO believes that the President's authority to negotiate tariff cuts according to Section 124 of the Trade Act of 1974 should be allowed to expire for the following reasons:

First, the Tokyo Round's staging of tariff reductions over 8 years, starting in 1979, will not be complete for some time. Therefore, much of the hard-won bargains and concessions from the Tokyo Round will be undercut and avoided by additional tariff cutting negotiations. The bill would compound the adjustments already required by the average total tariff cuts of 32 percent in the Multilateral Trade Negotiations. Those multilateral negotiations for five years did not lead to full cuts because of the compromises. It seems inappropriate to extend the authority into the future.

In short, the United States has given more than it received in most of the tariff rounds for the past three decades. There is no reason to reduce U.S. tariffs even further, while the U.S. and the rest of the world have not even digested the tariff cuts in the Tokyo Round.

Second, the Congress limited Section 124 to two years -- not to continue tariff cutting, but to provide for "housekeeping negotiations." The two years are up and the "housekeeping negotiations" to clean up odds and ends at the end of the Tokyo Round should have been taken care of. Section 124 was not to be used to start new negotiations or as renewable authority every two years.

Third, the examples used in the background paper suggest an additional reason for not granting the authority: first, the Japanese semi-conductor negotiations have not, in the view of many in organized labor, been "successfully concluded," as the paper states. The market has fallen out of semi-conductors just as U.S. tariffs are lowest. The Japanese tariffs are down, but Japanese practices, which effectively require and/or encourage production in Japan for export, have not changed. Thus the harmonization of the tariff on semi-conductors between U.S. and Japan may lead to more companies going to Japan and a loss of U.S. competitive strength -- in the U.S. Meanwhile, the Europeans have not reduced their 17 percent tariff on semi-conductors. They can ship to the U.S. at the new low rate. The result will be expansion of production in Japan and the EEC, while the U.S. has reduced its tariffs (unilaterally for Europe).

These factors are aggravating a collapsing semi-conductor market.

The Canadian example used in the background paper raises another problem. AFL-CIO representatives have protested the U.S. attack on Canadian practices on investment, Canadian production requirements, etc. Those practices are not going to go away because of tariff-cutting negotiations. For the U.S. to offer new tariff concessions while the Canadians are encouraging U.S. production capacity to move North, however, is to assault the U.S. economy further. Thus, it is one thing to oppose trying to pick a fight with Canada, as we have, even though their policies may be disadvantageous to the U.S. But it is another to offer them tariff reductions at a time when the U.S. supposedly is not feeling happy about the kinds of actions the Canadian government has taken. Certainly we don't want to encourage investment in Canada for sale in the U.S. We want fair trade.

Fourth, there are reports about negotiations with many other countries and very little information about them. For example, there are reports about bilaterals in the Far East, where countries like Taiwan and the Philippines have tariffs as high as 100 percent on electronic items, for example. The private sector was not fully apprised of such negotiations, and still does not know what progress has been made. If any progress is made with one of these countries, and the U.S. lowers a tariff rate for a product, it lowers that rate for all countries under the "most favored nation" doctrine, not just one country. While the overall reductions are limited in depth, the cut in one item could have major consequences for that product.

Additional tariff-cutting actions would tend to further undermine the industrial base and act as a further invitation to ship to the U.S. market from relatively closed markets abroad.

Thus the prospect of mutual benefit from further tariff cuts is unlikely. The European barriers and recession will retard export gains. Other nations have higher barriers and/or limited funds.

Instead, the U.S. trade balance, which has been in deficit for five years, would be worsened. The deficit range has moved to between $30 billion and $40 billion a year. In August, the deficit reached $5.6 billion, as sharp rises in manufactures, such as steel, added to other imports. To encourage more imports at this time through tariff cutting would worsen prospects for changing the deficit.

American Federation of Labor and
Congress of Industrial Organizations

815 Sixteenth Street, N.W.
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(202) 637-5000

November 5, 1981

Honorable John C. Danforth, Chairman
Subcommittee on International Trade
Senate Finance Committee
2227 Dirksen Senate Office Bldg.
United States Senate
Washington, D.C. 20510

Dear Chairman Danforth:

The AFL-CIO appreciates this opportunity to submit views to the Subcommittee on International Trade concerning H.R. 4566, as well as on S. 231.

H.R. 4566 includes many provisions for reducing tariffs. The Congressional Budget Office has estimated that this bill will cost the Treasury Department $6.6 million annually in lost revenues. In general, the AFL-CIO believes that unilateral duty reduction bills hurt industry at home and U.S. chances for successful trade negotiations to encourage potential export expansion. Specific objections to provisions of the bill follow:

Section 2 of H.R. 4566 would amend the article description of the Tariff Schedules which provides for a tariff-rate quota on imports of tuna packed in airtight containers. The effect of the change will be that shipments from the U.S. insular possessions will not be included in determining the extent to which the quota has been filled. The National Marine Fisheries Service is the agency responsible for the administration of the quota. The effect of the bill would enlarge the amount of tuna imports allowed into the U.S. mainland.

Unions affiliated with the AFL-CIO who represent cannery workers object to the undercutting of jobs and production through low-wage imports in this fashion. They believe the further destruction of U.S. cannery jobs and U.S. cannery production will give importers a virtual monopoly of the U.S. market. The AFL-CIO therefore opposes Section 2.

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Section 4 would unilaterally reduce the duty on imports of chipper knife steel, not cold formed, which is now undergoing staged tariff reductions under the multilateral trade negotiations. Chipper knife steel is a special steel for knives which chop wood into pulp, chips and other paper and lumber products. U.S. producers of this steel have been trying to make sure that U.S. production continues. Recently, layoffs and plant shutdowns in the steel industry have contributed significantly to the increased problems for manufacturing of chipper knife steel.

The steel, which is being imported, is subsidized by foreign governments and the operational effect of foreign tax laws. The result is that the foreign steel has an unfair advantage. To give it an added advantage by further tariff reductions adds insult to injury.

The dependence on foreign chipper knife steel is already at a perilously high point -- over 70 percent. Once the U.S. production is finally destroyed the price of chipper knife steel from abroad can rise to any height at all and no U.S. production will be available.

The AFL-CIO believes that the U.S. should not undercut the potential for a healthy U.S. industry. U.S. jobs, an effective negotiating posture and an end to encouraging the import of subsidized products would be aided by a rejection of Section 4.

Therefore, the AFL-CIO opposes Section 4 of H.R. 4566.

Section 7 would provide permanent duty-free treatment with respect to parts of pipe organs. The United Furniture Workers of America has informed us that removing tariffs on organ parts would create unfair competition for the manufacturing of organ parts as well as the organ. In addition, the quality of the pipe organ would be adversely affected by dependence on foreign parts. The AFL-CIO therefore opposes Section 7.

Section 11 amends the article description of item 869 of the Tariff Schedules to increase the value limit on informal entries of noncommerical imported merchandise. The bill would allow a traveler to import between $600 and $1,000 into the U.S. with only a 10 percent duty for the aggregate amount above $600. A major purpose for this legislation is allegedly to ease the administrative process for the U.S. Customs Service. However, the AFL-CIO has repeatedly been assured that Customs has computer facilities and the expertise to monitor imports into the United States. The expanded use of informal entry procedures could undercut this commitment as well as the effectiveness of many trade laws and agreements.

Therefore, the AFL-CIO opposes Section 11 of H.R. 4566.

In sum, we urge that the Subcommittee recommends striking Sections 2, 4, 7 and 11 from H.R. 4566.

The AFL-CIO also opposes S. 231, which raises the value of commerical imports eligible for informal customs entries from $250 to $600. This change would make import monitoring even more difficult for many import-sensitive industries.

Under informal entry procedures, the customs officer releases the articles to the importer without independent verification. The payment of duty is based merely on the shipping documents and self-serving statements contained therein. Thus an increase in the ceiling to $600 would encourage evasion of duties by means of inaccurate or even false shipping documents.

Imports are valued at the foreign port of exportation — not on the basis of U.S. domestic prices. Thus $600 worth of foreign shoes, garments, handbags, nuts, bolts or screws, or many other low-value, but large quantity import-sensitive items could amount to a substantial quantity of imported products. In addition, multiple shipments could collectively consist of a large influx of unrecorded entries. Import monitoring of import-sensitive items is a necessity not only to assure compliance with U.S. trade laws, but also to measure promptly the impact of imports for future U.S. trade negotiations so that import relief can be provided when warranted.

Failure to adequately monitor such imports will be injurious for U.S. domestic production with a resultant loss of U.S. jobs.

This proposal has been made to the Congress many times in the past, but has been rejected. We urge that the Subcommittee follow that practice by recommending that S. 231 be rejected.

Sincerely,

Ray Denison

Ray Denison, Director
DEPARTMENT OF LEGISLATION

STATEMENT OF RAY DENISON, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ON H.R. 5133, THE FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT, BEFORE THE SUBCOMMITTEE ON COMMERCE, TRANSPORTATION AND TOURISM OF THE COMMITTEE ON ENERGY AND COMMERCE OF THE HOUSE OF REPRESENTATIVES

March 2, 1982

The AFL-CIO welcomes this opportunity to support H.R. 5133, the Fair Practices in Automotive Products Act.

Gentlemen, many times in the past the AFL-CIO has come before this committee asking for Congressional help to save American industries and jobs. Too often the responses have been too little or too late or not at all, and year after year the strong, broadbased industrial machine that was America has been weakened and its workers displaced, not because these industries have become obsolete but because these industries had been overwhelmed by foreign trade practices.

Now we face an emergency situation involving an industry that is basic to our economy and whose fate could decide whether this nation will regain its productive health or slide into a depression. Therefore, to us, this legislation is of the greatest importance. The AFL-CIO represents 14½ million workers who are important to our society as breadwinners, consumers and taxpayers. Many of these members are in the automotive industry, directly or indirectly and their jobs are threatened by the massive imports of foreign-made automobiles, trucks and parts. Already tens of thousands have lost their jobs in rubber, steel, aluminum, glass, textiles, paper, electronics and plastics - as well as directly in the auto industry - because of this threat.

More than one million auto jobs have been affected by imports and rising sharply, and the ripple effect is having a smothering effect on the U.S. economy where one out of every five jobs are related to the auto industry.

Between October 1978 and October 1980, employment in the industrial sector classified as Motor Vehicles and Equipment (SIC 371) fell by 289,000. During that same two-year period, 141,000 jobs disappeared in the primary metal industry, 100,000 at car dealerships, 36,000 in the automatic stamping industry, and 26,000 in the tires and inner tube industry. Many additional workers lost their jobs in various industrial groups that supply the auto industry, but whose job loss is not separately identifiable from the general employment data.

The impact extends to all regions of the country and the total community in which affected workers once worked. Many are no longer taxpayers, but now are unemployment compensation beneficiaries and soon welfare recipients. This loss is a massive national toll as a financial burden on society, a tax-loss to the community, a loss of our industrial base, our defense-related capability and a rising trade deficit.

At the AFL-CIO Convention in New York last November, the delegates adopted a policy resolution on International Trade and Investment which stated in pertinent part:

> "Domestic content laws should be enacted to assure continued production of such products as autos. A U.S. production requirement is needed to preserve employment and skills and shore up the nation's sagging industrial base. Local content requirements in autos should be tied to sales volume and should be phased in beginning with the 1982 model year."

H.R. 5133 provides a strong response to the critical need for domestic content laws to reestablish a viable U.S. automobile industry. It is based on the concept that multinational auto companies -- U.S., French, German or Japanese -- should provide the United States with jobs and production -- not just assembly jobs -- when they enjoy the advantages of the U. S. market. The proposal simply extends current U. S. domestic content requirement laws so that passenger cars and light trucks will be required to have a gradually rising percentage standard of American-produced parts.

Domestic content is not a new idea. For example, the U.S. has had domestic content provisions in the Energy Policy and Conservation Act of 1975 (a 75 percent domestic content requirement for an automobile to qualify as domestically manufactured for purposes of determining average fuel economy). Australia, Brazil, Mexico, South Korea and Spain have domestic content requirements.

Other nations have combinations of domestic content laws or policies, high tariffs, quotas and/or embargoes, subsidies, and requirements for exports -- plus in some cases, export requirements for parts.

Most countries have much higher requirements in law and/or in practice than the U. S. The attached tables (Appendix A) submitted to the International Trade Commission by the United Auto Workers give a sense of the extent of this practice. What the tables do not show, however is that there has also been an effective de facto content requirement in Western Europe that creates an enormous advantage for producing there. Between members of the European Community and members of the European Free Trade Association -- that is in most Western Europe -- there has been a duty-free transfer privilege for production within their borders, but a tariff on parts and cars from the outside -- tariffs that are generally higher than those of the United States. The effect encourages production in Europe. Many European countries also have quotas in "gentlemen's" agreements or other regulations to keep out a flood of car imports.

Relatively speaking, therefore, the United States has virtually no tariff and non-tariff barriers on autos and parts in comparison to those of other countries. The Japanese, for example, have no tariff, but they have a high commodity tax (which they raised in April 1981), a national distribution system that stands in the way of imports, and an inspection system that means that every car entering Japan may be individually inspected. Other nations have quotas and tariffs on Japanese cars and high restraints on all cars. The U. S. has a 2.8 percent tariff and the rest of the world has tariffs ranging from 7.6 percent to 205 percent (see Appendix B). Under these circumstances, the incentive to produce abroad and flood the U. S. market is escalating.

Meantime, U.S. and foreign auto companies have become multinationals. They will continue to foreign source their parts. H.R. 5133 does not stop all foreign sourcing. But the bill does limit the percentage of content that a company can foreign source to stem the outrush of parts production from the United States.

Foreign sourcing already accounts for a great deal of U.S. auto manufacturers' purchases. The attached list of major components sourced between 1977 and 1981 (Appendix C) demonstrates how serious this problem has become. Without H.R. 5133, the bleak future for America's industry will have to have more and more parts production moved abroad and to make the U.S. a mere assembler of foreign-made parts. Unless that trend is reversed, drastic reduction in U.S. auto jobs and production will continue and ultimately cost the nation its security as well as its technological future.

The provisions of the bill are designed to find a middle way -- to assure a viable industry here, without stopping all multinational integration.

The content formula, therefore, is based on costs of the U.S. automotive production for which a company is responsible as a percent of U.S. automotive sales. "Content" means the total U.S. cost of a manufacturing company's production at wholesale factory prices to dealers for all cars and light trucks sold in a year. Both parts made by the company and parts purchased from others would be given credit as domestic value. Automotive exports count, along with production sold in the U.S., but the bill makes sure that exports to Canada will be counted only to the extent they are balanced by imports from Canada.

The bill sets a ratio of content, depending upon the level of cars the company sells in the U.S. It is phased in gradually, beginning in model year 1983. By 1985, if a multinational company sells over 100,000 vehicles in the U.S., it would have to produce or buy domestic production worth 25 percent of its auto sales here; over 150,000, 50 percent; over 200,000, 75 percent; and over 500,000 it would require 90 percent content.

A second major feature of the bill is designed to give domestic manufacturers the chance to supply replacement parts to all auto dealerships, particularly those selling foreign-made cars. Upon request, the manufacturers would be required to determine promptly whether domestic parts satisfy reasonable requirements for performance. If they do, the manufacturer would be required to notify its dealers and include such parts in its service manuals. In addition, when requested, the manufacturer must give the parts company a letter stating that, in the event of accident caused by defective parts, the parts company would be liable.

The bill also instructs the Secretary of Transportation to issue necessary regulations, monitor compliance and issue annual reports on local content. Penalties for failing to reach the content level would lead to a curb in allowable imports in the following year. Failure to abide by the replacement parts provision would be considered an unfair practice under the jurisdiction of the Federal Trade Commission.

The result would be that the changing technology of the auto industry could be absorbed. The rapidly escalating outrush of production would not lead to a complete destruction of this important American industry. Instead, H.R. 5133 creates an opportunity for manufacturers from all nations to sell and produce cars here, employing U.S. labor and providing a multiplier effect on production and jobs in services in this economy.

This will benefit U.S. consumers who wish to continueto choose among a variety of cars, U.S. workers whose jobs consist of parts and assembly operations for motor vehicles, and for U.S. business which has a major stake in participating in the expansion, rather than the decimation of the American auto industry.

On February 15, 1982 at the AFL-CIO Executive Council meeting in Bal Harbour, Florida, a statement was adopted that included a call for "enactment of additional domestic content laws to protect endangered U.S. industries, such as H.R. 5133, which assures the continued U.S. capability to produce autos." (Full text attached.)

For these reasons, the AFL-CIO endorses H.R. 5133, a fair bill designed to take automobiles and related parts off the list of endangered U.S. industries. Its passage is bound to have a positive ripple effect on the entire U.S. economy.

APPENDIX I—Survey of Automotive Trade Restrictions Maintained by Selected Nations

Compiled by the Office of International Sectoral Policy, U.S. Department of Commerce from information supplied by U.S. Embassies, Commerce country analysts, and industry sources. The accuracy of the information received has not been verified.

Summary of Foreign Automobile Trade Restrictions 1/

Country	Local Content Requirements	Import Restrictions 2/	Export Requirements	Operations: Japanese	Operations: United States
Algeria	No	Yes	No		
Argentina	Yes	Yes	Yes	Yes	Yes
Australia	Yes	Yes	No	Yes	Yes
Austria	No	Yes	No		Yes
Belgium	No	Yes	No		Yes
Bolivia	Yes	Yes	No		
Brazil	Yes	Yes	Yes	Yes	Yes
Chile	Yes	Yes	Yes		Yes
Colombia	Yes	Yes	Yes		Yes
Denmark	No	No	No		
Ecuador	No	Yes	No		Yes
Egypt	Yes	Yes	No		
France	No	Yes	No		
Germany	No	No	No		Yes
Ghana	No	Yes	No		Yes
Greece	Yes	Yes	No	Yes	
India	Yes	Yes	No		
Indonesia	Yes	Yes	No	Yes	Yes
Israel	No	Yes	No		Yes
Italy	No	Yes	No		
Japan	No	No	No		Yes
Kenya	No	Yes	Yes	Yes	Yes
Kuwait	No	No	No		
Malaysia	Yes	Yes	NA		
Mexico	Yes	Yes	Yes	Yes	Yes
Morocco	Yes	Yes	No		Yes
Netherlands	No	No	No		
New Zealand	No	Yes	No	Yes	Yes
Nigeria	Yes	Yes	No		
Norway	No	Yes	No		
Pakistan	Yes	Yes	Yes		Yes
Peru	Yes	Yes	No	Yes	Yes
Philippines	Yes	Yes	Yes	Yes	Yes
Portugal	Yes	Yes	No	Yes	Yes
Saudi Arabia	No	No	No		
Singapore	No	Yes	No	Yes	Yes
South Africa	Yes	Yes	No	Yes	Yes
South Korea	Yes	Yes	Yes		
Spain	Yes	Yes	No		
Sweden	No	No	No		
Switzerland	No	No	No		
Taiwan	Yes	Yes	No		
Tanzania	No	Yes	No		
Thailand	Yes	Yes	No	Yes	Yes
Turkey	Yes	Yes	Yes		Yes
United Kingdom	No	Yes	No		Yes
Uruguay	Yes	Yes	Yes		Yes
Venezuela	Yes	Yes	Yes	Yes	Yes
Yugoslavia	Yes	Yes	No		

1/ The measures cited in this chart are for new cars. Trade restrictions on used cars are not reflected.

2/ Import restrictions apply to non-tariff measures maintained by a country which deal mainly with imports. Tax measures which apply to both imports and domestically produced products are not included.

Industrialized Countries Surveyed

Australia: A local content requirement of 85 percent is in effect. However, under the Export Facilitation Scheme, due to commence on March 1, 1982, Australian car manufacturers would be allowed to credit exports against local content requirements. These credits will increase from 5 percent in 1982 to 6.25 percent in 1983 and 7.5 percent in 1984 and can be used to import components duty free. The effect would be to reduce the local content requirement to 75 percent by 1984. Australia maintains a quota limiting imports of assembled vehicles to 20 percent of the existing market. There are import tariffs of 35-57.2 percent depending on stage of assembly. No export incentives exist. General Motors, Ford, Chrysler, Toyota and Nissan produce vehicles in Australia.

Austria: No local content regulations or export requirements are in effect in Austria. The automobile import duty is 20 percent. The value added tax (VAT) on automobiles is 30 percent. Steyr-Daimler-Puch (S-D-P) produces mopeds, trucks, busses and tractors. General Motors will shortly begin production of automobile engines and transmissions. S-D-P and BMW will soon produce diesel automobile engines.

Belgium: No local content regulations or export requirements are maintained by Belgium. There are reportedly quantitative restrictions on imports from Japan, Taiwan, South Korea, Indochina, and Eastern European countries. The import tariff on automobiles is the EC's 10.9 percent common external tariff. A 25 percent value added tax is levied on all automobiles sold in Belgium. Ford, GM, British Leyland, Peugeot-Citroen, and Volvo assemble cars and trucks, while Renault and Volkswagen assemble only automobiles in Belgium.

Canada: U.S.-Canadian auto trade is conducted under the terms of the Automotive Parts Trade Agreement (APTA). This trade is duty free. Canada has a 14.2 percent import duty on imports of non-U.S. cars and trucks and has safety and emission requirements similar to the United States. There are no local content requirements or quantitative restrictions. Chrysler, GM, Ford, AMC and Volvo have manufacturing facilities in Canada.

Denmark: There are no restrictions on automobile imports except the 10.9 percent EC common external tariff. A 20.25 percent VAT is levied.

France: There are no local content regulations or export requirements. Imports of Japanese automobiles have never risen to over 3 percent of the market and the French government has announced that it does not want them to exceed this level. The EC's 10.9 percent automobile tariff applies. There is a 33.3 percent VAT. General Motors and Ford produce components in France.

Germany: There are no local content, export requirements, or quantitative limitations. Germany applies the EC's 10.9 percent common external tariff on automobiles and has a 13 percent VAT. Germany maintains rigid safety and emissions standards. In addition, there is a graduated motor vehicle tax based on horsepower. General Motors and Ford have manufacturing/assembly plants.

Italy: No local content regulations or export requirements exist. Italy applies the EC's 10.9 percent common external tariff on automobiles. Italy has formal quantitative restrictions on vehicle imports from certain Far Eastern (1980 allotment from Japan is 2,200 cars) and Eastern European countries. In addition, Italy's strict safety standards make certification of imported automobiles difficult to obtain. The automobile import duty is 10.9 percent. A VAT varying from 18-35 percent depending on engine size is applicable to all automobile sales.

Japan: Japan maintains no local content requirements or quantitative restrictions or import duties on automobiles. There is a 15 or 20 percent commodity tax levied on automobiles depending on engine size and on overall auto dimensions, and an annual automobile tax which also increases by engine size. The mechanical safety and environmental modifications required to comply with Japanese stringent vehicle regulations have discouraged imports. Additional disadvantages to American automobiles include the higher dealer margins and a complicated multi-layered distribution system.

Netherlands: The Dutch vehicle manufacturing industry is relatively small. DAF a Dutch firm, manufactures commercial and military vehicles. Volvo produces passenger cars and there are a number of smaller Dutch bus and trailer manufacturers. The tariff on automobiles is 10.9 percent for imports of automobiles from the U.S. into the EEC. There is an 18 percent value-added tax. Additionally, manufacturers or importers of passenger cars have to pay a special consumption tax of 16 or 17 percent. Imports are not subject to any special import licenses or quantitative restrictions.

New Zealand: There are no specific regulations dictating the amount of local content in automobiles assembled in this country. However, an import licensing system mandates the use of local components. Tariffs for completely built up autos (CBU) are: 55 percent for general tariff; 20 percent for Australia and the U.K.; and 39.3 percent to 55 percent for Canada depending on the level of commonwealth country content. Import tariffs for completely knocked down (CKD) units are: 45 percent general tariff rate; preferential rates of 6.25 percent for Australia and the U.K., and 19.75 percent to 45 percent for Canada depending on the level of Commonwealth country content. Certain Australian CKD autos are duty free and certain CBU autos are subject to a 10 percent duty under terms of the New Zealand Australian Free Trade Association. Licenses are required to import CKD cars but are, in effect, obtained automatically by assemblers. Licenses for CBU units are strictly controlled and currently maintained at a level of approximately 4 to 5 percent of the total annual sales of 65,000 to 70,000 units. Ford, General Motors, Chrysler, Toyota, British Leyland, Honda, Mazda, Skoda, Subaru, Datsun, Mitsubishi, and Talbot (Peugeot) have local assembly plants.

Norway: There are no local content regulations or vehicle import restrictions. Automobile import tariffs are 7.5 percent with an additional vehicle tax varying from 68-153 percent of the vehicle value. There is no automobile production in Norway.

Spain: Local content requirement for vehicles assembled in Spain is 55 percent. There are no import quotas. The import tariff for non-EC/EFTA source vehicles is 68 percent with a compensatory import tax of 13 percent. Luxury tax varies between 17.6-35 percent depending on horsepower of vehicle. Fiat, Renault, Citroen, Peugeot, Ford, General Motors have assembly operations in Spain.

Sweden: There are no local content regulations. There is a 9 percent CIF import tariff on passenger cars and a 20.63 percent VAT on the duty paid value. There are apparently nonrestrictive import licenses, as well as stringent safety and emission standards. Swedish producers receive a rebate of all duties paid on imported components incorporated in a car which is exported. Only Saab and Volvo manufacture in Sweden.

Switzerland: Tariffs on passenger vehicles imported into Switzerland from the U.S. range from Swiss Francs 79.62 to 134.50 per 100 kilograms gross. Swiss impose duties on weight rather than on value. Substantially lower tariffs have been accorded to EC and EFTA suppliers. In addition, a turnover tax of 8.4 percent ad valorem is levied. No quantitative import restrictions are maintained; however, at time of registration of an imported vehicle in Switzerland, the U.S. made product must conform with the Swiss Regulations on Construction and Equipment of Motor Vehicles, amendments to which became effective on January 1, 1980. The objectives of the amendments are to reduce gradually noise level limits by October 1, 1982 and 1984, respectively. Swiss-made trucks and jeeps are manufactured and assembled at Arbon in the Canton of Thurgau.

United Kingdom: There are no local content regulations or export requirements. The import tariff on automobiles is the EC's common external tariff of 10.9 percent. It has been publicly reported that imports from Japan are voluntarily limited by the Japanese manufacturers to approximately 10 percent of the market. British Leyland, Ford, GM, and Peugeot-Citroen manufacture in the U.K. In addition there are numerous small, specialty firms. Current plans are for British Leyland to manufacture Honda designed automobiles in the near future.

Developing Countries Surveyed

The Andean Pact's Automotive Program

In 1977 the five Andean Pact members (Bolivia, Colombia, Ecuador, Peru, Venezuela) signed an agreement calling for the production of vehicles based on local componentry, with local content eventually reaching 70 percent. According to the Pact's schedule, the program will be in effect by the end of 1983. However, due to disagreements by Pact members as to who would produce certain types of vehicles and, even more importantly, key components such as engines, progress in implementing the program has been slow.

A Common External Tariff is to give protection against non-pact vehicles, 115 percent in the case of passenger cars similar to those to be produced in the Andean region and 155 percent for cars other than those produced there.

The following companies have signed agreements to participate in the program: General Motors, Volkswagen, and Fiat; other companies that are considering participating are: Ford, Renault, Mack Trucks, Nissan, Pegaso, and Volvo. In addition to these general provisions, member countries have the following specific rules:

Bolivia: There are no vehicle manufacturing or assembly operations in Bolivia.

Colombia: A 13 percent local content regulation is maintained on firms which assemble automobiles from imported components. Imported automobiles are assessed a 150 percent duty, a 15 percent sales tax, a 5 percent export promotion fee, a 1.5 percent export diversification fund tax, and a 1 percent consular invoice fee. There are no quantitative restrictions, but import licenses are used to restrict imports. Renault produces passenger cars. GM produces automobiles, trucks and van chassis. Fiat produces cars, trucks and buses.

Ecuador: There are presently no local content restrictions or export requirements in Ecuador. Import duties on automobiles range from 100 percent to 190 percent depending on price; on trucks and vans duties are 80 percent or 100 percent depending on type and capacity; and on four wheel drive vehicles they are 60 percent or 70 percent depending on price. In addition, an import surcharge of 30 percent on the c.i.f. value is applied to all motor vehicle imports except trucks. On all items, importation requirements call for a 1 percent service charge and a 50 percent prior deposit, both on the c.i.f. value. Importers are required to prepay 80 percent of the import duties before the import license is received. This license is issued by the Ministry of Industries, Commerce and Integration. In addition to the overall quota, each automotive dealer or distributor is assigned an individual quota. This is computed on the basis of past imports, and therefore, it varies for each distributor/dealer. Newly established dealers are assigned a quota of $40,000 per each six months.

Ecuador has begun to implement its ANCOM (Andean Common Market) assigned rights to manufacture: (1) light passenger cars and engines of 1050-1500 cc. motor size, and (2) light trucks and transmissions of 1.0-4.6 metric tons capacity. The Ecuadorean Government and Volkswagen signed a contract in December 1978 for the production of a passenger car. General Motors is carrying out feasibility studies for the production of light trucks.

Peru: Local content regulations require 10-35 percent local content depending on vehicle type. Although built up vehicle imports have been prohibited to date, reports are that import licenses will be obtainable in 1980. Import tariffs are 40 percent on trucks and 155 percent on automobiles. There is a 14.4 percent manufacturers tax. Exports are encouraged by rebating the import duties paid on imported components in the exported vehicle. Chrysler, Volkswagen, and Nissan assemble cars and trucks. Toyota assembles cars and Volvo assembles trucks.

Venezuela: Local content regulations call for annual increases from 48 percent currently to 90 percent in 1985. Imports are restricted to vehicle types produced locally. The tariff on imports is 120 percent on Venezuelan Government reference price. Export requirements are based on a percent of the value of national automobile production and in some instances they are quantitative requirements written into the assembler's contract. In addition to three local firms, Renault and Volkswagen assemble cars; Fiat, GM, and Ford assemble cars and trucks; Mack and International assemble trucks; and AMC and Toyota assemble jeeps.

According to press reports, the Venezuelan Economic Cabinet approved a new automobile import policy on April 24, 1980. Now prohibited is the importation of 8-cylinder models (except by the government). All other models not produced in the country could be imported without license upon payment of ad valorem duty of 170 percent and a specific duty of 100 Bolivars per kilo. Models similar to those produced in Venezuela would pay an ad valorem duty of 120 percent only. Vans and 9-11 passenger vehicles would pay 135 percent ad valorem and 100 Bolivars per kilogram specific duties. Effective date of this new measure will presumably depend on publication of corresponding decree in the official gazette with new list of reference prices for 1980. Last year this took place on June 1st.

Other Developing Countries

Algeria: There are no automobile manufacturing assembly operations in Algeria. Unspecified quantitative restrictions on automobiles are in effect. Import duties on automobiles range from 40-50 percent.

Argentina: Local content regulations exist for all vehicles as follows: passenger - 93 percent in 1980, reduced to 88 percent in 1982; commercial - from 85-90 percent in 1980, reduced to 75-88 percent in 1982. Import tariffs on vehicles are 95 percent on cars (declining to 95 percent in 1982) and 65 percent on trucks (declining to 45 percent in 1982). Minimum import prices are $4 per cubic centimeter engine displacement plus 19 percent freight on cars. Export requirements apply only to intercompany parts shipments. Under this requirement exports must be 3 times the import level. Ford, Volkswagen, Fiat-Peugeot, Mercedes-Benz, and Saab have manufacturing facilities in Argentina.

Brazil: Local content regulations are in effect but are now individually negotiated with each firm with factors such as the individual firms balance of payments being taken into account.

Export incentives in the form of reduced import tariffs on parts are granted (under GATT these are being phased out). Imports of automobiles are currently embargoed. Normally, import tariffs on passenger cars are from 185 percent to 205 percent. In addition there is a system of minimum import values based on the car's weight. Passenger cars are produced in Brazil by Ford, GM, Volkswagen, Toyota, Puma and Fiat. Trucks are manufactured by Ford, Chrysler, GM, Mercedes, Fiat, Saab, Volvo, and Toyota.

Chile: Local content regulations requiring 30 percent of assembled cost for automobile manufacturers are in force. Exports are not required unless local content is less than 30 percent. In this case the local assemblers must export sufficient products to reach 30 percent of local production costs. Import tariffs on automobiles range from 10-80 percent depending on engine displacement. The 80 percent tariff will be reduced each year to reach a final rate of 10 percent in 1986. There is a 100 percent consumption tax if an automobile's CIF value plus duty, plus a 20 percent VAT exceeds $12,000. This consumption tax only applies to the amount over $12,000. There are no quantitative restrictions. GM assembles automobiles and trucks. Citroen, Fiat and Peugeot-Renault assemble automobiles.

Egypt: Local content regulations vary by contract with each assembler. Fiat has a joint venture for automobiles with 30 percent to 40 percent local content required and AMC jeeps are assembled with a 15-30 percent local content. There are no export requirements. Import duties vary from 85 percent to 700 percent depending on engine size and number of cylinders. Individuals are allowed to import only one car every two years and the importation of right hand drive cars is forbidden. Payment of import duties must be made in hard currency.

Ghana: There are no local content regulations or export requirements in Ghana. A purchase tax which varies from 5 percent to 100 percent based on the car's value encourages local production. Commercial vehicles assembled in Ghana do not pay this tax. Under the vehicle standardization policy in effect since October 3, 1979, only vehicles - passenger cars, pick-ups, cross country vehicles, and buses - manufactured by approved manufacturers may be imported. The list includes Peugeot, Datsun, Volkswagen, Renault, Mazda, and Mack Truck. Cars for diplomats and Ghanaian officials are exempt from this requirement. Renault and Toyo Kogyo assemble cars. Nissan, Toyota, and Vauxhall assemble cars and buses. British Leyland, Ford, and Mercedes-Benz assemble buses and trucks. Chrysler, Deutz, Hino, M.A.N., and Mack assemble trucks. Neoplan assembles buses. Import tariffs range from 15 to 95 percent.

Greece: The value added component requirement imposed on local motor vehicle assembly is a minimum of 25 percent without mandatory upward escalation. Tariffs on imports from non-EEC countries range from 10 to 20.7 percent. In November 1979, a voluntary system designed to restrain imports was adopted providing for a reduction of 20 percent in car imports. Bus imports require an import license. The issuance of licenses is, at times, delayed or withheld. A pre-import cash deposit of 56 percent for buses and 28 percent for passenger automobiles is also required. The deposits are retained by the government for two months.

India: Local content regulations exist only for the domestic Indian automobile producers. There is no investment by foreign automobile manufacturers. Exports are encouraged by cash subsidies and import replenishment licenses. Import tariffs on other vehicles vary from 100-140 percent depending on type and axle weight. Import licenses are generally not issued for passenger cars and those for commercial vehicles are issued on a limited basis.

Indonesia: Progressively stringent local content regulations are being instituted in the motor vehicle industry although lags in component manufacture are slowing implementation. While the Government hoped to achieve full local manufacture of components for the most popular types of passenger and light commercial vehicles by 1984, it has extended this deadline until an unspecified date for components not yet manufactured in Indonesia or not manufactured in sufficient quantity. Presently all passenger vehicles, and all commercial vehicles imported into Java and Sumatra, are to be imported completely knocked-down. Import tariffs on built-up passenger vehicles range from 30 percent plus a 10 percent sales tax on jeeps to 200 percent plus a 20 percent sales tax on passenger cars. There are no export requirements or quantitative restrictions. Local assembly plants produce the following makes of passenger cars: Suzuki, Datsun, Hino, Landrover, Holden, Isuzu, Volkswagen, Mercedes, Mitsubishi, Renault, Peugeot, Alfa Romeo, BMW, Dodge, Fiat, Tata, Steyr, Citroen, Berliet, Moskvitch, Subaru, Volvo, Ford, Toyota, Honda, Chevrolet, Bedford, Morina, Daihatsu, and Mercedes-Deutz.

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<u>Israel</u>: There are no local content or export requirements maintained by Israel. Import duties are from 40 percent plus 7.90 shekels per kilogram for automobiles with engines 1,800 cc and less and 52 percent plus 1.25 shekels per kilogram for cars with engines 1,801 cc and larger. In addition, there is a purchase tax based on engine size which ranges from 85 percent to 150 percent plus a 5-7 percent import price uplift. These are assessed on a cascade basis. There are quantitative requirements attached to import licenses which are only granted to approved importers. Three Israeli firms assemble Ford cars: Ford, Dodge, Reo and Mack Trucks and AMC Jeeps. One local firm produces its own brand of trucks and passenger cars.

<u>Kenya</u>: No local content regulations exist but components manufactured locally may not be imported. Commercial and certain other vehicles are permitted to be imported only completely knocked-down. There are no export requirements. An import license accompanied by a 100 percent refundable prior import deposit is required. Import duties (CIF) on assembled passenger cars (other than public service-type vehicles) range from 40 percent for cars with an engine capacity not exceeding 1,200 cc, 75 percent for cars with a 1,751-2,000 cc engine capacity, to 150 percent with an engine capacity exceeding 2,250 cc. The duty on non-public service passenger cars, unassembled, for assembly into complete vehicles by an authorised assembler is 25 percent. Importers have been directed to seek 90-180 days credit overseas. The four authorized assemblers are Leyland Kenya Limited, General Motors Limited, Associated Vehicle Assemblers Limited and Fiat Kenya Limited. GM assembles Isuzu and Bedford trucks, British Leyland assembles trucks, Landrovers, Volkswagen microbuses and Mitsubishi light buses. Associated Vehicles assembles Datsun cars and buses, Peugeot trucks, Toyota trucks, Ford trucks, and Volvo trucks.

Import protection is accorded to local producers of the following automotive components: sealers, adhesives, batteries, tires, tubes, paints, flat glass, canvas, soft trim, upholstery, insulation, radiators, exhaust systems, leaf springs, spare wheel carriers, seat frames, wiring harnesses and brake linings.

<u>Kuwait</u>: There are no general restrictions on vehicle imports. A 4 percent <u>ad valorem</u> import tariff is in effect.

<u>Malaysia</u>: Under the ASEAN Automotive Federation (AAF) scheme for complementary ASEAN production, Malaysia will produce timing chains for cars and spokes, nipples, and roller chains for motorcycles. Trade preferences by other ASEAN members would be granted these parts. Probably no further accreditation of additional capacity for the same product would be allowed until the ASEAN Committee on Industry, Minerals, and Energy determined that the market had expanded sufficiently to warrant further accreditation of similar projects.

<u>Mexico</u>: Local content regulations requiring 70 percent for passenger cars and 80 percent for trucks exist with a planned 5 percentage point increase of both in 1981. Imports of components are required to be offset by exports. Vehicle import duties range from 75 to 100 percent <u>ad valorem</u>. Vehicle imports are not allowed with the exception of a special customs zone near the U.S. border. Exceptions are usually only made if there is a shortfall in domestic supply. Chrysler, Volkswagen, Ford, GM and Nissan manufacture/assemble cars and trucks. American Motors produces cars and jeeps. Renault produces cars.

<u>Morocco</u>: Local content regulations requiring 40-50 percent levels are in effect. All vehicle imports are restricted. All assembly operations are in part or totally Moroccan-owned. Through this system, Fiat, Opel, Simca, and Renault automobiles are assembled in Morocco. Berliet, Volvo, Bedford, Ford, DAF, Landrover, and Jeep utility, and industrial vehicles are assembled.

<u>Nigeria</u>: A 30 percent local content regulation is imposed after three years of assembly. Vehicle imports are restricted by import licenses and passenger vehicles with engines over 2,500 cc are prohibited. Passenger vehicles with smaller engines face duties of 50 to 250 percent. Volkswagen manufactures/assembles cars and minibuses. Peugeot manufactures/assembles cars. British Leyland manufactures/assembles trucks and Landrovers. Steyr manufactures/assembles trucks. Mercedes and Fiat will shortly begin to manufacture trucks and Nissan will start manufacturing automobiles.

<u>Pakistan</u>: There are no local content regulations as such but current use of locally produced components is encouraged by regulation and is reported to range from 26-40 percent of value depending on vehicle type. Projected use of local products is reported to be about 80 percent by 1985. Exports and imports are controlled. Commercial vehicle imports are prohibited. Imports of built up passenger vehicles are dutiable (75-350 percent <u>ad valorem</u>) depending on engine size. A state-owned corporation has a monopoly over the automobile industry. It has assembly arrangements with AMC (jeeps), Chrysler (trucks), GM (Isuzu trucks) Vauxhall (trucks and buses), Ford (minibuses), Suzuki (vans and pickups), Nissan (trucks), Toyo Kogyo (buses), Sumitomo (trucks), and Hino (trucks). This monopoly (PACO) controls the import of both completely knocked down and completely built up vehicles. Completely built up imports are limited to those being brought in by returning expatriate Pakistanis (4 months or more continuous stay overseas).

<u>Philippines</u>: The current local content regulations requirement is 62.5 percent. The import tariff rate varies from 30-72 percent for completely knocked down vehicles to 100 percent for assembled vehicles. There are three local automobile companies. One assembles Mitsubishi products and one assembles Volkswagens. The other assembles its own vehicles (the Tamaraw utility vehicle, a mini cruiser military vehicle and various trucks). Ford has a body stamping plant and automobile assembly facilities. GM assembles cars and trucks, and manufactures transmissions.

<u>Portugal</u>: Local content regulations for vehicles assembled in Portugal are 22 percent in 1980 declining to zero in 1985. Current import quotas for completely knocked down and completely built up vehicles are scheduled to end in January 1985. Import duties for non-EC/EFTA source vehicles is approximately 4.5 U.S. cents per kilogram. Import quotas are scheduled to be phased out by 1985. GM, Ford, Renault, Citroen, Alfa Romeo, British Leyland, Peugeot, Talbot, Audi, BMW, Mercedes, Volkswagen, Toyota, Nissan, Mazda, Subaru, Honda, and Daihatsu have assembly operations in Portugal.

<u>Saudi Arabia</u>: There are no local content regulations or import restrictions. The import tariff is 3 percent of CIF value. Mercedes assembles trucks. A Saudi firm assembles buses using American-made chassis. The Saudi Arabian Government provides a subsidy to the National Company for Car Manufacturing, located in Jidda, in the form of an interest-free loan.

Singapore: There are no local content regulations or quantitive restrictions on vehicle imports. Import tariffs are 45 percent. There is a 150 percent additional registration fee, a $1,000 base registration fee for private and rental cars ($5,000 on company cars), and scaled road taxes. Mercedes, Ford, British Leyland and Volvo produce cars. Nissan produces vans.

South Africa: Passenger cars must contain 66 percent by weight local content. Starting in 1980, the local content regulations have been extended to light goods vehicles (approximately up to 7,800 pounds). The 1980 and 1981 requirements for these are 50 percent by weight. By 1982 these too must meet the requirement of 66 percent. Import licenses are required, but are granted to meet the full and reasonable requirements of components and subassemblies for passenger and light goods vehicles covered by a currently valid manufacturing program approved by the Minister of Economics. There are no export requirements. Fully manufactured cars may be imported without a license, but the duty is 100 percent. Excise tax for cars with less than 66 percent local content is 95 percent. For those with 66 percent local content, the excise duty per Rand value is a maximum of 13 Rand cents. There are excise duty decreases for percentages of local content achieved beyond the minimum 66 percent.

Nissan, Fiat, Ford, GM, British Leyland, Mercedes, Volkswagen, Sigma, and UCDD produce automobiles and trucks. Alfa Romeo, BMW, and Peugeot produce autos. Toyota South Africa produces its own brand of autos and trucks and assembles Renault autos and trucks.

South Korea: There are four auto manufacturing companies in Korea - Kia, Hyundai, Saehan, and Shin Jin. The first three companies also manufacture buses, and two - Hyundai and Saehan - manufacture trucks.

The tariff rate for automobiles is 80 percent.

Automobiles and auto components are on the "Restricted List", meaning prior approval of the Auto Trade Association is required before an import license can be issued. With regard to 100 percent foreign-made cars, the Association will issue import licenses depending on the "supply and demand situation" in Korea; however, such licenses are rarely approved.

Local content requirements are set by the Korean government for domestic manufacture and assembly of all cars, trucks, and buses. Those for cars, effective January 1, 1980, are as follows:

Maker	Type of vehicle	Local content requirement (Percent)
Kia	Brisa	94
-	Brisa II	92
-	Fiat 132	62
-	Peugeot 404	20
Hyundai	Pony	93
-	Cortina Mark IV	62
-	Granada	21
Saehan	Gemini	88
(Cars)	Rekord	65
Shin Jin	Jeep (J-5)	73
-	Diesel Jeep	91

There are no specific export requirements _per se_ for Korean auto manufacturers, although there are export targets and some moral pressure to meet those targets. According to the Korean auto industry association, however, there is one stipulation imposed on Hyundai and Kia: in order to obtain permission to import one knocked down Ford Granada or Peugeot 404 for local assembly and sale, the companies must export five domestically manufactured passenger cars.

Taiwan: Current local content requirement for vehicles is as follows: automobiles (including sedans, wagons and jeeps of 1.5 tons and below): 70 percent with proviso that manufacturer must produce one of the following components: (1) engine, (2) piston, connecting rod, and piston pin, (3) crankshaft, (4) axle transmission, (5) spring, (6) cylinder valve. Light motor vehicles (including truck, pick-up, and station wagon of 1.5 tons and below): 70 percent with proviso similar to sedans. Import duties on automobiles are from 65 percent to 75 percent depending on type.

Tanzania: No local content regulations exist. Imports are limited almost entirely to the government. Import tariffs vary from 40-100 percent depending on engine size. Except for trucks, the only automobile assembly operation is by British Leyland.

Thailand: Local content regulations requiring 35 percent local sourcing by August 1980 increasing annually to 50 percent in 1983 are in effect. Imports of built up passenger cars are prohibited. Duties of 150 percent are levied together with a 40 percent business tax on imported automobiles. Toyota, Nissan, Isuzu, and Ford produce cars, trucks and buses. Hino produces trucks and buses. Fiat, British Leyland and Volvo produce cars and buses. Mitsubishi, Mazda, Daihatsu, Subaru, GM, Volkswagen, Peugeot, Renault, BMW, Alfa Romeo, Citroen, Lancia, and Audi produce cars.

Turkey: Local content regulations are contained in the "Assembly Industry Regulation" enforced by the Turkish Ministry of Industry and Technology. Locally produced items are not permitted to be imported. Therefore, importation of automobiles is not permitted except under special circumstances. Import tariffs are 175 percent. Automobiles are produced under license from Ford (the Reliant Motor Company of U.K.), Fiat and Renault.

Uruguay: Local content regulations are in effect requiring local content of 23-32 percent of vehicle weight. Imports of automobiles are prohibited. Export regulations require the export of 40-105 percent (depending on vehicle type) of the import value of the completely knocked down kits the assembler imports. Peugeot-Citroen, Renault, Volkswagen, BMW, Ford, GM, and Fiat assembly automobiles in Uruguay.

Yugoslavia: Local content regulations require 50 percent local content to avoid imposition of higher sales taxes. Imports from other countries are only permitted by authorized dealers. Import tax on vehicles is 17 percent _ad valorem_ and the duty is 25 percent. Authorized dealers are required to export goods totaling 30 percent of the value of each imported automobile. Quotas are maintained on imports from the USSR, East Germany, and Czechoslovakia and may be paid for in local currency. Other imports must be paid for in hard currency. Fiats, Ladas, Volkswagens, Audis, and Citroens are manufactured locally.

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Appendix B

Summary of Automobile Trade Restrictions a/

	Local Content Requirements	Non-Tariff Import Restrictions b/	Export Requirements	Current Auto Tariffs c/
Australia	Yes	Yes	No	35-57%
Austria	No	Yes	No	20.0
Belgium*	No	Yes	No	10.8
Brazil	Yes	Yes	Yes	185-205
Canada*	No	No	No	14.2
Denmark	No	No	No	10.8
France	No	Yes	No	10.8
Germany*	No	No	No	10.8
Italy	No	Yes	No	10.8
Japan	No	No	No	0.0 d/
Mexico	Yes	Yes	Yes	n.a.
Netherlands	No	No	No	10.8
New Zealand	No	Yes	No	55.0
Norway	No	Yes	No	7.6
South Korea	Yes	Yes	Yes	80.0
Spain	Yes	Yes	No	68.0
Sweden	No	No	No	9.0
Switzerland	No	No	No	10.0 avg.
United Kingdom*	No	Yes	No	10.8
United States*	No	No	No	2.9

a/ The measures cited in this chart are for new cars. Trade restrictions on used cars are not reflected.

b/ Import restrictions apply to non-tariff measures maintained by a country which deal solely with imports. Tax measures which apply to both imports and domestically produced products are not included. Recent Japanese voluntary export limitation commitments are excluded, but countries receiving such commitments are asterisked.

c/ Most European countries impose hefty value-added taxes (VATs) that make the effective tariff rate higher than shown.

d/ While no tariff is charged, Japan erects a complicated set of hurdles unusual emissions tests headlight color rules etc. These are not "import restrictions," however, because they apply to domestic and imported cars alike.

n.a. = Not applicable; imports prohibited except by special arrangement.

SOURCE: Ford Motor Company, Japan Economic Journal

FOREIGN SOURCING

Partial List of Known 1977-81 Commitments By Major U.S. Automobile Manufacturers to Purchase Foreign-Made Major Components For Use in Domestic Nameplate Vehicles

Manufacturer	Component	Intended For	Source	Approximate Number of Components	Delivery Beginning
GM	2.8 liter V-6	Cars	GM de Mexico	400,000/year	1982
	2.0 liter L-4 with transmission	Mini trucks	Isuzu (Japan)	100,000/year	1981
	1.8 liter diesel L-4	Chevette	Isuzu	small numbers	1981
	1.3 liter diesel L-4	S-Cars	Isuzu	N.A.	1983
	1.8 liter L-4	J-Cars	GM de Brazil	250,000/year	1979
	THM 180 Automatic transmission	Chevette	GM Strasburg (France)	250,000/year	1979
	Manual transmissions	J-Cars	Isuzu	250,000/year	1981
Ford	2.2 liter L-4	Cars	Ford-Mexico	400,000/year	1983
	Diesel L-4	Cars	Toyo Kogyo (Japan)	150,000/year	1983
	2.0 liter L-4	Mini trucks	Toyo Kogyo	100,000/year	1982
	2.3 liter L-4	Cars	Ford de Brazil	50,000/year	1979
	Diesel 6 cyl.	Cars	BMW/Steyr (W. Ger./Austria)	190,000/year	1983
	Diesel 4 cyl.	Cars		N.A.	1985
	Manual transaxles	Front Drive Cars	Toyo Kogyo	100,000/year	1980
	Aluminum cylinder heads	1.6 liter L-4	Europe, Mexico	N.A.	1980
	Accessory Motors	Cars, trucks	Ford-Singapore	N.A.	1984
	Electronic Engine control devices	Cars	Toshiba	100,000+/year	1978
	Ball Joints	Cars	Musashi Seimitsu	1,000,000/year	1980
Chrysler	L-6 and V-8 engines	Cars	Chrysler de Mexico	100,000/year	1982
	2.2 liter L-4	K-body	Chrysler de Mexico	270,000/year	1981
	2.6 liter L-4	K-body	Mitsubishi (Japan)	1 million	1981
	1.7 liter L-4	Omni/Horizon	Volkswagen (W. Ger.)	1.2 million	1978
	Manual transmissions	Omni-Horizon	Volkswagen	500,000	1978
	1.6 liter L-4	L-body	Talbot (Peugeot)	400,000 total	1982
	2.0 liter Diesel V-6	K-body	Peugeot (France)	100,000/year	1982
	1.4 liter L-4	A-body (Omni replacement	Mitsubishi	300,000/year	1984
	L-4 engines	Cars	Peugeot	N.A.	1985
	Aluminum cylinder heads	2.2 liter L-4	Fiat (Italy)	N.A.	1984
AMC	Car components and power train	AMC-Renault	Renault in France and Mexico	300,000/year	1982
VWA	Radiators, stampings	Rabbit	VW de Mexico	250,000/year	1979
	L-4 diesel and gas engines	Cars	VW de Mexico	300,000+/year	1982

N.A. = Figure not available

SOURCES: *Automotive News, Ward's Engine Update, Ward's Automotive Reports, American Metal Market, Detroit Free Press, Detroit News, Japan Economic Journal,* and *Journal of Commerce.*

Statement by the AFL-CIO Executive Council

on

International Trade and Investment

February 15, 1982
Bal Harbour, Fla.

The recession-bound U.S. economy continues to lose jobs and production, a trend aggravated by mismanaged trade policies and practices. The U.S. trade balance suffered a record $40 billion deficit in 1981. As the world faces recession, many nations are increasing their barriers to imports of U.S. goods and further subsidizing their exports to the U.S. The Reagan Administration is ignoring these facts.

The Administration's monetary policies have brought a high value to the dollar -- up 16 percent against major currencies since 1980 -- encouraging imports and retarding exports. These monetary policies have thus dealt a double blow -- a downturn at home and a disaster in trade from added imports and slackening exports.

U.S. basic industries, already in need of revitalization, have been severely injured by the impact of expanded imports on top of the recession. Steel has suffered import penetration of about 20-25 percent of the U.S. market since last August. Auto imports in 1981 increased their share of a falling market to 31 percent in January. Apparel imports were over 33 percent of the market. Machinery and machinery parts imports caused new concern in a weakened market. With import pressure mounting, virtually every type of manufacturing and related services felt the brunt of lost orders both at home and abroad.

Instead of imports declining as they usually do in a recession, products of more than one-quarter of the manufacturing industries showed a sharp import rise in the third-quarter of 1981 over the same period the year before -- these include such varied items as tires, glass, apparel, hand tools, nuts and bolts, machine tools, roller bearings, semiconductors, motor vehicle parts, canned fish, aircraft engines and spacecraft parts.

International Trade & Investment

Even America's newest industries, the so-called "high technology industries," are beginning to be hurt by imports. By January 1982, the New York Times was reporting that the United States had lost its lead in computer chip technology and production of aircraft parts was expanded into closed economies -- including the People's Republic of China.

While imports of manufactured goods rose 13 percent in 1981, exports of manufactured goods were up only 7 percent. There has been inadequate attention to the composition of exports. The dollar value of exports does not tell the full story in terms of jobs and products. For example, the U.S. exports much raw material involving relatively little labor instead of manufactured goods and processed foods which require considerable labor input.

Instead of continuing trade adjustment assistance promised to workers injured by imports, the Administration's 1983 budget proposal calls for a mere 1 percent of the 1981 outlays for trade adjustment assistance and a complete end of the program in 1984.

The only recognition of the need to act in the U.S. interest was the conclusion of the Multifibre Arrangement.

The AFL-CIO calls upon the President and the Congress to undertake a number of specific measures in the trade area:

* placement of temporary restrictions on harmful imports during the term of the recession to prevent added penetration of U.S. markets by foreign producers and a further weakening of the U.S. industrial base.
* enactment of additional domestic content laws to protect endangered U.S. industries, such as H.R. 5133, which assures the continued U.S. capability to produce autos.
* speedy and effective handling of the dumping and subsidy cases in steel, to assure the promised redress for these unfair trade practices.
* ending of the President's continued authority to negotiate further tariff reduction.

- assurance that a portion of U.S. raw material exports be processed in this country, so that export of products such as grain, logs, etc., is conditioned upon specific domestic processing.
- establishment of bilateral shipping agreements and adherence to cargo preference laws.
- extension of the "manufacturing clause" of the U.S. Copyright Law to protect against widespread losses of jobs in the printing industry.
- extension of Trade Adjustment Assistance to provide adequate compensation to those unemployed because of trade, and improve training, job search, and relocation aid to those displaced workers who need such help.
- commitment that foreign grant, insurance and loan programs, such as the Export-Import Bank, are carefully managed to safeguard U.S. interests at home and abroad. Despite defects of the Ex-Im Bank, funds must not be slashed until other countries cut or eliminate their subsidy programs. Ex-Im Bank funds and guarantees must not be extended to any Communist countries.
- aid in the development of Caribbean nations needs to be enhanced, but proposals for "one-way" free trade and additional investment incentives to U.S. firms for investing abroad should be rejected.
- vigorous enforcement of reciprocity provisions of the Trade Act must be undertaken.

The AFL-CIO believes that enforcement of the Trade Act and the fashioning of new remedies to assure a strong and diversified U.S. industrial structure are essential for America's well being.

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Senator DANFORTH. How would you respond to the following point? The nature of the STR is to negotiate deals.

Mr. KOPLAN. That is correct. I agree that is their nature.

Senator DANFORTH. And, clearly it is possible when you are negotiating a deal to negotiate a good one or a bad one, but their object is to negotiate. The whole purpose of their existence is to negotiate deals, and hopefully good ones, and if you take away their ability to give something in a transaction, namely tariff cutting authority, you undercut the whole ground of their existence.

Mr. KOPLAN. Well, I don't agree with that, Mr. Chairman, because what they are asking for today is something new, and I don't think that this Congress should abrogate its responsibility, its oversight responsibility.

What we have said consistently is that if a deal is going to be beneficial to the United States, to American industry, and to U.S. workers, then it ought to be able to stand the test of congressional scrutiny.

The original purpose of section 124 was not to simply give the administration, any administration, blanket authority to negotiate tariff cutting. I think that that came out in the questioning this morning, yet this is what the administration is seeking.

What we are saying is, you have a long list of specific tariff bills scheduled for consideration this morning, some of which we are opposing, others we are not. We believe that it is the responsibility of this Congress, and of any Congress, to examine such an item, to determine what effect a tariff cut is going to have here—to determine the health of that particular American industry, and ultimately pass judgment on the specific request.

We just feel that it is extremely dangerous to grant any administration—any administration—such authority.

Senator DANFORTH. But, clearly, our Congress of 535 Members can't be involved in negotiations.

Mr. KOPLAN. Well, up until now, up until the time that this authority has been requested, the Congress has had oversight responsibility. Section 124 was not intended to give this kind of a blank check. It was to clean up housekeeping details from the Tokyo round.

We are extremely concerned. We have spoken out at every opportunity in opposition to renewing this authority which expired last January.

Senator DANFORTH. Thank you very much.

Mr. KOPLAN. Thank you.

Senator DANFORTH. The next witnesses are Arthur Spitzfaden, Dean Schleicher, Fawn Evenson, Edward Levy, Arnold Mayer, Ralph Cennamo, and Stanley Nehmer.

My understanding is that you do have 5 minutes.

STATEMENT OF ARTHUR C. SPITZFADEN, PRESIDENT OF PRINCE GARDNER CO., ST. LOUIS, MO., AND PRESIDENT, LUGGAGE & LEATHER GOODS MANUFACTURERS OF AMERICA, INC.

Mr. SPITZFADEN. Mr. Chairman, we want to thank you for allowing us to appear today.

My name is Arthur Spitzfaden. I am president of Prince Gardner Co. of St. Louis, Mo., which is a manufacturer of personal leather goods for men and women.

Senator DANFORTH. Excellent products. I highly recommend them.

Mr. SPITZFADEN. Thank you, Senator.

I am also president of the Luggage & Leather Goods Manufacturers of America, Inc. My appearance here today is to reflect the general views of the group of trade associations and labor unions which represent firms and workers in domestic leather-related industries, specifically nonrubber footwear, luggage, handbags, personal leather goods, work gloves, and leather apparel.

All of these organizations are represented here today, and each has submitted written statements to the subcommittee, which I understand will be included in their entirety in the record.

I am also speaking for the Amalgamated Clothing & Textile Workers Union, whose members produce footwear and leather wearing apparel. They have filed a separate statement which also covers textile and apparel.

I would like to summarize the position of these organizations as far as S. 1902 is concerned.

We oppose this legislation to the extent of the residual tariff-cutting authority. Our reason for this opposition is really quite simple. For all import-sensitive and import-injured industries, tariff negotiations which lead to duty cuts on any leather-related article would invite an increasing volume of imports affecting these industries, a situation that we clearly cannot afford in the face of already increasing imports and import penetration.

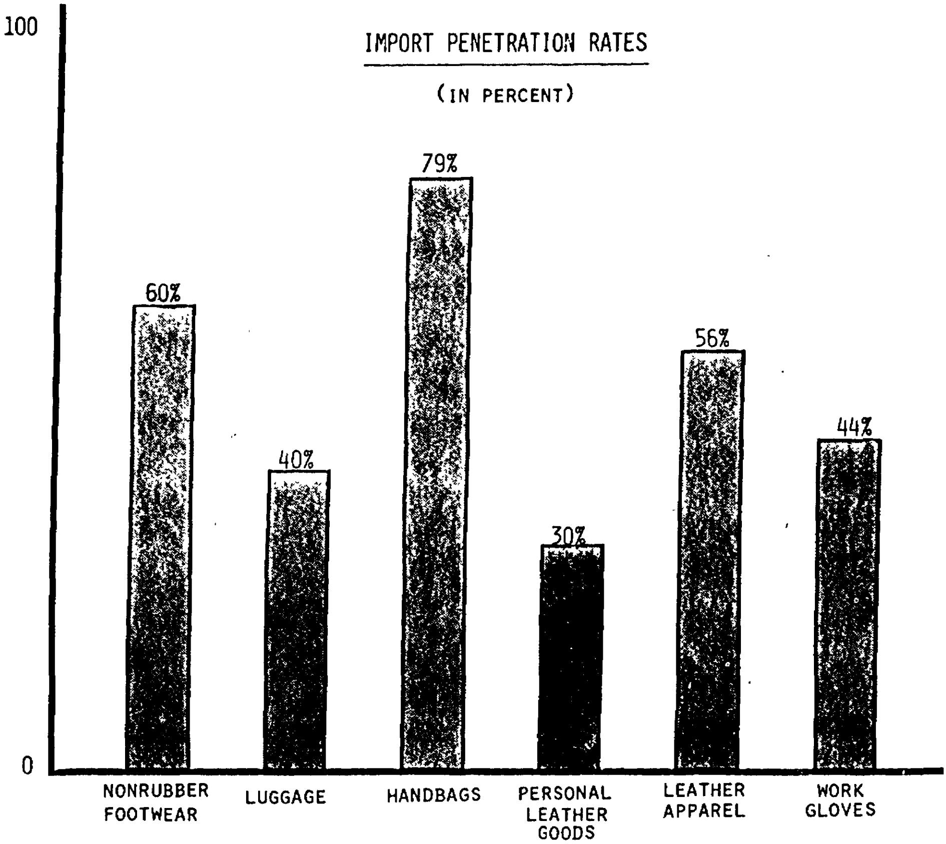
We see ahead the possibility of negotiations with the advanced developing countries. We understand the administration plans to propose such negotiations at the forthcoming GATT ministerial meeting in November. These countries are the very ones which have injured our industries by increasing exports to us. We oppose being the sacrificial lambs for the industries which have testified in favor of this bill.

Perhaps the best way to demonstrate the intense degree of import competition faced by the leather-related industries is by this chart we have prepared which illustrates import penetration rates in the various industries. These figures represent the U.S. market share held by imports which, in virtually every instance, has been growing substantially.

It is countries like Taiwan, Korea, Mexico, Brazil, and Hong Kong which have been at the forefront of these imports.

Let's look at this chart just for a minute.

[Showing of chart.]



Mr. SPITZFADEN. What we see is that all of our industries have lost a substantial market share to imports. At the top, or shall we say bottom of the scale, some 79 percent of the handbag market has been overtaken by imports. Few industries have been so severely import impacted. My industry, personal leather goods, is the latest leather-related industry to feel the impact of imports. Even we, with the lowest import penetration rate of the industries represented here, have lost one-third of our market to imports.

And look at footwear. After being accustomed—and I say that facetiously—to an import market share of 50 percent, import penetration in the nonrubber footwear industry rose to 62 percent in the first 4 months of 1982.

Each of these industries is confronted with ever-increasing volumes of imports. For example, imports of luggage increased 20 percent between 1980 and 1981, and continued to increase by 6 percent in the first 5 months of 1982. Imports of personal leather goods increased by 17 percent between 1980 and 1981. Work gloves increased 12 percent between 1980 and 1981. Imports in nonrubber footwear increased 27 percent in the first 5 months of 1982.

It is an understatement to say that the state of the health of these industries is "poor." We are all struggling to maintain market share against the rising tide of imports. We are in a virtual stage of siege. Thousands of jobs have been lost in these labor-intensive industries, which last year employed about 250,000 workers. The footwear industry alone lost 11,000 jobs in the first 4 months of this year. My own company, Prince Gardner in St. Louis, had more than 2,000 workers 3 years ago. We presently employ 600. We cannot allow the situation to worsen for any of us.

Let me turn now to the legislation S. 1902, an extension of the residual tariff cutting authority. Passage of this bill and exercising the authority to negotiate tariff reductions could seriously hurt import-sensitive industries such as those represented by our organizations. What little protection we have in the way of tariffs on our products is just that—very little protection. However, to consider cutting tariffs on imports of these products is absurd. Why provide the impetus to imports into the U.S. market in the face of an already precarious situation brought about by imports? We already have one of the most, if not the most, open markets in the world. Where does that leave us insofar as this legislation is concerned? We oppose any legislation which would authorize tariff reductions on import-sensitive products such as those of the leather-related industries.

Only a next best approach to our problem would be to amend the legislation to exclude import-sensitive industries of such tariff reductions. Our products could be specifically excluded by name from the tariff negotiation authority. This was done, for example, in section 503 of the Trade Act of 1974 with the Generalized System of Preferences which excluded several import-sensitive articles by name, including footwear, from designation as "articles eligible for duty-free treatment."

Alternatively, if import-sensitive products were specifically excluded from the negotiating authority and if designation of import sensitivity was not discretionary, our concern regarding this legislation would be somewhat eased.

When the House Subcommittee considered residual tariff cutting authority legislation, they adopted an amendment such that the authority to negotiate tariffs may not be exercised with regard to articles that are designated by the President as "import sensitive."

This amendment is unsatisfactory from our standpoint primarily because the President would retain wide discretion in designating products as "import sensitive." Such discretionary authority means that a domestic industry must repeatedly prove import sensitivity on individual products. Why should we be subject, time and time again at great expense of time and money, to prove and reprove our sensitivity to imports? Each of us here today has an extensive experience with such discretionary authority: the footwear industry with respect to escape clause cases, and the rest of us with respect to the Generalized System of Preferences.

An amendment which would exclude from tariff reductions those products not presently eligible for duty-free treatment under the Generalized System of Preferences would be a step in the right direction. Such an amendment would minimize the potential adverse effect on import-sensitive domestic industries of duty cuts by insuring that articles that are currently import sensitive, in the context of the GSP, including most leather-related products, will not be subject to further tariff negotiations.

Footwear is specifically excluded by law from duty-free treatment under the GSP, and only a few leather-related products are currently designated as GSP-eligible articles.

To summarize, we believe the residual authority to negotiate and reduce duties under section 124 of the Trade Act of 1974 as embodied in S. 1902 should not be extended. If this legislation goes forward it must be amended to exclude import-sensitive products in a nondiscretionary manner. Import-sensitive industries must be protected from duty cuts and from further invasions by imports.

I am also available for questions. I went as fast as I could. [Laughter.]

Senator DANFORTH. Do you think that the administration would give away the store?

Mr. SPITZFADEN. You bet your life. We are suffering right now. [Laughter.]

Senator DANFORTH. Senator Heinz.

Senator HEINZ. That's a good answer.

I would like to ask probably Stan Nehmer, more than anybody else, about people in these industries that you have indicated lost their jobs. Where do they go once they have lost their jobs?

Mr. NEHMER. Senator, there is very little place for them to go. First of all, they are located in areas where other industries have been hard hit and where there is heavy unemployment. They are not overly skilled; you would say semiskilled, underskilled. Agewise they are among the older workers. They are, to a very large extent, particularly in the inner cities and the urban areas where some of these plants are located, they are minorities: Hispanics, blacks. They are absolutely immobile. If they cannot retain their jobs in these industries which are to a very large extent providing employment where they otherwise couldn't find employment, there is no other place to go. They are not going to move to Seattle, Washington, to assemble Boeing aircraft. That is not the nature of this labor force.

Senator HEINZ. What is the evidence to suggest the administration would negotiate tariff reductions on these import-sensitive articles for market access on other products? There doesn't seem to be much doubt in your mind; what is the evidence?

Mr. SPITZFADEN. The chart itself on what is happening so far with the imports. If we continue with the import business, and we take the duties off, we are going to be in nothing but trouble as far as our industries are concerned.

Senator HEINZ. Well, I agree with that. What is the evidence that the administration would in fact do that? Bill Brock was just here saying he wouldn't do that.

Mr. SPITZFADEN. Well, I heard a statement here, earlier today, and I wrote it down. It kind of scares me when they say that we give up practically nothing to get a great deal back. We are not "practically nothing" to us.

Mr. NEHMER. Senator, I could also add that this administration's record on this is what scares us. We cite two things, particularly. The termination of the import relief on nonrubber footwear on

June 30, 1981, was a terrible thing. That was when the recommendation of the International Trade Commission was to extend that import relief.

Second, the position of this administration with regard to the Caribbean Basin Initiative, where they are continuing to fight these industries on an amendment to the legislation which was passed by the Trade Subcommittee, which would exempt together with textiles and apparel these industries that you see before us—the administration has not been content to let that go through, and they have done their best to fight us on it. We are very concerned that if this authority was given to them—there is also a specific case in point which I might just mention—that they will use it to cut these tariffs.

After all, they are talking about negotiating with Korea, Taiwan, Brazil, the advanced developing countries; those are the very countries, as Art Spitzfaden said, which are hurting us.

Mr. MAYER. Senator, another thing which I think is important is, if I understood Ambassador Brock's testimony, he said, you know, give us the authority, trust us. The record is such that they can't be trusted on it. I mean the wrecked industries, particularly the shoe industries from Maine to Missouri, the steel in Pennsylvania, and so on, hardly shows reason for trust especially at a time when we have nearly 10 percent unemployment, and unemployment is still going up.

Senator HEINZ. Well, I have to admit that if you look at the record, with the possible exception of Jerry Ford, Presidents don't do very well when it comes to protecting import-impacted industries. Jimmy Carter gave the store away time after time, day after day. The President that we have now, President Reagan, does not appear to have improved on that record at all. I'm sorry to say that because he is a Republican President, and I'm a Republican. I would like to have a Republican President that stood four-square behind free but fair trade.

Mr. MAYER. All the more reason for the congressional oversight that the previous witness talked about.

Senator HEINZ. Mr. Chairman, may I continue?

Senator DANFORTH. Yes.

Senator HEINZ. Now, the House bill, under the Gibbons amendment, has some language that appears to protect import-sensitive articles. But I assume that that language would, for example, permit the President to agree to tariff reductions on articles that don't appear to be import sensitive as "articles," although they might be articles within an industry that is very import sensitive. And, frankly, I wanted to introduce a constituent—I was called away to the telephone—Mr. Schleicher from Pennsylvania, who is a good example of this, I understand.

Your company manufactures work gloves, and it may be that you are facing just such a situation with respect to work gloves. Is that correct?

Mr. SCHLEICHER. Yes, it is. Actually, while my company, per se, does not manufacture the particular item in question, coated work gloves, for example, they have taken a 60-percent reduction in duties, from 35 percent to 14 percent, and it has been subsequently, therefore, assumed that they are not import sensitive. Because they were given a 60-percent reduction they are now being petitioned for addition to the GSP list.

So there are a great many assumptions, from our view, that are taken by our trade negotiators, one of the biggest problems being, for the industries represented here who are labor-intensive industries. Very, very seldom is that take into consideration in trade negotiations—labor-intensive versus capital-intensive—and the types of jobs that are available, and what they mean.

Mr. SCHULZ. Senator, if I could add to that—my name is Craig Schulz. I am the executive director of the Work Glove Manufacturers Association, and within our industry it is a fact that the companies really have to cover a broad spectrum of product lines in order to remain viable in the market. And in a number of cases, certain of these product lines may not be producing and selling profitably; but the profit margin from other profitable lines can pick up the slack and provide them with enough profit to remain viable.

Now, if the USTR goes and picks and chooses those segments of the industry that are not import sensitive and then reduces the tariff there, that could destroy the entire viability of that company.

Mr. NEHMER. We have a case in point, Senator. There was a big controversy on the GSP operations a couple of years ago with regard to eyeglass frames. After three times that the industry tried to get the eyeglass frames off the list, they finally removed it insofar as imports from Hong Kong were concerned.

While that was going on, as part of this very process under section 124, USTR was offering it to the Italians in order to get the duty on citrus and almonds cut—two things going on completely inconsistent with each other.

Senator HEINZ. Thank you, Mr. Chairman.

Senator DANFORTH. Gentlemen, thank you all very much.

[The prepared statements of the previous panel follow:]

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STATEMENT OF ARTHUR C. SPITZFADEN,
PRESIDENT OF PRINCE GARDNER COMPANY,
ST. LOUIS, MISSOURI, AND PRESIDENT,
LUGGAGE AND LEATHER GOODS
MANUFACTURERS OF AMERICA, INC.

Before the Subcommittee on International Trade
Committee on Finance, U.S. Senate
On S.1902

July 21, 1982

My name is Arthur Spitzfaden and I am President of Prince Gardner Company of St. Louis, Missouri, a manufacturer of personal leather goods such as wallets, secretaries, coin purses, clutches, and key, cigarette, and eyeglass cases for men and women. I am also President of the Luggage and Leather Goods Manufacturers of America, Inc., the trade association representing domestic producers of luggage, business cases, and personal leather goods.

My appearance here today is in opposition to S. 1902, the bill to extend the President's residual tariff cutting authority. We oppose this legislation unless the legislation is amended to ensure that import-sensitive articles, such as luggage and personal leather goods, are excluded from potential tariff negotiations in a nondiscretionary manner. Duty cuts on these products would invite an increasing volume of imports in these industries, which we clearly cannot afford in the face of already increasing imports and import penetration.

The Luggage and Personal Leather Goods Industries are Highly Import-Sensitive

Both the luggage and personal leather goods industries are import-sensitive and have already suffered greatly at the hands of increasing levels of imports. Imports of luggage and personal leather goods have increased substantially and captured increasing shares of the U.S. market in recent years.

U.S. imports of luggage (including business cases) increased five-fold between 1975 and 1980, from $49 million to $243 million, during a time when real growth in the domestic market was only moderate, at best, and domestic shipments were on a downward trend. Moreover, in 1981 imports increased by a further 20 percent to $292 million and captured an even greater share of the U.S. luggage market, while domestic shipments declined by approximately 15 percent according to our estimate. Imports continue to increase by 6 percent in the first five months of 1982. Increasing imports have clearly been at the expense of domestic production. We estimate that imports now have at least 40 percent of the U.S. market.

The situation with respect to personal leather goods is similar. The term "personal leather goods" or "flat goods" includes such products as billfolds, key cases, eyeglass cases, cigarette cases, secretaries and coin purses of leather and other materials. In real terms, domestic shipments of personal leather goods have fallen since 1978, while imports have risen rapidly. Imports increased by 17 percent in 1981 to $84 million and clearly captured an even larger share of the U.S. market as domestic shipments declined by an estimated 15 percent. As with the luggage industry, imports of flat goods have been increasing at a time when the market has not been growing and, thus, imports are at the expense of domestic production. While import penetration in the personal leather goods industry has not yet reached the level achieved in the luggage industry, it is clear that the import market share is rising rapidly. We estimate that imports now have more than 30 percent of the U.S. market.

The situation at our company offers some insight into the industry's state of health. Three years ago Prince Gardner employed more than 2,000 workers. Today we have less than 600. If things continue on this course, we may not be able to keep even these workers employed.

The luggage and personal leather goods industries have been fighting an uphill battle for self-preservation. We have sought exclusion for our products from the Generalized System of Preferences because of their import-sensitivity and have been successful, for the most part, at keeping most of our items from being added to the GSP list. Last year, the luggage industry sought, and received, a technical assistance grant of just under $250,000 from the Department of Commerce designed to aid import-impacted industries. The luggage industry has embarked on an extensive and ambitious program to improve its productivity, produce an even higher quality product, offer a better value to the consumer, and, in general, become more competitive. It makes no sense for the U.S. Government, on the one hand, to help this industry become more competitive, and, on the other hand, to reduce import duties that will only negate these efforts.

Passage of S. 1902 Could be Harmful to These Industries

Passage of S. 1902, and more importantly, the exercising of the authority to reduce duties insofar as luggage and flat goods are concerned, would be harmful to the firms and workers in these industries.

Tariffs on U.S. imports of luggage and flat goods have already been substantially reduced over the past several years and, in the most recently completed Multilateral Trade Negotiations, duties were cut on many such items of leather and textile materials. Products of plastic were spared from duty cuts. These tariff reductions, staged over eight years and to be fully effective by 1987, ranged from 20 percent in the case of leather luggage to the full 60 percent in the case of certain luggage and flat goods of textile materials. The authority to reduce tariffs further is neither desirable nor necessary in light of the substantial reductions which have already been negotiated.

The domestic industries have consistently taken the position that luggage and flat goods should not be designated as eligible articles for the purposes of the Generalized System of Preferences. Most of these products are not currently subject to duty-free treatment, a situation consistent with the import-sensitivity of luggage and flat goods.

For the same reasons as we oppose the addition of luggage or flat goods to the GSP list, we must oppose S. 1902. Further tariff reductions will act as an impetus to further increases in imports which, in turn, have a strong potential for further injuring the domestic luggage and personal leather goods industries.

Our industries have already suffered enough from imports and lost market share. We are very concerned that an extension of the President's residual tariff cutting authority will lead to further duty cuts on luggage and flat goods, an action which will contribute to the negative affect that increased imports have already had on these industries. We consider the current low import duties to offer some protection; we believe that these duties should not be subject to further reduction.

We do, however, see one solution to our concerns regarding this legislation which would justify passage of the bill. Import-sensitive products would have to be specifically excluded from the extension of the negotiating authority and, moreover, designation of "import-sensitivity" must not be discretionary. The House Trade Subcommittee reported out H.R. 4761 with an amendment to exclude from tariff reductions products designated by the President as import-sensitive. Such an amendment does not satisfy our concerns, primarily because the President would retain wide discretion in designating products as import-sensitive. Such discretionary authority means that a domestic industry must repeatedly prove import-sensitivity on individual products. We have seen this on several occasions with respect to the Generalized System of Preferences.

An acceptable solution, however, would be an amendment such as under consideration in the House which would exclude from tariff reductions those products not presently eligible for duty-free treatment under the Generalized System of Preferences. Such an amendment would minimize the potential adverse effect on import-sensitive domestic industries of duty cuts by ensuring that articles which are import-sensitive in the context of the GSP, including most luggage and flat goods, will not be the subject of further tariff negotiations.

To summarize, we believe the the residual authority to negotiate and reduce duties under Section 124 of the Trade Act of 1974 as embodied in S. 1902 should not be extended <u>unless</u> the legislation is amended to exclude import-sensitive products in a nondiscretionary manner.

WGMA

STATEMENT OF DEAN K. SCHLEICHER,
SECRETARY-TREASURER, KELLER GLOVE MANUFACTURING COMPANY,
PLUMSTEADVILLE, PENNSYLVANIA, AND PRESIDENT,
WORK GLOVE MANUFACTURERS ASSOCIATION

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate

On S.1902

JULY 21, 1982

My name is Dean Schleicher, Secretary-Treasurer of Keller Glove Manufacturing Company, a producer of work gloves located in Plumsteadville, Pennsylvania. I am also President of the Work Glove Manufacturers Association, a trade association whose members account for the great bulk of the domestic output of work gloves.

I would like to comment on our industry's concerns regarding S. 1902, which would extend for two years the President's authority to negotiate tariff reductions under Section 124 of the Trade Act of 1974. The current form of the legislation is unacceptable to our industry, which is already import-sensitive and import injured. Tariff cuts on

work glove manufacturers association
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imports of work gloves are likely to result in additional increases in imports and import penetration. In our view, this legislation should be amended to insure that the authority to negotiate tariff reductions cannot be exercised with respect to import sensitive products such as work gloves.

We recognize that passage of S. 1902 as it currently reads does not necessarily mean tariff reductions on our products. However, we are far from confident that such tariff reductions will not, in fact, occur. The tariff on rubber and plastic work gloves was cut by 60 percent during the Multilateral Trade Negotiations and now the Administration has accepted a petition to consider placing these gloves on the GSP duty-free list. How often can we be buffeted by Washington "tradeocrats" and still survive? Thus, the work glove industry must oppose S. 1902 unless import-sensitive products are specifically excluded from the tariff negotiating authority. If not excluded by name, another way to address the issue is to exclude current non-GSP-eligible articles from potential duty-cuts as was suggested during consideration of similar legislation by the House Trade Subcommittee. We view this as a reasonable solution as it will protect import-sensitive articles from further duty cuts. However, we do not consider the amendment which passed the House Trade Subcommittee to be acceptable, as that amendment allows the President to retain complete discretion to determine what is import-sensitive.

I think it is appropriate to provide you with some background information on the work glove industry and its import-sensitivity.

The work glove industry is composed primarily of small- and medium-sized firms and is both labor-intensive and import-sensitive. Minorities, both racial and women, comprise a major portion of the work force in this industry.

Our manufacturers produce gloves of textile, leather, plastic, rubber, and coated fabrics. Cotton work gloves, like most textile and apparel products, are covered by the Multifiber Arrangement (MFA), the international agreement on trade in textile and apparel. I certainly do not need to point out that textile and apparel articles are highly import-sensitive. Import restraints under the MFA were placed on textiles and apparel precisely because of their import-sensitivity. Moreover, textile and apparel were specifically excluded by law from designation as eligible articles under the Generalized System of Preferences because of their import sensitivity.

Work gloves of non-textile materials do not benefit from any restraints on imports, although most are presently not subject to zero-duty treatment under the Generalized System of Preferences. These work gloves are also import-sensitive.

Imports of work gloves have increased both absolutely and relative to domestic shipments and consumption in recent years. Imports of all types of work gloves increased more than 12 percent in 1981 over 1980 levels, including an 18 percent increase in imports of cotton gloves, despite the existence of MFA import restraints. Overall import penetration for the work glove industry exceeds 35 percent. Import penetration varies for the individual glove types, but is substantial in all segments of the industry and has generally been on the rise. Import penetration is highest for leather/fabric combination gloves which registered an estimated 74 percent market share in 1981. Even the two segments (leather work gloves and rubber/plastic gloves) with the "lowest" import penetration levels suffered from import penetration rates of 20 percent in 1981, still a substantial degree of market penetration.

All of the products of our industry are import-sensitive and few are on the GSP list. As I mentioned, the Office of the United States Trade Representative has accepted a petition from the Government of Thailand to consider adding certain rubber or plastic gloves (what we call dipped supported gloves and coated or partially coated fabric gloves) to the list of eligible articles under the GSP. This is the same item for which duties were cut 60 percent during the MTNs. Needless to say, we will oppose this petition. This provides a good example of a situation which exists for many import-sensitive industries today -- while an industry may be recognized as "import-sensitive", that import-sensitivity continues to be challenged on individual products within the industry.

In fact, this is one of the reasons we do not find the language of the House Trade Subcommittee-adopted residual tariff cutting authority bill acceptable. This language allows the President discretion to determine what is import-sensitive just as there is discretion over what is import-sensitive in the context of the GSP. The situation which ensues under discretionary authority is one in which domestic industries must continnually make a case to the Executive Branch to prove their products are import-sensitive. To make such a case is both time consuming and expensive.

An alternative approach to the problems in S. 1902 would be to amend the legislation to provide for the exclusion of all current non-GSP eligible-articles from the tariff-cutting authority, thereby ensuring that import-sensitive articles are not subject to tariff reductions.

I urge this Subcommittee not to report S. 1902 favorably. We support an amended bill or defeat of the legislation as it currently reads.

COMMENTS OF FOOTWEAR INDUSTRIES OF AMERICA, INC., ON S. 1902 TO EXTEND FOR AN ADDITIONAL TWO YEARS THE RESIDUAL TARIFF NEGOTIATING AUTHORITY UNDER SECTION 124 OF THE TRADE ACT OF 1974

JULY 21, 1982

INTRODUCTION

Footwear Industries of America, Inc. (FIA), is a trade association whose members account for the majority of nonrubber footwear produced in the United States and a substantial number of suppliers to the industry. We are pleased to have this opportunity to comment on S. 1902, introduced by Senator Danforth and Senator Symms, to extend for an additional two years the residual tariff negotiating authority under Section 124 of the Trade Act of 1974.

FIA generally recognizes the need for an extension of the President's authority to enter into trade agreements with foreign countries and to proclaim reductions or increases in duties or continuation of existing duties or duty-free treatment if he determines existing foreign or U.S. duties or other import restrictions unduly burden and restrict U.S. foreign trade.

However, in extending the President's tariff-negotiating authority, Footwear Industries of America recommends that the special needs of import-impacted industries be taken into consideration. Specifically, we recommend that the President's authority to reduce tariffs not be extended to import items, such as footwear, not eligible for duty-free treatment under the Generalized System of Preferences program.

BACKGROUND

The import-sensitive nature of nonrubber footwear is especially well-documented. The Congress specifically recognized this problem and included nonrubber footwear in a list of articles excluded from eligibility for Generalized System of Preferences (GSP) treatment under Title V of the Trade Act of 1974. Further, the International Trade Commission (ITC) twice unanimously determined that imports seriously injured the domestic footwear industry (in 1976 and 1977). Following the second unanimous injury finding, import relief was granted to the industry in June, 1977, in the form of Orderly Marketing Agreements (OMA's) negotiated with Taiwan and Korea to limit imports from those two sources for four years (June 30, 1977 - June 30, 1981). In April, 1981, the ITC concluded that footwear imports continued to injure the domestic industry, and recommended extension of import quotas on footwear from Taiwan, the largest single foreign supplier. The ITC further recommended that action be taken against surges from other countries whose imports undermined the import relief program and threatened the domestic industry. However, on June 30, 1981, despite the ITC's recommendation, President Reagan announced his decision to terminate the Orderly Marketing Agreements with both Taiwan and Korea. Thus, the industry currently is not subject to any form of import relief.

Prior to the imposition of import relief and throughout the four-year relief period, imports captured roughly one half of the domestic market for footwear. Since import relief was terminated, the footwear industry has seen its bleakest hour: imports have risen by nearly 12 percentage points this year. Domestic market share has fallen to 38% and over 11,000 jobs have been lost in this industry since the beginning of 1982.

<u>THE UNITED STATES IS THE FOCAL POINT FOR WORLD FOOTWEAR EXPORTS</u>

The United States already is the focal point for other nations' footwear exports, as it is the largest and most open market in the world. Approximately 70 countries export nonrubber footwear to the United States, which historically has been the largest single country market for world trade in nonrubber footwear, absorbing a significant portion of total world exports of these products.

United States imports accounted for 39 percent of total nonrubber footwear imports by OECD countries in 1976 and 1977, the latest year for which such data are available. Data compiled by the Shoe and Allied Trade Research Association (<u>World Footwear Industries Statistical Review 1978</u>) indicate that the United States market <u>absorbs more than one half of the total footwear exports</u> from Taiwan, Brazil, Japan, Mexico, and the Philippines, and close to one-half of the total footwear exports from Korea, Hong Kong, Spain and Greece. For most of the world's top 19 footwear exporting countries (which account for almost 85 percent of total world exports) the United States is the single largest recipient of footwear exports, absorbing 41 percent of total exports by these 19 countries.

Barriers to imports of nonrubber footwear that exist in foreign markets outside the United States contribute to a diversion of trade to the U.S. market. U.S. tariffs on nonrubber footwear are among the lowest in the world, generally ranging from 2.5 to 20 percent ad valorem; the trade-weighted average ad valorem rate was approximately 10 percent in 1981. Moreover, non-tariff barriers here virtually are non-existent. (In fact, the one non-tariff barrier applicable to shoes, American Selling Price, was abolished on July 1, 1981.) In comparison, many of the other major consuming and producing nations have substantially higher tariff rates on nonrubber footwear, and some of the major producers and exporters of nonrubber footwear in the developing countries maintain tariff and non-tariff barriers that virtually prohibit penetration by foreign producers. It is no wonder, then, that the U.S. bears the brunt of world trade in this commodity.

Footwear Tariff and Trade Regulations: Major Foreign Markets, prepared by the Department of Commerce in May, 1981, surveys tariff and trade regulations covering the importation of footwear in 53 countries. A review of this report clearly illustrates the stringent barriers to footwear imports imposed by many of our trading partners — in both developed and less-developed countries.

For example, Canada has just re-imposed a global quota on footwear. Canadian duties for countries with MFN status range from 22½% - 25% ad valorem. In Korea, the general duty range is 60% ad valorem; leather footwear imports currently are banned. Mexico's duty rate is 35% ad valorem FOB; in addition, there is a surcharge of 2% on the normal value of the merchandise, a surtax of 3% on the calculated duty, and a luxury tax of 6% on the normal value of the merchandise. Furthermore, licenses are required on all footwear, and are not issued freely. In the Philippines, footwear is classified as a consumer item which cannot be imported. Duties in Spain range from 8% - 35% ad valorem, with an additional compensatory imports tax of 10%. Taiwan imposes duties of 25% - 85% ad valorem, requires licenses and imposes additional taxes of almost 20%.

Brazil's duties virtually prohibit footwear imports. In addition to its 170% ad valorem tariff, it has a deposit scheme and it imposes a 12% merchandise circulation tax and a merchant marine renewal charge of 20% of net ocean freight charge on all imports by sea. Moreover, import licenses are generally not issued for footwear. Duties in Australia generally are 34% or 46.5% ad valorem; in addition, quantitative restrictions on many types of footwear have been in effect there since 1974. Duties in Japan range from 8.6% - 27%; it also has a severe quota on imports of leather products which includes leather footwear.

In addition to the trade barriers briefly outlined above, non-tariff barriers on hides and leather affect world trade in nonrubber footwear. The most important of these barriers are export restrictions on hides and leather. Strong world demand for hides and leather and global hide shortages caused the price of hides, leather and leather products to rise rapidly beginning in late 1978 and continuing through 1979. Those countries restricting their exports of hides are able, in such market conditions, to maintain domestic raw material prices at a level below world prices and thus develop leather products industries that are highly competitive in the world market.

Such restrictive trade practices have an obviously damaging effect on the United States, a major producer and trader of hides, which has no restrictions on the export of hides. As a consequence of this lack of restrictions, U.S. producers of footwear and other leather products often pay higher prices for raw materials than foreign competitors in those countries that do restrict exports of raw materials. Therefore, on the world market and in their own market, U.S. producers are at a competitive disadvantage with such producers vis-a-vis the cost of raw materials, a major component of the cost of production of some types of footwear. Furthermore, exports of finished products from those countries that restrict their raw materials exports are often targeted to the relatively open U.S. market, thus compounding the effect on the U.S. footwear and other leather products industries.

Among those countries that restrict their hide exports are Argentina, Uruguay, and Brazil. By first placing embargoes and then levying export taxes on hides, these countries have protected their own domestic leather products industries from the pressures of rising world hide prices.

SUMMARY AND RECOMMENDATION

The domestic footwear industry has been, and continues to be, severely injured by imports. In 1981, the ITC acknowledged the continued threat, and recommended extension of the Orderly Marketing Agreement with Taiwan. However, the import relief program was terminated. Imports have grown dramatically since that time and have now captured almost 62% of our market. Clearly any reduction in U.S. tariffs on footwear will further exacerbate an already severe problem.

The stringent trade barriers on footwear in many other countries preclude development of alternative markets for the world's footwear exporters. Thus, the United States, which is the largest and most open market in the world, can expect to remain the focal point for world footwear exports. Any reduction in the already low domestic duty rates will only invite a surge in footwear imports.

Therefore, Footwear Industries of America suggests that any extension of the President's residual authority should be subjected to more stringent Congressional guidelines. Section 127 of the Trade Act of 1974 currently prohibits the President from negotiating duty reductions pursuant to Section 124 while an import relief program is in effect with respect to the product in question. FIA submits that the continued ill health of the U.S. shoe industry, notwithstanding the recent period of import relief, demonstrates that this exception to Section 124 authority is too narrow to adequately serve the

Congressional intent of protecting import sensitive industries. What is needed is a "laundry list" of import sensitive articles — including shoes — similar to the list of products exempted from the system of trade preferences created by Title V of the Trade Act of 1974. If the President is to be given the authority to reduce tariffs, it is only in this way that American industries injured by imports will be assured that further declines in production and job losses will not occur.

N•H•A National Handbag Association
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EXECUTIVE DIRECTOR. EDWARD S. LEVY

STATEMENT OF EDWARD LEVY, EXECUTIVE DIRECTOR,
NATIONAL HANDBAG ASSOCIATION

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate

In Opposition to
S. 1902

July 21, 1982

My name is Edward Levy. I am Executive Director of the National Handbag Association, the trade association representing the domestic handbag industry. I am here today to comment on some of the concerns of our industry with respect to the bill to extend the President's residual tariff cutting authority for two years, S. 1902. We find the language of the current legislation to be totally unacceptable as it will open the door to tariff reductions on imported handbags.

We are an import-sensitive industry and have the unhappy distinction of having one of the most heavily import penetrated markets in this country. Almost 80 percent of the U.S. market for handbags is currently in the hand of imports. Declining production, lost market share, and lost jobs have characterized our industry for more than a decade. Under such circumstances our concerns over any legislation which has a potential for resulting in further inroads into our market should be apparent. There exists no justification to support the consideration of tariff reductions on these import-sensitive products.

Passage of S. 1902, and more importantly, exercising the authority to reduce duties insofar as handbags are concerned, would adversely affect the firms and workers in this industry. The degree of protection offered by the current rates of duties on imported handbags are considered minimal -- ranging from 6.5 percent on handbags of some textile materials to 20 percent on handbags of plastic and certain other textile materials to 22.4 percent on handbags of rattan or palm leaf. Few of our products are subject to duty-free treatment under the Generalized System of Preferences, precisely because of their import-sensitivity. During the Multilateral Trade Negotiations we saw the duties on many of our products cut substantially, some by 10 percent (leather handbags) and some by as much 60 percent (handbags of certain textile materials). Only plastic handbags and some handbags of textile materials were spared from duty cuts. We have more than paid our dues with regard to duty reductions.

Another cause for the particular concern of our industry regarding the extension of the tariff cutting authority relates to negotiations which have already been discussed. The United States is apparently seeking lower tariffs on almonds and citrus from the European Community. We have no assurances that the EC will not seek -- and the United States will not agree to -- duty cuts on leather products in return for lower tariffs on almond and citrus. In fact, we are extremely concerned that this may happen. Not only is Italy the major producer of almonds and citrus in the EC, but Italy is also a major exporter of leather products to the United States. Such facts speak directly to the concern of the handbag and leather goods industries regarding extension of the tariff cutting authority.

Because of these concerns, we can envision only one method by which passage of such legislation can be justified. If the bill is amended to provide for the specific exclusion of import-sensitive articles, such as handbags, by name, the potential of adversely affecting firms and workers in import-sensitive industries could be minimized. A general exclusion of all "import-sensitive" articles is simply not enough. As this industry has seen time after time in matters relating to the Generalized System of Preferences, we would be forced to continually demonstrate our import-sensitivity in every case. This is why we consider the amendment which was passed on similar legislation in the House Trade Subcommittee to be inadequate. It offers a general exclusion for articles designated as import-sensitive by the President, but offers no assurance that products such as ours will be considered to be import-sensitive.

If this Subcommittee does not amend S. 1902 to specifically exclude handbags and other import-sensitive articles, there exists another possible alternative. As proposed in the House Trade Subcommittee, the legislation could be amended to exclude from possible tariff negotiations those articles which are not currently eligible for duty-free treatment under the Generalized System of Preferences. In this manner, we would be assured that all articles which are import-senstive in the context of the GSP, such as most types of handbags, would not be affected by any tariff negotiations. This would be acceptable to us.

I urge you to consider the alternatives I have outlined. If this legislation is not amended satisfactorily, the National Handbag Association must oppose S. 1902.

TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE, UNITED STATES SENATE

IN OPPOSITION TO
S.1902

Presented By Arnold Mayer, International Vice President,
Director of Government Affairs, United Food and Commercial
Workers International Union, AFL-CIO

Summary

The United Food and Commercial Workers International Union, AFL-CIO is a labor union with 1.3 million members. I am here today primarily on behalf of our members who work in the shoe, luggage, and leather tanning industries who are most concerned about possible duty reductions on imports of their products. The UFCW is strongly opposed to the residual tariff cutting authority legislation, S.1902.

Now that the Orderly Marketing Agreements with Taiwan and Korea have been terminated and import relief is over, the import problem of the shoe industry has deteriorated. During the first four months of this year there were some 11,000 fewer shoe workers employed than during the same period in 1981, and imports had gained 62 percent of the domestic market. Our members in the shoe and luggage industries and those in the leather tanneries whose jobs depend on these industries are concerned about their jobs and their livelihoods. Efforts to gain relief from imports should not be hindered or, even worse, destroyed by tariff reductions on imported shoes.

The Union does not want to see duty reductions on imported shoes, nor do we even want such an action to be a possibility. We oppose S. 1902. The safest approach so far as U.S. jobs and businesses are concerned is to reject S. 1902.

Introduction

My name is Arnold Mayer, Vice President and Director of Government Affairs of the United Food and Commercial Workers International Union, AFL-CIO. The UFCW is a labor union with 1.3 million members organized in some 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with tens of thousands of employers throughout the food processing, retail sales, leather, health, commercial, shoe, fur and other industries. I am here today primarily on behalf of our members who work in the shoe, luggage, and leather tanning industries who are most concerned about possible duty reductions on imports of their products.

The UFCW is strongly opposed to the residual tariff cutting authority legislation, S.1902. The shoe workers in this country are struggling to maintain jobs in a domestic market which continues to be inundated with imported footwear. Since 1977, when import relief (which limited footwear imports from Taiwan and Korea) was granted, some 25,000 jobs have been lost in the shoe industry. In the year since the termination of import relief, domestic output has fallen, thousands of additional jobs continue to be lost, and imports have increased to capture an even greater share of the U.S. market. Clearly, duty cuts on imported footwear would place the entire industry in jeopardy. Therefore, we must oppose this legislation which would allow the President the authority to cut duties on such products.

The U.S. Shoe Industry is Import-Sensitive and Has Already Suffered Import Injury

I am sure that the members of this Subcommittee are well aware of the import-sensitivity of the shoe industry and the fact that the industry has already suffered injury from imports. The Senate Finance Committee itself initiated the second "escape clause" case after the first unanimous injury determination by the International Trade Commission brought no import relief in 1976. Moreover, in recognition of the industry's import-sensitivity, footwear was among the handful of products specifically excluded from designation as eligible articles for the purposes of the Generalized System of Preferences under Title V of the Trade Act of 1974.

However, while the historical plight of this industry with respect to import competition is well documented, let me add a few startling new facts. Now that the Orderly Marketing Agreements with Taiwan and Korea have been terminated and import relief is over, the import problem has deteriorated. In the first five months of 1982, imports of nonrubber footwear increased 27 percent above the same period of last year. Import growth does not appear to be slowing down as April 1982 imports were 22 percent above the April 1981 level and May 1982 imports were 48 percent above the May 1981 level. Domestic production has fallen by 12 percent in the first four months of 1982. The two most startling statistics, however, remain employment levels and import penetration. During the first four months of this year there were some 11,000 fewer shoe workers employed than during the same period in 1981. In the January-April period of this year, imports had gained 62 percent of the domestic market, compared to 53 percent in the same period of last year and 51 percent for calendar year 1981 as a whole.

The situation with respect to imports is certainly troublesome to say the least. What I have just described may seem like dry statistics, but to our members in the shoe industry and those in the tanneries whose jobs depend on the shoe industry, it is their jobs and their livelihoods that we are talking about. Workers in the shoe industry have fought long and hard for relief from imports and intend to continue fighting. Their efforts should not be hindered or, even worse, destroyed by tariff reductions on imported shoes.

S.1902 Could be Harmful to Import-Sensitive Industries

Passage of S.1902 and exercising the authority to negotiate tariff reductions could seriously hurt the shoe and other import-sensitive industries. During the Multilateral Trade Negotiations, footwear was excluded from any duty cuts because at the time they were subject to import relief. Footwear was also excluded by virtue of import relief from the lists of articles being considered during 1980 and 1981 for possible duty modifications under Section 124 of the Trade Act of 1974. Since import relief has been terminated, however, the shoe industry cannot be assured that it will not be affected by tariff cuts if the residual tariff cutting authority is extended. If, on top of the termination of import relief, the shoe industry was now faced with duty cuts, the consequences could be devastating, particularly in light of the fact that the U.S. market for footwear is already the most open market in the world, with low tariff rates on footwear imports.

During consideration of similar residual tariff cutting authority legislation in the House Trade Subcommittee of the Ways and Means Committee (H.R. 4761), the Subcommittee adopted an amendment which stated that the authority to negotiate tariff reductions "may not be exercised with regard to articles that are designated by the President as import-sensitive." We do not find this amendment to offer adequate safeguards against the concerns of import-sensitive industries.

Under the House Subcommittee-adopted language, the President retains discretionary authority to determine what is import-sensitive. Our experience with "discretionary" authority has been rather dismal. In the first nonrubber footwear "escape clause" case, President Ford rejected import relief despite a unanimous finding of serious import injury by the International Trade Commission. Just last year, President Reagan decided not to extend import relief for nonrubber footwear again despite an affirmative recommendation by the ITC. We understandably lack confidence that footwear is assured designation as an import-sensitive product. Even if USTR assures us that duty cuts on imported footwear will not occur, we are not convinced.

The Union's position is clear -- we do not want to see duty reductions on imported shoes, nor do we even want such an action to be a possibility. We oppose S.1902.

It has been suggested that the language of the bill reported out by the House Trade Subcommittee be further amended to exclude from the residual tariff cutting authority those items not currently designated as eligible articles under the Generalized Systems of Preferences. Language such as this would be a step forward as it would preclude nonrubber footwear and other import sensitive goods from the tariff cutting authority. This Subcommittee should give serious consideration to such an amendment if it decides to go ahead with the residual cutting authority bill. However, the safest approach so far as U.S. jobs and businesses are concerned is to reject S. 1902.

International Leather Goods
Plastics and Novelty Workers' Union

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Statement Of Ralph Cennamo, General President,
International Leather Goods, Plastics and Novelty
Workers' Union, AFL-CIO

On S.1902

To The
Subcommittee on International Trade
Committee on Finance
U.S. Senate

July 21, 1982

My name is Ralph Cennamo and I am General President of the International Leather Goods, Plastics and Novelty Workers' Union, AFL-CIO. Our Union represents a substantial number of workers in the domestic handbag, luggage and personal leather goods (flat goods) industries.

My appearance here today is to oppose S.1902, a bill to allow the President the authority to negotiate tariff reductions under Section 124 of the Trade Act of 1974. Our concern with this legislation, as with similar legislation reported by the House Trade Subcommittee (H.R. 4761), is that import-sensitive industries such as ours will be faced with the threat of further tariff reductions which we can ill afford in light of the present state of health of our industries.

Few industry sectors have been as severely affected by import competition as the U.S. leather and leather-related products industries. Whether handbags, luggage or personal leather goods, each of these industries has been characterized by increasing imports which have caused lost market share and jobs in these industries.

Increasing volumes of imports are an ongoing concern of workers in these labor-intensive industries. We have seen 79 percent of the U.S. market for handbags overrun by imports. Despite the fact that the U.S. market for handbags reached $1 billion for the first time in 1981, imports continue to capture all of the growth of the market and more. Thousands of jobs have been eliminated in this industry. While trends in the luggage and personal leather goods industries have not reached such dramatic proportions, they are nevertheless likewise suffering from serious import competition. Import penetration in 1981 is estimated at 40 percent in the luggage industry and 30 percent in the personal leather goods industry.

Our workers cannot tolerate any further erosion of their market or their job opportunities. These three industries combined have traditionally employed more than 50,000 workers. Thousands of jobs have been lost in the last several years, however. According to Government data, some 4,000 jobs have been eliminated in the last five years alone. Available employment data for this year are even more dismal. Some 3,000 fewer workers in these industries were employed in the first four months of 1982 compared to employment levels for the same period a year ago.

A large proportion of our workers are minorities, primarily blacks and Hispanics, and a similarly large portion are women. Most of our workers can be characterized as unskilled or semiskilled. Mobility is limited. Thus, the workers of our industries who lose their jobs have little hope for alternative employment.

Having provided you with some of the details regarding the import-sensitivity of these industries, I must turn to our concerns regarding the legislation to extend for two years the President's authority to negotiate tariff reductions, S.1902. We share our concerns with other import-sensitive industries. It is clear that duty cuts are not desirable in light of the manner in which imports have already captured substantial shares of the U.S. market. Beyond that, we also do not even want to be faced with the possibility of duty cuts, which is what is proposed in the legislation S.1902.

There are a number of options available to amend this legislation to exclude import-sensitive products from possible tariff reduction. These options are themselves a cause of concern.

When similar legislation (H.R. 4761) was considered by the House Trade Subcommittee, an amendment was adopted which precluded from tariff cuts those articles which the President designated as import-sensitive. In our opinion, this does not sufficiently address the concern of import-sensitive industries, primarily because of the wide discretion retained by the President. We have seen such discretionary authority at work in the past and have suffered its consequences.

Our Union has consistently protested that handbags, luggage and personal leather goods are import-sensitive and has fought against the inclusion of these products as eligible articles under the Generalized System of Preferences. Under the GSP, discretionary authority is retained to determine what is import-sensitive. As a result, we have time and time again been forced to re-prove our import-sensitivity before the International Trade Commission and the Trade Policy Staff Committee as various petitions are accepted for consideration. We anticipate similar problems if the proposed legislation is merely amended to exclude articles the President designates as import-sensitive.

In addition to our numerous appearances on GSP issues, representatives of our Union also appeared before the Trade Policy Staff Committee and the U.S. International Trade Commission in August 1980, when a long list of lugggage, flat goods and handbag items was included among hundreds of items under consideration for possible tariff cuts under the residual tariff cutting authority of Section 124. In fact, in the last several years a Union representative has made the trip to Washington countless times, each time having to document once again the import-sensitivity of our products. This has been at no small expense in terms of time and money for our Union.

A much better solution than discretionary authority to designate import sensitive articles -- and in fact the only acceptable solution -- is to either exclude our products by name or tie in the residual tariff cutting authority and the current list of GSP eligible articles, the link clearly being that articles eligible for GSP treatment can be considered not to be import-sensitive and articles not eligible for GSP are import-sensitive. As was suggested in the House Trade Subcommittee, the legislation could be amended to exclude from the tariff cutting authority those articles not currently eligible for duty-free treatment under the Generalized System of Preferences. Only if such an amendment to S.1902 is approved can we reduce our opposition to this bill.

Senator DANFORTH. Mr. Nehmer, you are scheduled also to testify on S. 231.

Mr. NEHMER. Yes, sir.

Senator DANFORTH. I don't know if you are prepared now to go forward. If so, you might want to do it now rather than come back tomorrow.

Mr. NEHMER. Thank you. I appreciate that.

Senator DANFORTH. And thank you all very much—the rest of you—for being here.

STATEMENT OF STANLEY NEHMER, PRESIDENT, ECONOMIC CONSULTING SERVICES, INC., WASHINGTON, D.C.

Mr. NEHMER. Mr. Chairman, with regard to S. 231, I am here on behalf of the Textile Apparel Import Steering Group, a national coalition of 21 labor and management organizations. A copy of our statement has been submitted to the subcommittee.

The group records its very strong opposition to S. 231, the bill which would increase the informal entry level from $250 to $600, and in my summary of this statement I will explain why.

The textile and apparel industry relies extremely heavily upon the Multi-Fiber Arrangement in order to alleviate the import pressure on the textile and apparel industries. The MFA has been in effect since 1974.

The MFA requires a very sophisticated monitoring system by which textile and apparel imports are recorded and are charged against certain maximum allowable levels of imports from certain countries.

There are already an indeterminant number of apparel imports where the entries are under $250 which do not get charged against the negotiated quotas, due to this informal entry level.

I think we ought to make it clear that imports that come in under $250 are not recorded in the same statistical series as those above $250. And when you are dealing with low unit value products—apparel and some of the other products that we heard from today—then it is possible to have small shipments come in which would not get recorded.

It is quite clear that an increase in the maximum informal entry level from $250 to $600 will result in a considerably larger number of import shipments which will not be counted against negotiated MFA levels. This will hinder the operation of the MFA, hinder the administration, the executive branch, and the industries' ability to monitor the competitive position of the textile and apparel industry in the U.S. market, because accurate trade data are extremely important for this particular program.

There is another aspect of the MFA which is rarely used but which is important: it allows unilateral action by the United States in which imports are set at the level of the first 12 of the last 14 months. If you have informal entries which are excluded from the data, we are just not going to know what the import level has been.

I think we have to look at this against the background of what is happening to the textile and apparel industry. The employment in the industry today is just about 2 million workers, in fact slightly below 2 million workers. It has lost 300,000 jobs since 1974. The unemployment rate for the textile mill products industry in June was 13.9 percent, and for apparel was 16 percent. Of course, the national average was 9.5 percent.

The kind of labor force that we just talked about with regard to these industries is quite the same with regard to textiles and apparel.

Now, we attached to our statement an article from a Hong Kong publication which describes the action recently taken by the U.S. Customs Service in Hong Kong with regard to made-to-measure clothing shipped to the United States from Hong Kong. Many, many shipments were found to be undervalued to avoid being subject to the restraint levels on exports from Hong Kong.

The U.S. Customs Service has reported that this practice resulted in a loss of revenue to the United States of $300,000 to $500,000 monthly—not even annually, but monthly—which is a terrible revenue loss. And we say in our statement, "raise the informal entry level to $600 and the Hong Kong merchants will have an even greater incentive to cheat."

We also point out, finally, that a classic example of the use of the informal entry level that could be used to get around some of the restraint levels involves men's suits from Colombia. In 1980 they were imported at an average f.o.b. value of just $36. Normally 16 suits get packed in a case. If you raise the entry level to $600, then these shipments will not get recorded against the restraint levels with regard to Colombia.

We believe very sincerely that the evidence justifies that this legislation not be favorably reported by the subcommittee or by the full committee.

That concludes my statement.

Senator DANFORTH. Thank you very much, Mr. Nehmer.

[The prepared statement of Stanley Nehmer follows:]

STATEMENT OF THE TEXTILE/APPAREL IMPORT STEERING GROUP

PRESENTED TO THE

SUBCOMMITTEE ON INTERNATIONAL TRADE, COMMITTEE ON FINANCE

UNITED STATES SENATE

By Stanley Nehmer

WASHINGTON, D.C. JULY 23, 1982

In Opposition to
S.231

The Textile/Apparel Import Steering Group is a national coalition of labor and management organizations in the textile and apparel industry in the Untied States. Members of the Group are located throughout the nation and produce the vast majority of textile and apparel items made in this country. The attached list identifies the twenty-one member organizations of the Textile/Apparel Import Steering Group.

The Group wishes to record its strong opposition to S.231, a bill to increase the maximum value of import shipments eligible for informal entry from $250 and $600. The textile and apparel industry sector is sensitive to imports, and particularly to imports from low-wage developing countries. The industry relies upon the Multifiber Arrangement (MFA) to alleviate the import pressure on the textile and apparel industries. While the MFA may not be a wholly satisfactory mechanism for import restraint, it is, nonetheless, the only import program now in effect for this industry.

The MFA requires a sophisticated monitoring system by which textile and apparel imports are charged against maximum allowable levels of imports from certain countries. The procedure for monitoring imports requires precise customs documentation as to the kinds, quantity, and value of imported articles. Even under current statutes, however, some apparel items from some countries, despite inclusion in the MFA, can be imported into the United States under informal entry procedures if the total value of the shipment does not exceed $250. There are already an indeterminate number of apparel imports which do not get charged against negotiated quotas due to informal entry. It is clear that an increase in the maximum informal entry level from $250 to $600 will result in a considerably larger number of import shipments which will not be counted against negotiated MFA levels. This will not only hinder the operation of the MFA, but will also injure the industry's ability to monitor its competitive position in the U.S. market. Accurate trade data are a major priority for all import-sensitive industries in their efforts to analyze the economic impact of imports on the domestic market. Many individual textile and apparel industry segments, especially those in which high-volume, low-unit value imports are common, would be adversely affected by an increased dollar value limit for items eligible for informal entry.

Accurate trade data are also tremendously important to set restraint levels on textile and apparel products not presently covered by restraints under the MFA but which are brought under control as imports increase to the point of causing disruption to the U.S. market. When such actions are taken, import levels are set based on imports in the first twelve of the last fourteen months. Import data must fully reflect import levels in order that restraint levels are properly set. An increase in the level of informal entry, which would result in inaccurate data collection, would make this effort difficult.

The textile and apparel industry is still the largest employer in manufacturing in the United States with some 2 million workers, down from 2.3 million workers in 1974. Unemployment in the textile industry in June was 13.9% and in apparel 16%, when the national average was 9.5%. Jobs lost because of imports often cause prolonged or permanent displacement of workers. Over 65 percent of the workers in the industry are women and, since many of them are secondary wage earners, many are unable to relocate. Furthermore, one-fourth of the industry's workforce is comprised of minorities and much of the apparel industry is concentrated in large U.S. cities and metropolitan areas where alternative employment is limited.

Many segments of this industrial complex, particularly in the apparel area, have been characterized by plant shutdowns, declining domestic production, and declining domestic employment, all as a result of increasing quantities of imports. The manufacture of apparel is highly labor intensive. Domestic apparel producers find it difficult to compete with foreign producers, especially those in low wage, developing countries.

The concern over the pending legislation is self-evident. A concern with regard to import levels dictates a concern with regard to accurate trade statistics. Fair and equitable administration of the MFA depends upon accurate trade data. An increase in the maximum value of merchandise eligible for informal entry will make proper and effective administration of this import program exceedingly difficult. Many imported items affecting the textile and apparel industry have relatively low average unit values. This is becoming an even greater problem today as the People's Republic of China with textile and apparel products with particularly low unit values increases its shipments to the U.S. The inducement to ship in smaller lots to avoid formal U.S. Customs procedures becomes greater as the level of informal entry is expanded. Aggregate import levels could become increasingly understated if shipments under $600 are not included in Census data.

Attached to our statement is an article from a Hong Kong publication which describes the action taken by the U.S. Customs Service in Hong Kong when it determined that made-to-measure clothing shipped to the U.S. was being undervalued to avoid being subject to the restraint levels on exports from Hong Kong. The U.S. Customs Service reported that this practice had also resulted in a loss of duty revenue to the U.S. of US $300,000 to 500,000 monthly. Raise the informal entry level to $600 and the Hong Kong merchants will have an even greater incentive to cheat.

There are many examples of imported textile and apparel items which are of low unit value and which therefore could take advantage of informal entry procedures. A classic example, for instance, is found in imports of men's suits from Colombia, which have contributed to the major disruption to the tailored clothing industry from imports. These suits were at an average f.o.b. unit value of just $36.00 in 1980. Imports of these Colombian men's and boys' suits, normally packed 16 suits in a case, could enter the United States under informal entry procedures if legislation raising the limit to $600 is approved. Shipments such as these would go uncounted if S.231 is enacted. Unrecorded imports could increase the disruption to the U.S. market without recourse by the U.S. Government.

The Textile/Apparel Import Steering Group urges this Subcommittee to consider carefully the negative-consequences that passage of S.231 could have on the operation of the Multifiber Arrangement and on the viability of the domestic textile and apparel industry, and other import-sensitive sectors. We believe that the evidence justifies that this legislation not be favorably reported by the Subcommittee or the full Committee.

Customs crackdown

An investigation by the US Customs, which in January-April seized some 8,000 parcels of custom-made clothing despatched from Hong Kong, has led to the imposition of stringent new conditions on such sales. A directive dated April 30 and signed by Mr Donald Mieger, senior US Customs representative in Hong Kong, specifies that:

- All future shipments must be declared at full transaction value, i.e. the price to the US customer.
- They must contain a copy of the original invoice or order form, and proof of payment.
- All books and records concerning sales to the US must be available for inspection on demand.
- All parcels must be properly declared as regards fibre content, and contain proper quota and visa documentation.

Urging tailors, shippers and mail order companies to use their "influence" to ensure the widest possible conformity with these guidelines, the directive states that firms which fail to follow them "and which continue to falsify values and provide inaccurate information regarding fabric content will have their parcels seized, and may face criminal action by US Customs. Action will also be taken against firms that refuse to pay the assessed benefits."

Mr Tom Gray, a US Customs official who has been leading the investigation in Hong Kong, says that at a conservative estimate 85% of the parcels of made-to-measure clothing shipped from Hong Kong had been undervalued, so as to save duty or evade quota requirements. Goods valued at US$250 and over are subject to quotas.

According to Mr Gray, the present widespread abuse derives from a new policy introduced in July 1980, by which goods are assessed for duty on transaction value – the price paid – as against the former assessment based on "constructed value," which covered the tailor's material costs plus wholesale profit of about 20%. But as made-to-measure goods are marked up by 60-80%, many people had continued to value under the old system.

False description might also be used in an attempt to evade duty. E.g. all-cotton shirts attract an 8-16% duty, as against 27% for shirts of cotton-synthetic blends. Articles bearing logos pay up to 40%.

The degree of abuse came to light after complaints were made against one company in America. The present loss of duty revenue was estimated at US$300,000-500,000 monthly. About 50% of the volume of the present trade was generated by mail-order firms, with the rest stemming from various retail outlets.

The directive adds that if the guidelines are "accepted and followed" parcels valued at under $250 now being held by US Customs at Seattle and San Francisco, the two main points of entry, will be released immediately, with duty assessed at true value. Those valued over $250 will be assessed at a rate of eight times the potential loss of revenue, levied against each parcel individually and with the "tailor and consignee identified." For these however the US Commerce Department will request "blanket quota wavers."

"We do not," says the directive, "contemplate petitions or mitigations of these penalties as a general rule. Violators are expected to pay in full."

THE TEXTILE/APPAREL IMPORT STEERING GROUP

Amalgamated Clothing & Textile Workers' Union
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet and Rug Institute
Clothing Manufacturers Association of U.S.A.
International Ladies' Garment Workers' Union
Knitted Textile Association
Luggage and Leather Goods Manufacturers of America
Man-Made Fiber Producers Association
National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council
National Knitwear & Sportswear Association
National Knitwear Manufacturers Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association
United Hatters, Cap and Millinery Workers' Union, AFL-CIO
Work Glove Manufacturers Association

Senator DANFORTH. Senator Symms, do you have some questions?

Senator SYMMS. No questions, Mr. Chairman, but when it would be appropriate I have a very brief statement I would like to make.

Senator DANFORTH. All right.

Well, Mr. Nehmer, you are excused, and thank you very much.

Senator Symms, why don't you proceed?

Senator SYMMS. If you want to call up the panel, I could be doing it while they are coming up, if it would make it faster for the chairman.

Senator SYMMS. Thank you very much, Mr. Chairman. I would just like to address my comments today to one of the bills that the committee will be reviewing, and specifically I am concerned about the desirability of extending the authority to reduce tariffs contained in section 124 of the Trade Act of 1974.

At this time I do not necessarily believe that it is appropriate to extend section 124 without being furnished the specifics as to what industries will benefit from the supposed increase in U.S. exports, to which countries will such exports go, and what U.S. industries and workers will be expected to pay the price of having to face the consequence of lower tariffs on their products.

I am particularly concerned about the impact it would have on our domestic zinc and lead industry. The lead and zinc industry cannot afford to have the tariffs on its products cut further, nor can it afford to have the threat of tariff cuts hanging over it. The effects of the tariff cuts on lead and zinc in multinational trade negotiations and subsequent action by the Congress in enacting a 3-year reduction in the lead-zinc metal duty have contributed to the depressed state of the industry today. Gulf Resources & Chemical Corp. pointed out in November, when it announced the closing of 81 of the Bunker Hill operations in Idaho. In terms of constant dollars there have been significant increases in the cost of production of lead, zinc, and silver, particularly in labor and energy costs, since 1970. In the same constant dollar terms, today's price of lead and zinc is essentially the same as in 1970. In addition, significant operating and capital costs have been imposed upon Bunker Hill's operation by the requirements by the environmental and health and safety laws. The capacities for lead and zinc have developed on a worldwide basis in part because foreign governments have encouraged and in some instances have subsidized mining and smelting operations.

In 1980 Bunker Hill produced 20 percent of the total U.S. output of lead and zinc, and at one time this facility employed 2,500 workers in Idaho. However, the facility was closed permanently in early 1982 with a major loss of jobs for the region.

Bunker Hill was closing at a time when the Canadians were building a $360 million zinc smelter project in northwest New Brunswick, $35 million of which was financed by Government grants.

The duties on lead and zinc are lower in the United States than they are in the European Community or Japan, and this means in time of market glut that the excess metal enters the U.S. market most, upon the three major markets. Further reductions in lead and zinc tariffs would only add to this already serious problem and lead to further injury to this strategic domestic industry.

Mr. Chairman, in addition to my statement, I would ask unanimous consent to include in our record a Wall Street Journal article of April 7, 1982, a Northern Miner article of November 19, 1981, and the American Metal Market article of November 20, 1981.

Senator DANFORTH. All right, Senator Symms. Thank you. They will all be included in the record.

Senator SYMMS. Thank you, Mr. Chairman.

[The articles follow:]

Noranda Mines Units Postpone Construction Of Planned Zinc Plant

Wall Street Journal
April 7, 1982

By a WALL STREET JOURNAL Staff Reporter

TORONTO – Two Noranda Mines Ltd. subsidiaries, Brunswick Mining & Smelting Corp. and Heath Steele Mines Ltd., said construction of a planned $360 million (Canadian) zinc reduction plant won't start next month as originally scheduled.

Brunswick Mining & Smelting is 64.1%-owned by Noranda, while Heath Steele is a division of the Toronto-based mining, manufacturing and forest products concern.

The companies said more time will be required to find "innovative" financing for the project. They said they expect to announce in August when construction of the Belledune, New Brunswick, plant will start.

The plant is to have annual capacity of 100,000 metric tons of zinc and employ 400 workers. A metric ton is 2,204.6 pounds.

Brunswick Mining and Smelting, which is owned 64.1% by Noranda, plans to announce in August when it will begin construction of a 110,000-tpy zinc refinery at Belledune, NB. The facility, which is projected to cost C$360-million, is a joint venture with Heath Steele, which is wholly owned by Noranda and a 75/25 partner with Asarco in the Little River Joint Venture zinc mine. Brunswick said it will need innovative financing because of low zinc prices; the Canadian government, through its Dept. of Regional Economic Expansion, and the New Brunswick provincial government will provide C$35-million in grants (MW, *Nov. 23, 1981, p6*). Construction was to have begun in May with completion scheduled for late 1984.

METALS WEEK • April 12, 1982

The Northern Miner Nov. 5, 1981

Report from Halifax

$300-million zinc smelter on way

By John C. Whitaker, Ph.D.

An Ottawa-New Brunswick aid package for the proposed $300-million zinc smelter project in northeast New Brunswick for **Brunswick Mining and smelting** was announced by Premier Richard Hatfield at a Fredericton Chamber of Commerce state-of-the-province address. Mr. Hatfield said he could not say any more about the project until company and federal officials sit down to discuss the financing and the company is ready to announce it is proceeding with the long-awaited project which is expected to create 1,500 construction jobs and employ 400 permanently.

The Northern Miner
November 19, 1981
Vol. 67, No. 37

y Brunswick M & S

$360m. zinc reduction plant to be built in New Brunswick

By M. R. Brown

In what promises to provide a real shot-in-the-arm to the New Brunswick economy and indeed that of all Canada, Noranda's **Brunswick Mining and Smelting Corp.** (66%) and its Heath Steele Mines (34%) have decided to go ahead with construction of a long awaited zinc reduction plant at Belledune, N.B. Bulk of the engineering and planning has already been completed, with actual construction scheduled to start in May with completion targeted for late 1984.

Cost of this joint-venture undertaking, with interest, is estimated at $360 million which figure includes DREE and other government grants totalling $35 million. No new public financing is contemplated, The Northern Miner gathers from conversation with Brunswick President Wm. James, who points out that both companies have built up tax credits and will borrow the remaining $150-$170 million that will be required. "We will struggle through," he says.

Brunswick, which is the world's largest zinc producer in addition to turning out some 6.0 million ozs. of silver and 55,000-65,000 tons of lead annually, made a 9-month profit of $25.5 million of which $19.5 million was from its big mining operation, now producing at its expanded rate of 10,000 tons daily. (This represents quite an achievement in view of the unusually low current metal prices. Both Brunswick and Heath have very substantial ore reserves and will be in excellent position to quickly capitalize on any upturn in metal prices).

Construction of the new plant will require 800 to 1,000 workers, while 400 permanent jobs will be created once it is in full production.

Described by Finance Minister Allan MacEachen in his budget speech as the most modern zinc plant in the world, it will consist of four major process areas: roasting and acid plant, hydrometallurgical leaching and purification, electrolysis, and melting-casting sections.

Zinc concentrate will be brought by rail to the Belledune plant from BM&S' *mining operation near* Bathurst, 38 miles away and from the Heath Steele mine near Newcastle, 58 miles away.

The plant is designed to produce 100,000 tonnes of zinc metal per year. Cadmium metal and sulphuric acid are by-products of the zinc process. The sulphuric acid will be pumped to nearby Belledune Fertilizer for the production of diammonium phosphate fertilizer.

American Metal Market
November 20, 1981

Smelter Go-Ahead Based on Optimism

By GEORGE COLLIE

NEW YORK—The decision to build a new Canadian $360-million (U.S. $302-million) smelter and zinc refinery in New Brunswick was based on an estimate of increasing prices for zinc in constant dollar terms and a continuing shrinkage in world zinc smelting capacity over the next four to five years, according to an executive at Noranda Mines Ltd.

Lance Tiegert, assistant treasurer of the Toronto-based mining and metals concern, said in a telephone interview that the smelter was considered a "marginal project." Without the offer of government grants totaling C$35-million (U.S. $29.4-million), or about 10 percent of the cost, the decision to go ahead with construction would not have been made.

As reported (AMM, Nov. 16), the smelter is to be a joint venture between two Noranda subsidiaries, Brunswick Mining & Smelting Corp. Ltd., Bathurst, N.B., which is 64 percent owned by Noranda, and Heath Steele Mines Ltd., a wholly-owned subsidiary. Brunswick and Heath Steele will have, respectively, a two-thirds and one third interest in the project.

The smelter, which will have an annual capacity of 100,000 metric tons of slab zinc, will require some 182,000 to 200,000 tons of zinc concentrates annually, based on an average operating rate of 90 percent, Tiegert said.

The new smelter, scheduled to come on-stream in late 1984 or early 1985, will raise Noranda's capacity to around 330,000 tons annually, the executive noted. The company now has one other smelter in Canada with a capacity of 230,000 tons.

According to Tiegert, Noranda Sales Corp. is planning to market the additional metal around the world. About 30,000 tons probably would be sold in the United States market, about 30,000 tons in Europe and the same amount in other markets. Noranda Sales Corp., Toronto, already markets zinc concentrates for both Brunswick and Heath Steele, he added.

The Noranda executive said that the company was more optimistic about the outlook for zinc prices than for some other commodities it produced. However, although prices were expected to rise in constant dollar terms, he said the company did not have any firm estimates.

Meanwhile, worldwide smelter capacity would continue to dwindle with two more smelters likely to be closed in the next few years, he said.

Brunswick will have the right to supply two-thirds of the necessary feed for the new smelter, with the remainder coming from Heath Steele's mines. Based on current projections this would account for about 30 percent of Brunswick's output of zinc concentrates and about 80 percent of Heath Steele's output, Tiegert said.

The cost of the smelter, which will comprise conventional roaster and electrolytic technology, is more than twice the cost of the most recent smelter and refinery to be built in the United States.

The Clarkesville, Tenn., zinc plant of Jersey Miniere Zinc Co. was completed in 1978 at a cost of about $150-million. The difference between the cost of the Clarkesville plant and the projected Noranda venture was "straight inflation," Tiegert said.

Senator DANFORTH. The next panel will testify on S. 2685. Philip Puleio, Townsend Hoopes, Robert Frase, and Barbara McGarry.

Now, it is my understanding for this panel that you would each like to speak, but you feel that you can keep your comments to about 3 minutes each—is that right?

Ms. RISHER. Yes.

Senator DANFORTH. All right.

Dr. Puleio, why don't you start?

STATEMENT OF PHILIP F. PULEIO, PH. D., NATIONAL SECRETARY FOR THE UNITED STATES OF AMERICA TO REHABILITATION INTERNATIONAL, NEW YORK, N.Y.

Dr. PULEIO. Mr. Chairman, on behalf of the board of directors of Rehabilitation International, U.S.A., I would like to thank you for this opportunity to express views on legislation to implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

For two reasons it is appropriate that the views of Rehabilitation International, U.S.A, R.I.U.S.A., are considered at this hearing. First, part of its mission has been to provide the American rehabilitation community with timely information on new technological innovations, treatment systems, programs, and assistive devices developed abroad. In order to fulfill this mission, Rehabilitation International, U.S.A., has maintained a variety of programs which have included: Rehabilitation/World, a publication devoted to the international dissemination of rehabilitation news and developments; Rehabfilm, a library devoted to the distribution of nonprint media relating to disability treatment and prevention; and the International Rehabilitation Film Festival, an annual competition which awards films that enhance the lives of the disabled.

Therefore, it is with keen interest that we note that not only does the Nairobi protocol expand the Florence agreement to apply to persons without regard to the source of their affliction but it includes previously uncovered technologies and articles such as audiovisual materials.

Second, it is appropriate that R.I.U.S.A. is presenting before this committee because of its status as the national, voluntary affiliate of Rehabilitation International, a federation of 125 organizations representing 76 countries worldwide dedicated to disability prevention and rehabilitation.

Formed in 1922, Rehabilitation International's objectives are to: (1) Assure the effective exchange of information; (2) encourage the improvement of national legislation for the disabled; (3) provide technical assistance in areas of related interest; and (4) stimulate research and technological developments within the field of rehabilitation. It maintains official relations with the United Nations Economic Council, the World Health Organization, the International Labor Office, UNESCO, UNICEF, the Organization of American States, and the Council of Europe.

In addition, Rehabilitation International works through an assembly of national representatives of disabled persons and rehabilitation professionals in a manner similar to the United Nations to further its aims. As such, it is the appropriate vehicle through which the United States of America could work for the widespread adoption of the Nairobi protocol by other nations. R.I.U.S.A., as the American affiliate, could do much to further this goal by putting before this world body the fact that the United States of America has adopted the Nairobi protocol through a domestic legislation.

Rehabilitation International, U.S.A., urges passage of S. 2685 for the obvious and immediate advantages it will bring to the disabled American and for the symbolic message it will convey to the world of America's commitment to international understanding, facilitated by the increased exchange of ideas in the pursuit of humanitarian ends.

Mr. Chairman, thank you for this opportunity to express the views of Rehabilitation International, U.S.A.

Senator DANFORTH. Thank you, sir.

Mr. Hoopes.

Ms. RISHER. Mr. Chairman, due to a last minute schedule conflict, Mr. Hoopes could not be here. With your permission I will deliver his testimony.

Senator DANFORTH. Fine. And you are?

Ms. RISHER. I am Carol Risher. I am a director of the Association of American Publishers.

STATEMENT OF CAROL RISHER, DIRECTOR, ASSOCIATION OF AMERICAN PUBLISHERS, INC., WASHINGTON, D.C.

Ms. RISHER. The Association of American Publishers represents the book, journal, film, and programed instruction producers in the United States. Our primary interests in the Nairobi protocol are the materials covered in annex C(1).

Right now there is a merging of film and microcomputer software. The world is increasingly becoming microcomputer based for educational, cultural, and scientific purposes. Since the United States is the primary creating country in the visual arts and software areas, we are very interested in having duty-free status placed on these materials in order to encourage their export. The United States will benefit by this because the world is interested in obtaining U.S. materials.

This country has products now, and duty-free status will only inure to our benefit. It will break down the barriers to exports and will only improve the competitive position of the U.S. companies.

We urge the committee to favorably report the implementing legislation, S. 2685, and arrange to have it scheduled for consideration in the Senate as soon as practical.

I would be prepared to answer any questions at the conclusion of this panel.

Senator DANFORTH. Thank you.

Mr. Frase.

STATEMENT OF ROBERT W. FRASE, AMERICAN LIBRARY ASSOCIATION, WASHINGTON, D.C.

Mr. FRASE. My name is Robert Frase, and I appear in support of S. 2685 on behalf of the American Library Association. I am an economist and a member of the association, which is a nonprofit educational organization of almost 40,000 librarians, trustees, educators, and other friends of libraries dedicated to the improvement of library services for all the American people.

The American Library Association has a long history of support both for the original Florence agreement and for the protocol, or supplement, since November 1976. The original agreement has been of great benefit to libraries and their patrons in the United States and in nearly 70 other countries in reducing the costs of imported educational, scientific, and cultural materials and in simplifying the administrative procedures of importation. Similar benefits can be expected from the provisions of the protocol, which add duty-free treatment to other articles.

Our major interest is in the provision of duty-free treatment to audio, visual, and microform materials, the same treatment afforded books, periodicals, newspapers, and other printed materials by the original agreement.

It is our understanding that the power given to the President to take temporary action in applying the provisions of the protocol is designed to encourage countries importing U.S. materials to take reciprocal action. We would expect that the President would promptly take temporary action to eliminate U.S. import duties on audio, visual, and microform materials in view of the strong support given to the protocol by the U.S. trade associations representing the producers of those materials.

These trade associations include the Association of American Publishers, the Association of American University Presses, the Information Industry Association, the Motion Picture Association of America, the National Audio-Visual Association, the National Micrographics Association, the National Music Publishers Association, and the Recording Industry of America.

The American Library Association appreciates this opportunity to express its support for S. 2685. We hope that your committee will report favorably on the bill and arrange to have it scheduled for consideration in the Senate as soon as possible after the protocol itself, which has been favorably reported by the Committee on Foreign Relations in Executive Report 97-53.

The International Federation of Library Associations is meeting in Montreal, Canada, in late August, and favorable actions in the United States would enable our delegates to that annual conference to urge colleagues from other countries to press their governments for similar action. The federation itself is on record in resolutions supporting the protocol adoped by earlier annual conferences.

In concluding, I would like to submit for the record an article which I prepared entitled "Tariffs, and Other Trade Barriers," which traces this history of the gradual reduction and elimination of U.S. trade barriers on educational, scientific, and cultural materials from the early 19th century up to and including the Nairobi protocol of 1976.

Senator DANFORTH. All right. We are happy to have the article.

[The article follows:]

ENCYCLOPEDIA OF LIBRARY AND INFORMATION SCIENCE

Executive Editors

ALLEN KENT
HAROLD LANCOUR
JAY E. DAILY

Assistant Editor

WILLIAM Z. NASRI

GRADUATE SCHOOL OF LIBRARY AND INFORMATION SCIENCES
AND THE KNOWLEDGE AVAILABILITY SYSTEMS CENTER
UNIVERSITY OF PITTSBURGH
PITTSBURGH, PENNSYLVANIA

VOLUME 30

TAIWAN TO TORONTO, UNIVERSITY OF

MARCEL DEKKER, INC., New York • Basel

TARIFFS AND OTHER TRADE BARRIERS: THE U.S. EXPERIENCE

see also *UNESCO*

The United States has had no import duties on books, periodicals, newspapers, maps, and printed music since 1967, as a result of its adherence to the Florence Agreement (Agreement on the Importation of Educational, Scientific, and Cultural Materials). If the United States ratifies the proposed protocol to that agreement (which its representatives voted for at the 1976 General Conference of UNESCO), it will thereafter impose no import duties on films, recordings, or microforms imported from other countries adhering to the protocol, and perhaps from all countries. In addition, beginning in 1982 and pursuant to Section 601 of the 1976 Copyright Act, the United States will abandon completely another barrier to the free international flow of published materials, the so-called manufacturing clause which has been in the copyright law since 1891.

It has taken the United States well over a century to arrive at its present position. For over 125 years, from the mid-19th century until 1976, a political struggle went on between those who favored the least possible legal and economic restrictions on the international flow of educational, cultural, and scientific materials and those who pressed for protection of the American printing industry. On the side of free flow were generally found authors, composers, educators, scientists, librarians, and frequently, but not always, publishers. Opposing them were book printers and binders and printing trade unions. Books were the focus of this struggle; however, periodicals, newspapers, maps, and music got caught up in it, and when books were freed of import duties and copyright restrictions these other materials were afforded the same treatment. Trade restrictions on books, therefore, are the main focus of this article.

The United States imposed ad valorem import duties on books until 1967. Through much of this period the two forms of protection for U.S. printing and book manufacturing industries—import duties and the copyright law—were intertwined, but of the two, the copyright law may have provided the most significant trade barrier after 1891. Import duties on books never rose above 25%, and by 1966, prior to their complete elimination, the rate for most countries had declined to 5–10%, depending on the type of book.

Tariffs and Copyright Restrictions: 1789–1954

From 1789 to 1842 U.S. tariffs were largely designed to raise revenues for the federal government rather than as protection for domestic industries. In John Tyler's administration the Whig tariff law of 1842 first imposed a specific duty on books, which was reduced 4 years later to 10% ad valorem. With the approach of the Civil War the Congress raised tariffs generally for revenue purposes, and the import duties on books were increased to 15% by the Morrill Tariff Act of 1861. In a war revenue measure of 1866, the rate of duty on books and other printed matter was raised to 25%, at which level it remained until it was lowered to 15% by the Underwood Act of 1913. It was again raised by the Tariff Act of 1930, and then gradually lowered by reciprocal trade agreements.

Once the tariff on books was raised to 25% in 1866 it constituted a protective measure for U.S. book manufacturers, publishers, and printing trade unions. At the same time, it aroused the opposition of educators, scientists, and foreign-language groups, who began to petition Congress to eliminate the duty as a "tax on knowledge." Between 1870 and 1891, although the general rate of duty was maintained at 25%, various concessions were made to these groups by the Congress; these included the exemption of books printed more than 20 years earlier, up to two copies of each book title imported by educational institutions or societies, and books in languages other than English.

Until 1891 the American copyright law did not permit U.S. copyright to be obtained by foreigners, and thus foreign works could be freely pirated in the United States. With the increased popularity of the novel beginning in the 18th century, more and more English novels by authors such as Scott, Bulwer, and Dickens were reprinted by United States printers without permission or payment to the author. Beginning in the 1830s, British authors began importuning Congress to stop this pirating and to provide U.S. copyright protection to foreigners. In 1837 Senator Henry Clay presented to the Senate the British Author Petition requesting that they be granted U.S. copyright protection. The petition was signed by 56 of the best-known English writers, including Edward Bulwer-Lytton, Thomas Carlyle, Benjamin Disraeli, Maria Edgeworth, Harriet Martineau, Robert Southey, and Thomas Moore. Clay also presented a petition at this time by American authors, which pointed out that they found it hard to get paid for their work in competition with the well-known writers of England whose writings were published without royalty cost by United States printers and publishers. Opposition to granting copyright to foreign authors by United States printers and printing trade unions was intense and carried the day until 1891. During this period, of course, the U.S. copyright law was not a trade barrier since foreign works could be imported freely subject only to the tariff—import duties constituted the sole trade barrier.

With the passage of the Platt–Simmonds Act in 1891, a compromise was reached in three areas. This law gave United States printers, publishers, and labor unions a different form of protection from the competition of foreign editions, it gave foreign authors the opportunity to secure U.S. copyright, and it provided United States authors some protection against the competition of cheaper foreign editions with their own works. The compromise device was the "manufacturing clause" in the 1891 act, which permitted foreign authors in countries granting reciprocal privileges to secure U.S. copyright, but only if their books were printed from type set in the United States. After a U.S. copyright was thus obtained for a foreign book, the law made it illegal for foreign editions of that book to be imported. The loser in this compromise was the U.S. public, which was forced to pay high prices for American-manufactured editions of foreign works. To some extent U.S. authors also lost, because they were forced to have their books published and printed in the United States in order to secure copyright, instead of having the alternative of publishing abroad.

The manufacturing clause remained in the U.S. copyright law essentially unchanged until 1954, except for two minor liberalizations: One in 1909 exempted books in foreign languages (but also included periodicals and required that plate making for and binding of books be done in the United States). The second, in 1949, permitted an ad interim U.S. copyright for 5 years to be obtained before manufacture in the United States was required and allowed the importation of up to 1,500 copies of the foreign edition. Then, in 1954 a major change was made with the adherence of the United States to the Universal Copyright Convention (UCC), which required the United States to eliminate the manufacturing clause for works of authors from other countries adhering to the convention. The manufacturing clause was thus limited in its application to United States authors, who would lose their U.S. copyright (other than on an ad interim basis) if they first published abroad. The printing trade unions vigorously opposed United States accession to the Universal Copyright Convention, as did the book manufacturers until almost the very end of the legislative process; however, Congress was persuaded that adherence to the UCC was in the overall United States interest and that fears of severe economic injury to printers and their employees were unfounded. By then the United States had a large surplus of book exports over imports.

The Elimination of Tariffs: Beirut and Florence Agreements

Trade barriers were one of the first matters taken up by the United Nations Educational, Cultural, and Scientific Organization (UNESCO) following its establishment in 1946. Building on a previous program of the League of Nations, the first international convention developed was the Beirut Agreement (Agreement on Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character), which was approved by the UNESCO General Conference in Beirut in 1948. This international convention provided that the nations adhering could not impose import duties on films and other audiovisual materials which were certified as being of an educational, cultural, or scientific nature and were imported by approved agencies, usually nonprofit institutions. The Beirut Agreement also provided that the adhering nations would issue import licenses and foreign exchange for these imports.

Next came the Florence Agreement (Agreement on the Importation of Educational, Cultural, and Scientific Materials) approved by the UNESCO General Conference meeting in Florence, Italy, in 1950. The Florence Agreement was much broader in scope and easier to apply than the Beirut Agreement. It required adhering nations to eliminate import duties and discriminatory taxes on books, newspapers, periodicals, music, and maps; no certification was required and the agreement applied to all types of importers. Duty-free status was also granted to works of art, antiques over 100 years old, materials for the blind, and scientific apparatus not manufactured in the country of importation. Certain types of libraries were assured of import licenses and foreign exchange for the importation of the materials covered by the agreement.

Representatives of the United States voted for both agreements at the UNESCO General Conference, but the United States lagged behind most of the developed countries, not joining the two international conventions until 1966. In the case of the Beirut Agreement, this delay was not the result of opposition but reflected to some extent a lack of interest on the part of those U.S. organizations that would benefit and the existence of an alternative program based on U.S. law and administered by the U.S. information agency, which provided some of the same benefits. With respect to the Florence Agreement, however, there was the known opposition of U.S. book manufacturers and printing trade unions, which also opposed the drastic modification of the manufacturing clause required by the Universal Copyright Convention. The Department of State decided to delay the submission of the Florence Agreement to the Senate for approval as a treaty until the UCC had been ratified. Even after the UCC was approved by the Congress in 1954, the Department of State delayed further in submitting the agreement to the Senate until after a "test period" following United Kingdom accession to the UCC in 1948. The purpose was to see whether the flood of imports of British books predicted by the printers and the unions would occur. The test period passed, no flood of British books occurred, and the Florence Agreement was submitted to the Senate and approved as a treaty in 1960. Several years then passed during which the proponents of the agreement worked for two necessary actions: They pressed the Department of State to submit to the Congress implementing legislation making changes in the tariff laws, and after that was done they urged the Committee on Ways and Means of the House of Representatives to act on the draft bill. Finally, late in 1966, Congress passed the implementing legislation for both the Beirut Agreement and the Florence Agreement, effective early in 1967. In approving the implementing legislation, the Congress went further than required by the agreements and extended duty-free status to imports from all countries whether or not they were adherents of the agreements. Thus, after the better part of two centuries the United States eliminated all import duties on books and most other published materials and also those on some audio and visual materials.

Congressional approval of the Universal Copyright Convention and the Florence Agreement required major legislative efforts by coalitions which in both cases included organizations representing publishers, authors, librarians, educators, and scientists organized in two national committees: the National Committee for the Universal Copyright Convention and the National Committee for the Florence Agreement.

The Florence Agreement Protocol

On November 30, 1976, the General Conference of UNESCO, meeting in Nairobi, Kenya, approved a Protocol to the Florence Agreement which will, when it comes into effect, eliminate additional import tariffs and other barriers to the international flow of scientific, educational, and cultural materials. The protocol now is open to ratification and acceptance by countries that are already parties to the basic Florence Agreement, as well as by economic and tariff unions (such as the European Economic Community). At present, the basic agreement is in effect in 68 countries. Six months after the deposit of the fifth instrument of ratification with the secretary-general of the United Nations, the Florence Agreement Protocol will come into operation between those nations that have ratified it.

In the United States the practice of recent years will be followed: this two-step procedure requires, first, the approval of the protocol by the Senate as a treaty and, second, passage of an implementing act by both houses of Congress making the required changes in U.S. import duties. Since the Department of State, other federal departments and agencies, and the principal U.S. organizations of producers and consumers of the materials affected by the protocol have supported its provisions, there would seem to be no reason why the Florence Agreement Protocol should not be submitted to the Senate in 1980 for U.S. ratification a year or so later.

The final text of the protocol approved by the UNESCO General Conference is little changed from the draft text approved unanimously by the Special Committee of Government Experts that met at UNESCO House in Paris, March 22–30, 1976.

Some of the most important provisions of the protocol—from the point of view of publishers, producers of audiovisual materials, libraries, and educational institutions—deal with import duties on audiovisual materials and microforms, with import licenses and exchange restrictions, and with internal taxes such as sales taxes.

Under the present provisions of the Florence Agreement, audiovisual materials are covered (as well as in the Beirut Agreement) but receive less favorable treatment than books and other publications, which are relieved of import duties without certification of their educational, cultural, or scientific character and without respect to the type of importer. For audiovisual materials and microforms, on the other hand, according to the present text of the agreement, the elimination of import duties is required only if these materials are of an "educational, scientific or cultural character," and only when imported by institutions "approved by the competent authorities of the importing country . . . exclusively for exhibition by these organizations or by other public or private educational, scientific or cultural institutions." Thus, a double limitation is applied to the duty-free importation of audiovisual materials and microform publications.

The Florence Agreement Protocol contains two alternative provisions (Annex C-1 and Annex C-2) with respect to audiovisual materials, one of which must be accepted. The C-2 alternative continues the double limitation but does add to the list of audiovisual materials in the present text a number of additional materials that were nonexistent or insignificant when the original agreement was drafted. The other alternative on audiovisual materials (C-1) gives all audiovisual materials the same duty-free treatment presently accorded books, lifting the present double limitation. The following U.S. organizations representing producers and consumers of these materials are on record as favoring U.S. adherence to the C-1 alternative: the American Library Association, the Association for Educational Communications and Technology, the Association of American Publishers, the Association of American University Presses, the Association of Media Producers, the Association of Research Libraries, the Information Industry Association, the Motion Picture Association of America, the National Audio-Visual Association, the National Micrographics Association, the National Music-Publishers Association, and the Recording Industries Association of America.

With respect to microforms, the protocol has two components. Annex C-1 would give duty-free treatment to all microform publications without requiring that they be of an educational, cultural, or scientific character, or that they be imported by approved institutions. In other words, microform publications are to be given the same treatment as printed publications. Annex C-2 would add duty-free treatment of certain other materials (such as "microcards, microfiche, and magnetic or perforated tapes and cards required in computerized information and documentation services") to the coverage of the present agreement but retain the requirements of certification and importation by approved institutions.

The present text of the Florence Agreement contains relatively little on import licenses and exchange restrictions. It merely requires that import licenses and foreign exchange be made available for the importation of official documents (of the governments of the adherent countries and of the United Nations and its affiliated agencies); publications in raised characters for the blind and other articles for the blind imported by approved institutions; trade promotion literature; and, most important, books and publications consigned to public libraries and libraries of public educational, research, and cultural institutions.

The Florence Agreement Protocol contains an optional provision (Part II) extending the requirement for import licenses and foreign exchange. These would be provided for the importation of the following additional categories of materials:

1. Books and publications consigned to an expanded list of types of libraries.
2. Adopted textbooks imported by higher educational institutions.
3. Books in foreign languages.
4. Audiovisual materials of an educational, scientific, or cultural nature imported by approved institutions.

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ROBERT W. FRASE

TAUCHNITZ

Tauchnitz is the best-known of all German publishers of material for English-speaking tourists in Europe on account of its Collection of British and American Authors, which was at one time as familiar as Vichy water in the first and second-class coupés of European railway cars. But the name has been important in German publishing since the latter 18th century when Karl Christoph Traugott Tauchnitz (1761–1836) established a small printing house (1797). He prospered, and in 1798 he set up a publishing house and in 1800, a type foundry. In 1816 he introduced the stereotype process to German-speaking countries. Like his contemporary, Georg Joachim Göschen, he was a major figure in the transition from the patriarchal shop of earlier centuries to the printing and publishing industrial complexes of the 19th century. He published literary classics, Bibles (and also the Koran!), books for young people, theological and philosophical works, some handsome deluxe editions illustrated with copper engravings, and attractive inexpensive books for popular consumption. His son, Karl Christian Philip Tauchnitz (1798–1884), sold the printing house and type foundry in 1854 to F. L. Metzger; and in 1865 he sold the publishing firm, which he had expanded by issuing dictionaries, to his proxy, C. Hotze.

Christian Bernhard Tauchnitz (1816–1895), a nephew of Karl Christoph Traugott Tauchnitz, founded the Bernhard Tauchnitz Verlag in 1831. In 1841 he established the famous Collection of British Authors, later expanded into the Collection of British and American Authors. This series included the most important literary works as well as some books in other genres (e.g., biography and travel), at quite modest prices. Despite the injunction printed in all copies forbidding import into Britain or the United States (and many a library is well stocked with them—still good reading copies), the reprints were quite legal and ethical. In an age when piracy and general disregard of authors' and publishers' rights were the rule rather than the exception, Tauchnitz approached the British (and later the North American) authors with disarming honesty. Long before the Geneva Convention of 1886, he made it clear to them that he supported the notion of a reciprocal copyright agreement between England and Prussia, the most productive European nations from the standpoint of publication. Accepting the possible competition of the higher priced original editions, he paid honoraria directly to the authors and pledged himself not to export the reprints to England, to any part of the British Empire, or to the United States. Well over 5,000 titles appeared in the collection before World War II.

The Tauchnitz files, destroyed in 1943, must have been a veritable treasure house of source material on author-publisher relationships. We know at least that Harrison Ainsworth dedicated a novel to Christian Bernhard Tauchnitz and that Charles Dickens sent a son to him to learn German. The aerial biblioclasts who decided that the destruction of the great publishing and printing houses in Leipzig would help win the war must answer many questions before they can pass through the vellum and morocco gates of bibliographical paradise.

The firm also published dictionaries and books in the fields of art history and British culture, the latter a reflection of the close connections between the German firm and the British authors whose works it reprinted with their cordial approval. In 1935 the old firm passed to the ownership of Oscar Brandstetter in Leipzig, under the name of Bernhard Tauchnitz Nachfolger Brandstetter and Company. In 1952 the rehabilitated firm began once more to operate in Stuttgart as the Bernhard Tauchnitz–Verlag G.m.b.H., specializing in literature, linguistics, and fiction.

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LAWRENCE S. THOMPSON

STATEMENT OF MS. BARBARA McGARRY, AMERICAN FOUNDATION FOR THE BLIND, WASHINGTON, D.C.

Ms. McGARRY. Thank you, Mr. Chairman.

I am Barbara McGarry, of the Washington office of the American Foundation for the Blind. I am here this morning to record our strong support for implementing legislation for the Nairobi protocol to the Florence agreement.

Our interest, that of the American Foundation for the Blind, traces back to the original Florence agreement due to the intervening interest of one of our first board members, a lady named Helen Keller, who was very interested in the UNESCO proceedings that led to the Florence agreement, which, as you know, extends duty-free treatment for articles only for the blind.

We are here this morning to express our hope that the committee will favorably report expanding that list of duty-free articles for the blind to include all other physically and mentally handicapped persons, as had been referenced in our written testimony on annex E. We think it is high time.

Seventy percent of our legally blind schoolchildren now attend public schools, thanks in no small part to the use of aids and appliances for the blind. On the other hand, the State schools for the blind now have a large percentage of multiple-handicapped children whose blindness is only one of the many, many different disabilities. To include physically and mentally handicapped, to expand that original list of articles for the blind, in duty-free treatment would be a very appropriate acknowledgment, we think, of our National Year of the Disabled in 1982.

Incidentally, this Nairobi protocol, I note, has been supported by two Presidents, one Democrat and one Republican. We think it shows commendable bipartisan interest.

Thank you, sir.

Senator DANFORTH. Thank you very much.

Ms. RISHER. Mr. Chairman?

Senator DANFORTH. Yes?

Ms. RISHER. I neglected to ask that the written statement be accepted in the record.

Senator DANFORTH. Yes. You don't have to ask; they will all be.

Ms. RISHER. Thank you.

Senator DANFORTH. And thank you very much.

[The prepared statements of the previous panel follow:]

VIEWS FROM REHABILITATION INTERNATIONAL, U.S.A., SUBMITTED TO THE SENATE FINANCE COMMITTEE ON S.2685, A BILL TO IMPLEMENT THE NAIROBI PROTOCOL TO THE FLORENCE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

Presented July 21, 1982 by:

Philip F. Puleio, Ph.D.
National Secretary for the
United States of America to
Rehabilitation International

Mr. Chairman, on behalf of the Board of Directors of Rehabilitation International, U.S.A., I would like to thank you for this opportunity to express views on legislation to implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

For two reasons, it is appropriate that the views of Rehabilitation International, U.S.A. (R.I.U.S.A.) are considered at this hearing. First, part of its mission has been to provide the American rehabilitation community with timely information on new technological innovations, treatment systems, programs, and assistive devices developed abroad. In order to fulfill this mission, Rehabilitation International, U.S.A. has maintained a variety of programs which have included: Rehabilitation/WORLD, a publication devoted to the international dissemination of rehabilitation news and developments; Rehabfilm, a library devoted to the distribution of non-print media relating to disability treatment and prevention and; the International Rehabilitation Film Festival, an annual competition which awards films that enhance the lives of the disabled.

Therefore, it is with keen interest that we note that not only does the Nairobi protocol expand the Florence Agreement to apply to persons without regard to the source of their affliction, but includes previously uncovered technologies and articles such as audiovisual materials.

Secondly, it is appropriate that R.I.U.S.A. is presenting before this committee because of its status as the national, voluntary affiliate of Rehabilitation International - a federation of 125 organizations, representating 76 countries worldwide, dedicated to disability prevention and rehabilitation. Formed in 1922, Rehabilitation International's objectives are to: (1) assure the effective exchange of information; (2) encourage the improvement of national legislation for the disabled; (3) provide technical assistance in areas of related interest; and (4) stimulate research and technological developments within the field of rehabilitation. It maintains official relations with the United Nations Economic Council, the World Health Organization, the International Labour Office, UNESCO, UNICEF, the Organization of American States, and the Council of Europe.

In addition, Rehabilitation International works through an assembly of national representatives of disabled persons and rehabilitation professionals in a manner similar to the United Nations to further its aims. As such, it is the appropriate vehicle through which the United States of America could work for the widespread adoption of the Nairobi protocol by other nations. R.I.U.S.A., as the American affiliate, could do much to further this goal, by putting before this world body the fact that the United States of America has adopted the Nairobi protocol through domestic legislation.

Rehabilitation International, U.S.A. urges passage of S.2685 for the obvious and immediate advantages it will bring to the disabled

American, and for the symbolic message it will convey to the world of America's commitment to international understanding facilitated by the increased exchange of ideas in the pursuit of humanitarian ends.

Mr. Chairman, thank you for this opportunity to express the views of Rehabilitation International, U.S.A.

Statement of

Townsend Hoopes, President

for the

ASSOCIATION OF AMERICAN PUBLISHERS

before the

Committee on Finance, United States Senate

on

S.2685

To Implement the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific and Cultural Materials

July 21, 1982

The Association of American Publishers is the trade association representing U.S. book and journal publishers. Many of the AAP members also produce and/or distribute audio visual materials of an educational, scientific and cultural nature. I am here today to support S.2685 the bill to implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

The Florence Agreement is a fundamental building block of international relations. As barriers to cultural exchange are removed, not only is international understanding improved but export and import opportunities for U.S. industries are improved.

U.S. adherence to the Protocol, as with the original Florence Agreement in 1966, encourages countries importing U.S. materials to reciprocate by providing similar duty-free status for materials covered by the Protocol. Since the U.S. is the primary creating country in the visual arts area, duty-free status would clearly improve the competitive position of U.S. companies. It would strengthen the U.S. audio visual industries and break down barriers to export.

Further, the Nairobi protocol to the Florence Agreement, by providing duty-free treatment to audio and visual materials (see Sections 6(a) and 6(b) of S.2685) would allow U.S. companies to obtain foreign materials for U.S. distribution at a lower cost.

We urge the Committee to favorably report S.2685 and arrange to have it scheduled for consideration in the Senate as soon as practical. Implementation of the Nairobi Protocol will improve the dissemination of audio visual materials that are becoming more important in education and intercultural understanding. In addition, implementation of the Nairobi Protocol will provide improved business opportunities for U.S. industries in both export and import.

Statement of

Robert W. Frase

for the

AMERICAN LIBRARY ASSOCIATION

before the

Committee on Finance, United States Senate

on

S.2685

To Implement the Nairobi Protocol to the Florence

Agreement on the Importation of Educational, Scientific

and Cultural Materials

July 21, 1982

My name is Robert W. Frase and I appear in support of S.2685 on behalf of the American Library Association. I am an economist and a member of the Association, which is a nonprofit educational organization of almost 40,000 librarians, trustees, educators, and other friends of libraries dedicated to the improvement of library services for all the American people.

The American Library Association has a long history of support both for the original Florence Agreement, to which the United States adhered in 1967, and for the Protocol, or supplement, since November 1976. The original Agreement has been of great benefit to libraries and their patrons in the United States and in nearly 70 other countries in reducing the costs of imported educational, scientific, and cultural materials and in simplifying the administrative procedures of importation. Similar benefits can be expected from the provisions of the Protocol, which add duty-free treatment to other articles.

Our major interest is in the provision of duty-free treatment to audio, visual, and microform material, the same treatment offered books, periodicals, newspapers, and other printed materials by the original Agreement. The audio, visual and microform materials to be given duty-free treatment are listed in Sections 6(a) and 6(b) of S.6285. Duty-free treatment can come about in either of two ways:

1) By Presidential proclamation for a temporary period of not more than two and a half years; or

2) By Presidential proclamation of the date on which the Protocol comes into force as to the United States.

It is our understanding that the power given to the President to take temporary action is designed to encourage countries importing U. S. materials covered by the Protocol to take reciprocal action. We would expect that the President would promptly take temporary action to eliminate U. S. import duties on audio, visual, and microform material in view of the strong support given to the Protocol by the United States trade associations representing the producers of such materials.

We would have preferred that the implementing legislation go into effect immediately, or after a short specified number of months, as was done in the case of the implementing legislation for the original Florence Agreement--the Educational, Scientific, and Cultural Materials Importation Act of 1966, Public Law 89-651. There was some fear expressed by some U. S. producers of a few of the materials covered by the original Florence Agreement that their domestic market might be adversely affected by the elimination of the then existing low United States import duties. Experience has demonstrated that these fears were not justified, and U. S. producers have since 1967 benefited in their export markets without suffering in their domestic markets. This experience may account in part for the support given to the Protocol by affected U. S. trade associations, which include the Association of American

Publishers, the Association of American University Presses, the Information Industry Association, the Motion Picture Association of America, the National Audio-Visual Association, the National Micrographics Association, the National Music Publishers Association, and the Recording Industry Association of America.

The American Library Association appreciates this opportunity to express its support for S.2685. We hope that your Committee will report favorably on the bill and arrange to have it scheduled for consideration in the Senate as soon as possible after the Protocol itself, which has been favorably reported by the Committee on Foreign Relations in Executive Report 97-53 of May 21, 1982. The International Federation of Library Associations is meeting in Montreal, Canada in late August and favorable actions in the United States would enable our delegates to that annual conference to urge colleagues from other countries to press their governments for similar action. The Federation is on record in resolutions supporting the Protocol adopted by earlier annual conferences.

In conclusion I would like to submit for the record an article which I prepared for Volume 30 of the Encyclopedia of Library and Information Science (1980) entitled "Tariffs and Other Trade Barriers: the U. S. Experience," which traces the history of the gradual reduction and elimination of U. S. trade barriers on educational, scientific, and cultural materials from the early 19th century up to and including the Nairobi Protocol of 1976.

U.S. SENATE COMMITTEE ON FINANCE
SUBCOMMITTEE ON INTERNATIONAL TRADE

STATEMENT OF
THE AMERICAN FOUNDATION FOR THE BLIND, INC.
BY
BARBARA D. MCGARRY
ON
S. 2685, "THE EDUCATIONAL, SCIENTIFIC, AND
CULTURAL MATERIALS IMPORTATION ACT OF 1982."

JULY 21, 1982

ON BEHALF OF THE AMERICAN FOUNDATION FOR THE BLIND, I APPRECIATE THE OPPORTUNITY TO EXPRESS OUR ORGANIZATION'S STRONG SUPPORT FOR S. 2685, WHICH IMPLEMENTS THE NAIROBI PROTOCOL TO THE FLORENCE AGREEMENT BY WIDENING THE LIST OF DUTY-FREE ARTICLES THAT MAY BE IMPORTED BY COUNTRIES SIGNATORY TO THE PROTOCOL.

FOUNDED OVER 60 YEARS AGO UNDER THE AUSPICES OF HELEN KELLER, THE AMERICAN FOUNDATION FOR THE BLIND HAS LONG RECOGNIZED THE IMPORTANCE OF AIDS FOR THE BLIND IN ACHIEVING INDIVIDUAL DEVELOPMENT. FROM OUR HEAD-QUARTERS IN NEW YORK CITY, FOUNDATION OFFICIALS FOLLOWED CLOSELY THE DELIBERATIONS OF UNESCO'S GENERAL CONFERENCE IN 1946, WHICH LED TO THE

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ORIGINAL FLORENCE (ITALY) AGREEMENT IN 1950. AS MEMBERS OF YOUR COMMITTEE KNOW, THE FLORENCE AGREEMENT, RATIFIED BY THE U.S. IN 1966 AS ONE OF 90 SIGNATORIES, PROVIDED FOR DUTY-FREE IMPORTATION BY ANY RATIFYING COUNTRY OF A SPECIFIC LIST OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS: AND IN ADDITION, PROVIDED DUTY-FREE TREATMENT OF IMPORTED ARTICLES AND AIDS FOR THE BLIND. IN 1966, JUST AS IN THE PROPOSED LEGISLATION BEFORE YOUR COMMITTEE TODAY, THE UNITED STATES GOVERNMENT REQUIRED ENACTMENT OF IMPLEMENTING LEGISLATION TO SAFEGUARD OUR OWN TRADING INTERESTS, BEFORE RATIFICATION OF THE FLORENCE TREATY.

IN BOTH ITS DOMESTIC AND OVERSEAS OPERATIONS, THE AMERICAN FOUNDATION FOR THE BLIND HAS DEVELOPED AND SUPPORTED THE UTILIZATION OF AIDS AND APPLIANCES SPECIFICALLY DESIGNED FOR THE BLIND OF ALL AGES. WE HAVE HELPED TO DEVELOP A NATIONAL NETWORK OF SPECIALISTS IN EARLY CHILDHOOD DEVELOPMENT AND SPECIAL EDUCATION FOR BLIND CHILDREN; IN ORIENTATION AND MOBILITY TRAINING AND JOB SKILLS DEVELOPMENT FOR THE EMPLOYABLE-AGE BLIND WORKER; AND IN INDEPENDENT LIVING SKILLS FOR THE OLDER BLIND PERSON. SPECIAL EDUCATIONAL AND TRAINING AIDS ("ARTICLES FOR THE BLIND") HAVE HELPED MAKE THESE GOALS ACHIEVABLE.

THROUGH OUR SISTER ORGANIZATION, HELEN KELLER INTERNATIONAL (FORMERLY THE AMERICAN FOUNDATION FOR OVERSEAS BLIND) WE HAVE ALSO INSTITUTED PROJECTS TO ASSIST BLIND PERSONS IN DEVELOPING COUNTRIES. IN THE SAHEL REGION OF AFRICA, WE HAVE TRAINED TEACHERS OF ORIENTATION AND MOBILITY SKILLS FOR THE VICTIMS OF "RIVER BLINDNESS" (ONCHOCERCIASIS). IN INDONESIA, OUR OVERSEAS ORGANIZATION DEVELOPED JOB TRAINING COURSES FOR THE BLIND, WHERE BEGGING HAD AT ONE TIME BEEN CONSIDERED THE ONLY FUTURE COURSE OPEN TO THE BLIND. IN CENTRAL AMERICA, WORKING IN CONJUNCTION WITH UNICEF, WE DEVELOPED A VITAMIN A-ENRICHED DIET FOR INFANTS AND PRESCHOOLERS, FOR THE PREVENTION OF CHILDHOOD BLINDNESS - PERHAPS AN EARLY CONTRIBUTION TO THE CURRENTLY PROPOSED "CARIBBEAN BASIN INITIATIVE."

THROUGHOUT OUR VARIOUS ONGOING PROJECTS, WE HAVE NOTED THE GRADUAL EMERGENCE OF A PHENOMENON - PERHAPS, THANKFULLY, BECAUSE OF MANY COUNTRIES' INCREASED EMPHASIS ON THE PREVENTION OF BLINDNESS, WITH THE GROWING AWARENESS THAT HALF OF ALL BLINDNESS IS PREVENTABLE. AS A RESULT, THERE IS A LEVELLING OFF, IN RELATION TO TOTAL POPULATION INCREASE, OF BLINDNESS AS AN ISOLATED SOLE DISABILITY. INSTEAD, THERE IS GROWING EVIDENCE OF BLINDNESS OR A VISUALLY HANDICAPPING CONDITION AS ONE OF AN INDIVIDUAL'S MULTIPLE DISABILITIES. AT THE PRESENT TIME, FOR INSTANCE, THERE ARE ABOUT FOUR MILLION HANDICAPPED SCHOOL CHILDREN IN THE UNITED STATES--HALF THE NUMBER THAT CONGRESS HAS ESTIMATED ARE IN NEED OF SPECIAL EDUCATION--WHOSE EDUCATION IS BEING ASSISTED THROUGH THE EDUCATION FOR THE HANDICAPPED ACT. HOWEVER, THE AMERICAN PRINTING HOUSE FOR THE BLIND REPORTED LAST YEAR THAT ONLY SOME 30,000 LEGALLY BLIND CHILDREN WERE PROVIDED WITH BRAILLE SLATES, TEXTBOOKS, AND OTHER LEARNING MATERIALS. IN ADDITION, STATE-OPERATED SCHOOLS FOR THE BLIND ARE NOW ENROLLING A MAJORITY OF STUDENTS WHOSE BLINDNESS IS ONE OF SEVERAL DISABILITIES.

WITH REGARD TO THE EMPLOYABLE AGE GROUP, THIS SAME DEVELOPMENT LED THE AMERICAN FOUNDATION FOR THE BLIND TO URGE CONGRESS TO EXPAND A LAW PROVIDING SPECIAL JOB-TRAINING FOR THE BLIND - THE "WAGNER O'DAY ACT" - SO THAT IT MIGHT INCLUDE OTHER HANDICAPPED TRAINEES AS WELL. THE RESULT WAS THE "JAVITS-WAGNER-O'DAY ACT AMENDMENTS," WHICH MANDATES PREFERENTIAL PURCHASE BY OUR GOVERNMENT OF CERTAIN ARTICLES MANUFACTURED "BY THE BLIND AND OTHER SEVERELY HANDICAPPED."

UNDER THESE CIRCUMSTANCES, WE HAVE FOLLOWED WITH SPECIAL INTEREST THE PROGRESS OF THE NAIROBI PROTOCOL SINCE IT WAS FIRST RECOMMENDED BY UNESCO IN 1973, WITH THE FINAL TEXT APPROVED BY THE UNESCO GENERAL CONFERENCE IN NAIROBI, KENYA, IN 1976, AND OPENED FOR SIGNATURE BY THE UNITED NATIONS IN MARCH 1977. SUCCESSFUL INTERAGENCY EFFORTS TO

FACILITATE U.S. RATIFICATION OF THE PROTOCOL, BEGUN IN JUNE, 1977, RESULTED IN THE PRESIDENT'S TRANSMITTAL OF THE PROTOCOL ON JANUARY 19, 1981, TO THE U.S. SENATE FOR ITS CONSTITUTIONALLY REQUIRED ADVICE AND CONSENT, WITH THE PRESIDENT'S STATED BELIEF THAT RATIFICATION "WILL RESULT IN IMPORTANT BENEFITS FOR THE BLIND AND HANDICAPPED IN THIS COUNTRY." ON MAY 21, 1982, THE SENATE FOREIGN RELATIONS COMMITTEE REPORTED FAVORABLY ON THE NAIROBI PROTOCOL (TREATY DOCUMENT 97-2) THROUGH ITS EXECUTIVE REPORT 97-53. OUR PARTICULAR AREA OF INTEREST IS, OF COURSE, THE PROTOCOL'S EXPANDED LIST OF "ARTICLES FOR THE BLIND AND OTHER HANDICAPPED PERSONS," AS PER THE ATTACHED COPY OF THE PROTOCOL'S "ANNEX E."

ACCORDING TO STATE DEPARTMENT TESTIMONY PROVIDED AT THE OCTOBER 20, 1981 HEARINGS BY THE SENATE FOREIGN RELATIONS COMMITTEE, RATIFICATION OF THE NAIROBI PROTOCOL, OPEN TO THE SAME 90 COUNTRIES THAT APPROVED THE 1950 FLORENCE AGREEMENT, DEPENDS IN LARGE PART ON AMERICAN LEADERSHIP IN THIS AREA. IN THE WITNESS'S WORDS, "MANY OF THOSE COUNTRIES ARE WAITING TO SEE IF THE UNITED STATES IS INTERESTED IN THIS INSTRUMENT." AT THE TIME OF THE HEARINGS, THE MEMBER-COUNTRIES OF THE EUROPEAN COMMON MARKET WERE ENTERING IN TO THE AGREEMENT AS A BODY, AND SEVERAL OTHER COUNTRIES HAD RATIFIED. LIKE THE UNITED STATES, THE COMMON MARKET COMMUNITY IS ALSO ENGAGED IN IMPLEMENTING LEGISLATION TO SAFEGUARD ITS OWN TRADING INTERESTS.

IT IS OUR UNDERSTANDING THAT, AFTER CONSULTATION WITH APPROPRIATE OFFICIALS OF THE TREASURY DEPARTMENT, COMMERCE DEPARTMENT, AND THE LIBRARY OF CONGRESS, THE ADMINISTRATION'S DRAFT BILL INCORPORATES ADEQUATE SAFEGUARDS FOR U.S. TRADING INTERESTS. IN INTRODUCING THIS BILL AS S. 2685, SENATOR DOLE HAS STATED, "I BELIEVE THE ADMINISTRATION HAS FOUND A PRUDENT WAY TO PROVIDE TO HANDICAPPED PERSONS THE BENEFITS OF

THE NAIROBI PROTOCOL, WHILE INSURING THAT U.S. PRODUCERS' INTERESTS ARE PROTECTED."

THE MEANS OF ACCOMPLISHING THIS ARE FOUND IN SECTION 2 OF THE BILL, WHICH GIVES THE PRESIDENT AUTHORITY TO WITHHOLD FINAL APPROVAL OF THE PROTOCOL UNTIL HE DETERMINES THAT ADEQUATE RECIPROCAL DUTY-FREE TREATMENT WILL BE PROVIDED BY OTHER COUNTRIES. THE ONLY EXEMPTION, FOUND IN SECTION 3, IS THE TEMPORARY DUTY-FREE TREATMENT FOR THE LISTED ARTICLES FOR THE BLIND AND OTHER HANDICAPPED, FOR A PERIOD OF 2½ YEARS AFTER ENACTMENT OF IMPLEMENTING LEGISLATION. THIS AMOUNT OF TIME IS CONSIDERED SUFFICIENT TO INSURE THAT ADEQUATE RECIPROCITY FOR ALL DUTY-FREE ARTICLES IS ACHIEVED AMONG SIGNATORIES TO THE PROTOCOL. IN SECTION 4 OF THE BILL, AS A FURTHER SAFEGUARD, THE PRESIDENT IS AUTHORIZED TO REIMPOSE CURRENT TARIFF RATES ON IMPORTED ARTICLES WHICH ARE ADJUDGED TO HAVE A "SIGNIFICANT ADVERSE IMPACT" ON A DOMESTIC INDUSTRY.

WITH REGARD TO DUTY-FREE ARTICLES FOR THE BLIND AND OTHER HANDICAPPED, AS INDICATED BY THE ATTACHED COPY OF ANNEX E, THERE WOULD SEEM TO BE NO REASON WHY THE PRESENTLY FAVORABLE BALANCE OF TRADE COULD NOT BE MAINTAINED UNDER THE EXPANDED LIST, ESPECIALLY WITH THE ANNEX'S FINAL CAVEAT, "PROVIDED THAT EQUIVALENT OBJECTS ARE NOT BEING MANUFACTURED IN THE IMPORTING COUNTRY." THE EXPANDED LIST ITSELF IS A TRIBUTE BY UNESCO TO THE TECHNOLOGICAL ADVANCES WORLD-WIDE, ESPECIALLY IN THE UNITED STATES, OVER THE LAST QUARTER-CENTURY. THIRTY YEARS AGO, IN THE FIELD OF BLINDNESS, ONE WOULD NOT HAVE HEARD THE WORDS "OPTACON," "LASER CANE," "CLOSED-CIRCUIT TV" OR "READING MACHINE" - ALL OF WHICH ARE DEVICES WELL KNOWN TO THE BLIND IN TODAY'S WORLD. IT IS SAFE TO SAY THAT IN ANOTHER QUARTER-CENTURY, EVEN MORE DRAMATIC ADVANCES WILL HAVE BEEN ACHIEVED TO HELP BRING EQUAL OPPORTUNITY FOR LEARNING, WORKING, AND SUCCESSFUL LIVING FOR ALL OUR HANDICAPPED CITIZENS.

WITH YOUR COMMITTEE'S APPROVAL AS A VITAL STEP TOWARD RATIFICATION OF THE NAIROBI PROTOCOL, THE UNITED STATES CAN BE A SIGNATORY IN 1982, THE YEAR PROCLAIMED AS "THE NATIONAL YEAR OF THE DISABLED." TO PARAPHARASE THE WORDS OF THAT PRESIDENTIAL PROCLAMATION, YOU WILL HAVE HELPED SIGNIFICANTLY TO IMPROVE THE LIVES OF 35 MILLION DISABLED AMERICANS.

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ATTACHMENTS

18109

Federal Register
Vol. 47, No. 82
Wednesday, April 28, 1982

Presidential Documents

Title 3—

The President

Proclamation 4935 of April 26, 1982

National Year of Disabled Persons

By the President of the United States of America

A Proclamation

The 1981 International Year of Disabled Persons, a celebration of the achievements and strengths of disabled persons the world over, has now concluded. In that Year, we were made aware of the many accomplishments of disabled people, and we rejoiced at the number of lives that were made richer and more productive through education, rehabilitation, and employment.

The impetus gained during this celebration must not be lost. We must seize the opportunities afforded by the International Year of Disabled Persons to increase our national awareness of what remains to be done in order to assure all disabled Americans full and active participation in our society.

I call upon my fellow citizens in both the public and private sectors to join in mutual efforts to pursue the long-term goals set forth during 1981.

NOW, THEREFORE, in keeping with the aims of Senate Joint Resolution 134, and in order to continue the momentum developed in the International Year of Disabled Persons, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the year 1982 as the "National Year of Disabled Persons."

IN WITNESS WHEREOF, I have hereunto set my hand this 26th. day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-11735
Filed 4-27-82; 10:14 am]
Billing code 3195-01-M

(iii) Tools to be used for the maintenance, checking, gauging or repair of scientific instruments, provided these tools are imported at the same time as such instruments and apparatus or, if imported subsequently, that they are identifiable as intended for the specific instruments or apparatus previously admitted duty-free or entitled to duty-free entry, and further provided that tools of equivalent scientific value are not being manufactured in the country of importation.

ANNEX E

Articles for the blind and other handicapped persons

(i) All articles specially designed for the educational, scientific or cultural advancement of the blind which are imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, including:

(a) talking books (discs, cassettes or other sound reproductions) and large-print books;

(b) phonographs and cassette players, specially designed or adapted for the blind and other handicapped persons and required to play the talking books;

(c) equipment for the reading of normal print by the blind and partially sighted, such as electronic reading machines, television-enlargers and optical aids;

(d) equipment for the mechanical or computerized production of braille and recorded material, such as stereo-typing machines, electronic braille, transfer and pressing machines; braille computer terminals and displays;

(e) braille paper, magnetic tapes and cassettes for the production of braille and talking books;

(f) aids for improving the mobility of the blind, such as electronic orientation and obstacle detection appliances and white canes;

(g) technical aids for the education, rehabilitation, vocational training and employment of the blind, such as braille watches, braille typewriters, teaching and learning aids, games and other instruments specifically adapted for the use of the blind.

(ii) All materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons, directly imported by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent objects are not being manufactured in the importing country.

ANNEX F

Sports equipment

Sports equipment intended exclusively for amateur sports associations or groups approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent materials are not being manufactured in the importing country.

Senator DANFORTH. Our next witness is Al Wolff, on S. 2094.

STATEMENT OF ALAN WOLFF, PARTNER, VERNER, LIIPFERT, BERNHARD & McPHERSON, ON BEHALF OF THE SEMICONDUCTOR INDUSTRY ASSOCIATION

Mr. WOLFF. Mr. Chairman, I am here this morning representing the Semiconductor Industry Association which was founded in 1977 by seven member companies of the semiconductor industry and represents the majority of American merchant and captive semiconductor producers. I much appreciate the opportunity to be heard today, and I will just briefly summarize my remarks.

S. 2094 represents a very important measure for our industry; in our view it is a carefully constructed package of measures which should be viewed as an integrated whole in dealing with the problems which the high technology industries face in international competition. That includes the limited tariff cutting authority in section 8(c) which we view as a necessary part of a focused, coordinated approach to these problems.

Mutual elimination of U.S. and foreign tariffs on these high technology products is in the interest of the United States and its high technology industries as well as foreign countries making these products, although these countries don't always recognize that fact.

World markets are necessary for these products, and the rest of the world is growing even more rapidly than the United States is in these product areas. The European Community has a 17-percent tariff. While it often suspends that tariff, it doesn't in all cases; and there will come a time when it will be very important to the European industry to have that tariff reduced. The result of the European tariff has been to make the Europeans fundamentally noncompetitive internationally. It is self-destructive from their point of view, and it is an inhibition to trade from our point of view.

In the case of Japan, we have made major progress through the use of section 124 authority. The United States negotiated with Japan in acceleration of the Tokyo round cuts. We have tariff parity with Japan at this time. In our view that is just a first step; it does not go far enough.

We had asked that the agreement include a commitment by the Japanese Government that vigorous two-way trade in high technology products is in both countries' interests and that the tariff agreement was a first step to full trade liberalization. The Japanese Government refused to accept that commitment and said that it would have represented a major policy change for them that they could not accept.

Any level of tariff protection is a signal to the Japanese industry that it is still being treated as an infant industry, which is a misnomer completely. It is regrettable, and the tariff should be removed. The tariff is not our major problem with Japan, by any means, but its removal is part of the ultimate solution.

The tariff cutting authority in S. 2094 is a limited one. It is tailored to the needs of the high technology industries. The Computer & Business Equipment Manufacturers Association as well as the Semiconductor Industry Association strongly favor it. It will be a necessary part of putting together any agreement that is reached in this area.

Foreign governments have no problem recognizing the importance of the high technology sector. The Danforth bill, S. 2094, takes a major step in the direction of having the U.S. Government recognize the importance of this area.

We can't afford to allow foreign competitors to operate from closed, protected home bases and on a principle of "what is yours is mine, and what is mine is mine." What we are looking for is the creation of a level playing field in which we can compete fairly and openly.

I would add, Mr. Chairman, that the Semiconductor Industry Association also supports the extension of the section 124 authority—the 20-percent tariff cutting authority—although it does not go far enough. It does not contain the authority we would need for our industry. If it makes things procedurally smoother, we would be happy to see the tariff cutting authority that we seek passed separately, as a separate bill.

Thank you.

Senator DANFORTH. Thank you very much, Mr. Wolff.

[The prepared statement of Alan Wolff follows:]

TESTIMONY OF ALAN W. WOLFF

Mr. Chairman, I am Alan Wolff, Washington Counsel to the Semiconductor Industry Association. Chartered by six U.S. semiconductor manufacturers in 1977, SIA currently has a membership of 54 companies and represents the majority of merchant and captive producers of semiconductors in matters of trade and governmental policy. I appreciate the opportunity to be heard today.

SIA has played an active role in communicating to the government the problems facing the U.S. high technology industries, and in helping to formulate the approach to solving those problems which is incorporated in your proposed legislation, S. 2094. This bill represents a carefully constructed package of measures concerning high technology which will, we believe, provide useful tools to deal with problems of high technology trade and investment. I am here today to emphasize the importance of preserving the limited tariff-cutting authority in Section 8(c) as a necessary part of a focused, coordinated approach to those problems.

SIA has testified on a number of occasions, addressing the broader concerns of this industry. You may recall the testimony of Jerry Sanders, President of Advanced Micro Devices, before this subcommittee on May 6, expressing SIA's support for your efforts to insist upon a more aggressive U.S. policy in favor of elimination of foreign barriers to U.S. trade and investment. Our member companies seek full access to the protected home markets of our major competitors. Tariffs are a part of this broader problem.

Mutual elimination of U.S. and foreign tariffs on certain high technology products is in the interest of the United States and its high technology industries. It is a logical and essential element of the broader goal of obtaining maximum openness of international markets to high technology trade and investment.

Nothing short of complete access to foreign markets -- of which tariff elimination is an integral part -- will allow U.S. high technology companies to survive. The continued viability of the United States semiconductor industry hinges on the openness of international markets to our companies and to their products. The focus of these companies' production and marketing is of necessity on the global market, and maximum access to that market is absolutely crucial.

The impact of tariffs on U.S. semiconductor trade is most evident in the case of the European Community. The Community maintains a 17% duty on semiconductors and refused to negotiate any significant reduction in that rate during the recently concluded Tokyo Round of trade negotiations. This high tariff barrier--a misguided effort to protect the European industry--has helped to isolate the European market. The result is that the European industry is not fully competitive. With declining competitiveness will come demands for additional protection through rules of origin, restrictive procurement practices and investment related trade restrictions.

In the case of Japan, progress has been made in reducing the Japanese tariff, but more can be done. Last year, the Japanese tariff was over 10% while the U.S. tariff was 5.6%. By using the residual tariff authority of § 124 (an authority that has since expired), it was possible for the U.S. Government to conclude an agreement with Japan to reduce both the Japanese and U.S. tariffs to 4.2% in April of this year. For the U.S. industry, that reduction netted as much as $200 million in additional revenue which is now being used to finance the research and development needed to maintain U.S. technological competitiveness.

The agreement with Japan was a first step, but it did not go far enough. SIA wanted that agreement to include a commitment by the Japanese Government that vigorous two-way trade in high technology products is in both our countries' interests and that the tariff agreement was a first step toward complete liberalization of trade and investment in high technology products. The Japanese Government refused to accept such a commitment, noting that such a major policy change could not be adopted at that time.

In fact, any level of tariff protection in Japan is a continuing signal to the Japanese industry that protection can and will be provided to the Japanese industry under the guise of protecting an infant industry. By advocating the reduction and eventual elimination of tariffs, the United States would make much clearer its position that foreign government policies of unfair protection and promotion of industries as competitive as those of our trading partners are inappropriate and will not be tolerated. With the Japanese semiconductor industry claiming 70 percent of the world market share for the 64 K RAM--the state of the art memory component for computers, word processors, etc.-- the United States can no longer afford to ignore such policies which masquerade as infant industry protection. It is precisely with regard to products such as this that tariff elimination is called for. It would appear to be consistent with stated U.S. policy to eliminate vestiges of protectionism, and to encourage others to eliminate them, when the opportunity arises.

The drafters of S. 2094 have recognized the elimination of existing tariffs as an important objective of the United States -- both in real terms and as a symbol of a more comprehensive commitment to liberalization on the part of our trading partners. Section 5 of the bill lists as a negotiating objective "the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services."

The tariff-cutting authority in S. 2094 would provide necessary bargaining leverage in negotiating away existing foreign tariffs and other barriers. Moreover, to the extent that the United States maintains tariffs on semiconductors and related products, the reduction or elimination of those tariffs would lower the cost to the consumer of final products such as computers.

The tariff-cutting authority proposed in S. 2094 is a limited one, tailored to the needs of the high technology industries. The authority is limited to seven specific products, and is for a five-year duration only. Moreover, the tariff on each of the items involved is less than five percent.

The chief importance of the tariff-cutting authority, however, stems from its role as an integral and necessary part of a carefully constructed package of legislative measures designed to deal effectively with the whole range of problems in international high technology trade and investment. The elimination of tariffs is part of an orchestrated solution to those problems, the goal of which is maximum openness of international markets to high technology trade and investment. We have seen time and again that a piecemeal approach to free trade will only lead to disputes and disappointment. To eliminate the tariff-cutting authority or to detach it from the other components of the package would lessen the chances of achieving an effective overall solution.

Nothing less than a comprehensive approach to the problems peculiar to high technology is called for. More than any other group of industries, high technology industries are the target of foreign government policies of protection and promotion and of the new forms of nontariff barriers that have given rise to the Danforth bill. High technology companies are increasingly being denied access to world markets. Foreign governments have recognized the importance of high technology industries, and are increasingly promoting those industries through such measures as subsidization, tax incentives, and government-sponsored cooperation in production and research, while protecting them from foreign competition through a variety of tariff and nontariff barriers, investment performance requirements, denial of national treatment, toleration of restrictive business practices, and other trade-distorting measures. The market for integrated circuits and their end use products such as computers, telecommunication equipment, industrial automation equipment and consumer products, are the most dramatic targets of such government policies.

No group of industries has a more direct effect on the national security, defense preparedness, industrial health, overall economic vitality and international competitiveness of the United States than the high technology industries. By definition, these are the industries investing most heavily in research and development and are the most progressive and highly innovative. These are the products and industries on the frontier of technological progress in a range of areas and product sectors.

High technology industries are affected more severely than most industries by the types of market barriers this bill addresses. The continued viability of many high technology industries, such as the semiconductor industry, is largely contingent on the ability of producers to compete on a global scale. We need open international markets because of the size and distribution of the world market, because of the nature of our production process, and most importantly, because of the available economies of scale and our need for investment capital.

Foreign markets account for half of the total value of semiconductors consumed worldwide. This fact alone underscores the importance of these markets for American firms. Of total worldwide consumption of $15 billion dollars worth of semiconductors in 1981, $9 billion represents foreign markets. Of these, the fastest-growing foreign market--those of the EC and Japan--are not fully open to us. We cannot allow the foreign competitors to operate on a "what is mine is mine and what is yours is mine" basis. We need the volume represented by these markets in order to stay on the learning curve and capture cost efficiencies. We need to compete on an equal basis in those markets with domestic producers.

The availability of a large market is a critical requirement for success in our industry. The fundamental economics of our industry revolve around the cost economies and experience gained by volume production. A loss in world market share will result in a loss of international competitiveness for the U.S. semiconductor industry, and in a loss of U.S. international competitiveness across a whole range of advanced products. Decreased market share lowers our profits, adversely affecting research and development funding. That means a slower rate of new product discovery and development. which will mean a further loss of market share.

Supporters of S. 2094 have recognized that a specialized focus is called for. The negotiating leverage provided by the limited tariff-cutting authority proposed may play a role in determining whether the objectives of the United States in this area are achieved.

I also want to emphasize that this authority for semiconductors would complement the broader negotiating authority in S. 1902, which SIA fully supports. S. 1902 would extend the

President's residual tariff-cutting authority under which he can reduce tariffs by up to 20% of the existing rate. Because our objectives of eliminating tariffs on semiconductors cannot be achieved under S. 1902, we urge the Committee to view these proposals as complementary, but not interchangeable.

It is rare that any industry comes before a congressional committee and asks for completely free and open trade. Our goal is to succeed--as did the aircraft industry in the Tokyo Round--in achieving a much greater degree of openness in world trade. We want to see international competition in semiconductor trade take place on what has been called "a level playing field."

Mr. Chairman, I thank you for the opportunity to testify before your committee today.

Senator DANFORTH. Mr. Wolff, as you know, the Finance Committee has already acted on this. The problem is a constitutional problem of whether it could be attached to a Senate bill. Obviously the reciprocity bill is a Senate bill, so what we are probably going to have to do on this is get it on a House-passed vehicle. But, as far as I know, there is absolutely no controversy on this legislation.

Mr. WOLFF. Well, we would hate to see this get lost in the shuffle. [Laughter.]

Senator DANFORTH. Knowing you, you will not let it get lost in the shuffle. [Laughter.]

I have no worry about that.

Mr. WOLFF. The Danforth bill, as introduced in the House, which bears another person's name, I understand, deletes the tariff authority because the sponsor would like to see broader tariff authority enacted. That is probably politically unrealistic, however.

Senator DANFORTH. We will do our best in one form or another to get this legislation passed.

Mr. WOLFF. Thank you very much.

Senator DANFORTH. Next, on H.R. 4566, are John Mulligan and Herbert Harris.

Mr. Mulligan, would you like to go first?

Mr. MULLIGAN. Yes.

STATEMENT OF JOHN P. MULLIGAN, PRESIDENT, TUNA RESEARCH FOUNDATION, INC.

Mr. MULLIGAN. Thank you, Mr. Chairman.

I'm John Mulligan, and I represent the domestic tuna processors. Our members have a very legitimate and critical concern with section 2 of H.R. 4566.

When the tuna tariffs were originally set, the water packed tuna was a small dietetic-type pack. In the last several years the popularity of water-packed tuna has grown substantially, and it's now close to 40 percent of our domestic market production.

As American consumers grow in their consciousness of health, diet, and physical fitness, the importance of the domestic production in markets for water-packed tuna increases. Instead of changing the current method of calculating the imports against the quota for water-packed tuna, Congress should, in our judgment, be considering an increase in the tariff for water-packed tuna to a level that will insure that domestic tuna processors remain competitive.

Another point that we wish to bring to the attention of the committee is that we are quite confused over the basis on which the Census Bureau, the Customs Service, and the National Marine Fisheries Service actually calculate the quota. The 109 million pounds, in our judgment, is in excess of what represents 20 percent of the domestic pack. Their figures don't seem to agree. We are in the process of trying to work this out with them now, and none of them seem to agree in terms of what figures to use.

There is also a strong commitment to support the economic stability and well-being of our territories and possessions. I have made reference in my prepared statement to the Senate Finance

Committee report when they were deliberating the Trade Act of 1974, and we feel the change of status quo in the present system of calculating the import quota would be, in effect, a change in our policy toward American Samoa.

Another point that we wish to bring to the attention of the committee is that each time we move away from our responsibilities to protect and enhance the domestic fishery productions it adversely affects the U.S. balance of trade. We have been given preliminary Government figures for 1981 which indicate a fishery products deficit of about $3 billion, and any adjustment in the tariff rate quota structure which is incurred as foreign imports of canned tuna in water will only increase the U.S. imbalance of trade.

Finally, Mr. Chairman, we wish to point out that the United States has developed a harvesting and processing technology and marketing capability that has made processed tuna available to over 80 percent of American households. We possess the largest market for processed tuna in the world, and section 2 of H.R. 4566 will place the domestic tuna industry certainly at a more competitive disadvantage. We therefore urge the committee to delete section 2 of H.R. 4566.

This concludes the summary of my prepared statement, Mr. Chairman.

Senator DANFORTH. Thank you.

[The prepared statement of John P. Mulligan follows:]

STATEMENT
JOHN P. MULLIGAN
President
Tuna Research Foundation, Inc.
Before
Senate Subcommittee on International Trade
July 21, 1982

My name is John P. Mulligan, President of the Tuna Research Foundation, Inc. ("TRF"). TRF is a non-profit organization with headquarters at 1101 17th Street, N. W., Washington, D. C. Our members, United States processors of tuna, are particularly troubled by Section 2 of the proposed legislation, H.R. 4566, whereby shipments of canned tuna products into the United States from American Samoa are to be excluded in determining the extent to which the quota is filled. The quota is determined on the basis of 20 percent of the previous year's domestic pack. This year's quota has been determined to be 109,742,200 pounds.*/ This means that shipments of imported canned tuna products may enter the U.S. under TSUS item 112.30 at a rate of 6 percent ad valorem up to that quota level; imported canned tuna products entering over this amount under TSUS item 112.34 will enter at a higher rate of 12.5 percent ad valorem. Shipments of American Samoa canned tuna products enter the United States outside the Customs district and are identified under TSUS item 112.30 which is counted against the import quota.

*/ 47 Federal Register 25433 (June 11, 1982).

Our members have a significant economic interest and a legitimate concern regarding this legislation because they pack over ninety percent of the canned tuna which is produced in the United States and its territories and possessions. A list of our members and the geographic location of plants is attached as Appendix A to this statement.

We strongly oppose this legislation for the following major reasons:

- Excluding the American Samoa tuna pack from contributing to the level of the import quota will permit more imported product to enter the U.S. market.
- Increased levels of imported canned tuna products will be contrary to long-standing Congressional intent to develop and strengthen our domestic fishing industry.
- The importance of the tuna processing industry to the economic stability and wellbeing of American Samoa and Puerto Rico.
- The proposed legislation is contrary to U.S. trade policy with respect to the aspects of a protective tariff rate quota system.

The following reasons outline why we oppose Section 2 of H.R. 4566:

1. Foreign imports have grown steadily. In 1980, 63.5 million pounds of tuna were imported into the U.S. In 1981, there was an increase to 71 million pounds. This represents a total of 3.5 million cases of imported canned tuna products which is a 12% share of our domestic market. Imports entered against the quota through July 7, 1982, totaled over 80 million pounds. At the moment, the quota is about 74% filled, and if present import rates continue, it is estimated the quota will be filled in September. At this time nearly 5 million cases of canned tuna will have entered the U.S., approaching nearly a 20% share of our domestic market.

2. The U.S. tuna industry, known for years as the world's most technically advanced and most successful, is struggling to survive the worst economic crisis in its 80-year history. The depressed national economy and dramatically increased foreign competition have hard hit the industry. Some tuna plants have been closed on an indefinite basis while others are temporarily shutting down, thus idling thousands of workers.

It has been a long-standing policy of the Congress to promote the domestic fishing industry. The industry has experienced new growth and development since the passage of the Fisheries Conservation and Management Act of 1976. According to the Annual Summary for 1980 of Fishery Statistics of the U.S., the total value of fishery products canned in the 50 states, American Samoa and Puerto Rico was $1.95 billion; of this,

$1.8 billion was for human consumption. Tuna and tuna-like fish canned production was valued at $1.15 billion. This represented 64% of the value of all canned fish and shellfish for human consumption and over 70% of all canned fish -- excluding canned shellfish. This relates closely to the 65% tuna share of U.S. annual per capita consumption of all canned fish and shellfish shown in Department of Commerce Fisheries of the United States 1980 - (Current Fishery Statistics No. 8100). However, now the hard economic times are telling in our industry; the total U.S. light meat tuna pack through March first was 19% less than last year, and the cheap and the unfair competition from foreign producers is exacerbating the difficulties of the industry.

Unlike other foreign imported products competing in our domestic markets, foreign produced canned tuna is not packed under the same quality and safety standards as our own domestic products. As you well know, the U.S. tuna industry is one of the most heavily regulated industries in this country -- from marine environment protection laws, fair and safe employment standards to food and consumer safety and protection laws. The U.S. tuna canners maintain one of the highest standards for food safety, quality and working conditions. Foreign products in our market place are not regulated with the same standards for quality and safety. Nor do foreign producers maintain comparably safe and equitable working conditions. Many do not meet our fair labor standard laws, OSHA, and other costly U.S. regulations concerning worker safety, health and welfare. Not only is it cheap labor, but the importers are competing at unfair advantages.

In a recent letter to Senator Dole, Congressman Fofo Sunia from American Samoa wrote:

> "Importers of foreign processed tuna have taken advantage of the tuna industry's economic crisis and have accelerated their importation of tuna products into the U.S. market thereby aggravating the financial plight of tuna canners. There is evidence in the market place that some importers are undercutting the domestic price structure by informing their buyers in the U.S. that they will discount their tuna products in order to offset the increase in the tariff rate from 6 percent to 12.5 percent."

3. The tuna processing industry in American Samoa and Puerto Rico is the backbone of their Island economy. With respect to American Samoa, it is their one and only private industry. If canned tuna from foreign countries is allowed to enter the U.S. in increasing proportions, the industry will be substantially reduced in American Samoa and Puerto Rico. The industry's contributions in forms of tax payments to these local governments, wages to native Samoans and Puerto Ricans, and purchases of local goods and services will diminish and the economic stability of the Islands will be weakened.

On May 24, 1982, Congressman Sunia of American Samoa wrote to Senator Dole as Chairman of the Senate Finance Committee to express his deep concern over passage of H.R. 4566. Attached to this statement as Appendix B is a copy of Congressman Sunia's letter.

In the fiscal year 1981, $15.5 million was generated from local sources in American Samoa. Two-thirds or $10.3 million was generated by the activities of the tuna industry. The tuna processors employ 20% of the work force and has increased its employment growth in the last two years by 22% or 7% of the entire work force in Samoa. For American Samoa, therefore, economic growth and stability is synonymous with the tuna processing industry.

Puerto Rico's tuna processing industry produces more than 40% of all tuna canned in the U.S. and represents a vital source of direct and indirect employment for Puerto Rico, which concurrently confronts officially 23% and rising over all unemployment, with real unemployment believed to be about 40%. The tuna industry in Puerto Rico provides 4.2% of the total manufacturing employment and the value of tuna shipped to the mainland in fiscal year 1980 exceeded $355 million or 9% of the total value of shipments to the U.S. Including pet food products from tuna operations the tuna shipments represented almost 14% of all merchandise shipments to the U.S. Taking into account the direct employment of some 6500 employees at an annual payroll of $44.7 million, the multiplier effect on job creation and income is nearly 13,000 jobs and a net income to the economy of $89.2 million.

The island areas of American Samoa and Puerto Rico have progressively increased their contribution to the U.S. production of canned tuna. In 1975, Puerto Rico and American Samoa produced almost half the domestic pack. In 1980, the total island production exceeded 56% of the total U.S. pack.

4. One of the keystones of Congressional support for the growth and economic development of the tuna industry has been the trade and tariff policies. When deliberating the Trade Reform Act of 1974, the Senate Finance Committee expressed dedication to the protection of territorial industries against foreign competition. The Finance Committee report, in part, stated:

> "......The Committee believes that products which are produced in the Commonwealth of Puerto Rico or in the insular possessions of the United States in significant quantities for export to the United States should be excluded from receiving preferences if the grant of such preferences would have a detrimental effect on the economies of Puerto Rico or the territories."

It is one contention that by excluding the American Samoa pack from contributing to the calculations for the import quota, would in effect, allow greater foreign penetration of our domestic market. Thus, it constitutes a preference contrary to the intent expressed by Congress. Further, the tariff rate quota system is designed precisely to prevent the threat of excessive foreign imports to the detriment of domestic industries. Section 2 of H.R. 4566 is an attempt to manipulate the elements used in calculating the basis for the import quota. By excluding the American Samoa pack, more foreign produced tuna will enter the market place and threaten the continued viability of our domestic industry. The protection aspects of a tariff rate quota system is not served by Section 2 of H.R. 4566.

On behalf of this important domestic fishery, we urge your rejection of any amendments with respect to modifying the basis for increasing the foreign import levels of canned tuna products.

Thank you.

APPENDIX A

Tuna Research Foundation, Inc.

SUITE 603
1101 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 296-4630

MEMBER COMPANIES

Bumble Bee Seafoods
50 California Street
San Francisco, CA 94119

Plant Locations

San Diego, California
Honolulu, Hawaii
Mayaguez, Puerto Rico

Neptune Packing Corp.
200 Park Avenue, 39th Floor
New York, N. Y. 10166

Plant Location

Mayaguez, Puerto Rico

Mitsubishi Foods (MC), Inc.
2010 Jimmy Durante Boulevard
Del Mar, CA 92014

Plant Location

Ponce, Puerto Rico

Star-Kist Foods, Inc.
582 Tuna Street
Terminal Island, CA 90731

Plant Locations

Terminal Island, California
Mayaguez, Puerto Rico
Pago Pago, American Samoa

Van Camp Sea Food Company
11555 Sorrento Valley Road
San Diego, CA 92138

Plant Locations

San Diego, California
Ponce, Puerto Rico
Pago Pago, American Samoa

FOFO I. F. SUNIA
AMERICAN SAMOA

COMMITTEE
PUBLIC WORKS AND
TRANSPORTATION

SUBCOMMITTEES
SURFACE TRANSPORTATION
AVIATION
ECONOMIC DEVELOPMENT

COMMITTEE
MERCHANT MARINE AND
FISHERIES

SUBCOMMITTEES
MERCHANT MARINE
FISHERIES WILDLIFE CONSERVATION
AND THE ENVIRONMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON ADDRESS:
1709 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-8577

DISTRICT OFFICE:
P.O. DRAWER "X"
PAGO PAGO, AMERICAN SAMOA 96799
633-1372/633-1376

APPENDIX B

May 24, 1982

Honorable Robert Dole
Chairman
Senate Finance Committee
2227 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

In October of 1981, the House passed H.R. 4566, the Omnibus Tariff and Duties Bill which included a section dealing with canned tuna. This bill is now pending before your Committee. Section II of this measure excluded the shipments from the U.S. Territories, of which American Samoa is one, in determining the extent to which the quota has been filled.

As you know, the tariff rate quota on canned tuna in brine was first imposed by President Eisenhower in 1956 (Presidential Proclamation 3128, Part III). Presently, the duty is 6 percent under the quota and 12.5 percent on the imports in excess of the quota. The quota is based on 20 percent of the previous year's domestic pack (excluding American Samoa). In 1980, the Customs Service began to count imports from American Samoa against the quota with the result that the quota was filled and the higher duty was applied for the first time since 1970.

While H.R. 4566 was moving through the House, I supported it because the economic conditions of the tuna industry were such that it appeared the bill would have little impact on American Samoa. However, in the ensuing year, economic conditions have worsened substantially. In April of this year, a plant in American Samoa announced a shutdown for three weeks.

Honorable Robert Dole'
May 24, 1982 Page 2

Importers of foreign processed tuna have taken advantage of the tuna industry's economic crisis and have accelerated their importation of tuna products into the U.S. market thereby aggravating the financial plight of tuna canners. There is evidence in the market place that some importers are undercutting the domestic price structure by informing their buyers in the U.S. that they will discount their tuna products in order to offset the increase in the tariff rate from 6 percent to 12.5 percent.

The tuna canneries are the major privately-controlled industries in the Territory and therefore, they make a significant contribution to the island's economy. This contribution takes three main forms: tax payments to our local government, wages and salaries paid to employees, and local purchase of goods and services.

Given these facts, I have found it necessary to reconsider the bill and to withdraw previous support. Therefore, I respectfully request that Section 2 of H.R. 4566 be deleted due to the direct and immediate impact it would have on the tuna industry operating in American Samoa.

Sincerely,

Fofo I.F. Sunia
Member of Congress

FIFS:vg

Senator DANFORTH. Mr. Harris?

Mr. HARRIS. Thank you, Mr. Chairman.

I understand the committee rules. I would like to make sure that Mr. Sullivan's statement is filed in toto at this point.

Senator DANFORTH. Who is Mr. Sullivan?

Mr. HARRIS. Mr. Sullivan is the executive vice president of the Association of Food Industries, and it is that group that I am here representing, Mr. Chairman.

Senator DANFORTH. All right.

[The prepared statement of Mr. Sullivan follows:]

STATEMENT
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE, U.S. SENATE
WITH RESPECT TO SECTION 2, H.R. 4566,
RELATING TO THE TARIFF TREATMENT OF TUNA
PACKED IN AIRTIGHT CONTAINERS

By Richard Sullivan, Executive Director, Association of Food Industries

July 21, 1982

Introduction

I am presenting the views of the Association of Food Industries, Inc., a non-profit trade association dedicated to the diverse interests of the international and the domestic food trade. We support Section 2 of H.R. 4566 for the following reasons:

First, it prevents significant inflationary increases in food costs to American consumers;

Second, it eliminates the apperance of unfair manipulation of our trading concessions;

Third, it avoids severe disruption of the marketing structure of a vital food product.

Section 2 of H.R. 4566 achieves these benefits by correcting a classification anomaly which threatens the standard practice of a quarter century. It is a routine bill that remedies a situation that no one intended to occur. The ramifications of failing to enact this bill, however, will be far from routine.

Inflationary Increases in Food Costs to the American Consumer

When radical price increases occur, the American consumer bears the burden. The consumer can either stop buying the over-priced product or shoulder the additional cost. In the case of canned tuna, an importer faced with a doubling of the import duty (which in some cases would more than eliminate the profit margin) can either stop importing tuna, or pass on the increased duty burden to the consumer. In either case, the American public must pay more for canned tuna. The American consumer is actually faced with a double burden: higher tuna prices and the resultant inflationary pressures, which cannot be limited to a particular product line.

The inflationary price increases impact most directly on an important constituent of the American diet -- tuna. Tuna is the most widely enjoyed form of fish protein, yet recent changes in Customs practice threaten the availability of this important part of America's protein intake.

Effect on U.S. Trading Partners

As part of the GATT negotiations in the mid-50's, the U.S. acquired the right to impose additional duties on canned tuna imports in excess of a quota level determined by 20% of the U.S.

canned pack of tuna. Until 1979, imports from American Samoa, a U.S. insular possession, were not included in calculating foreign imports of canned tuna under the quota. However, in late 1979, as a result of an internal Customs Service audit, Customs concluded that the statutory language required that the American Samoa product be classified as a foreign import despite its "Made in U.S.A." label.

It is of no consequence to American Samoan producers whether their product enters the United States above or below the quota as it is duty free in either case. However, for the foreign imports now forced to enter above the quota, the effect is extreme. The Customs Service interpretation drastically modifies the concession granted in the GATT negotiations. Section 2 of H.R. 4566 corrects the anomaly and prevents the appearance of deception.

Disruption of U.S. Commerce

Since the quota system was intiated in 1956, imports of tuna calculated without including the American Samoan product rarely surpassed the established quota. Commerce proceeded normally along established networks of importation and distribution. There was no danger of a surge of imports attempting to beat radical duty increases at year's end.

The Customs Service has, however, added an artifical element to the system. In each year since the Customs Service re-interpreted the quota provisions, the quota has filled before the end of the year, forcing imports in excess of the quota to be assessed the higher duty. In 1980, the quota was filled by December, and in 1981, the quota was reached in October.

Under current interpretation, over 86 million pounds of tuna "imports" entered the U.S. from January 1 to July 15 of 1982. With almost 80% of the tuna quota already filled, it must be anticipated that at the current rate, the quota will fill by early September. All subsequent imports will be subject to the higher duty. However, 31 million pounds of the "imported" tuna were of American Samoan origin, that is, a "Product of the U.S.A." Under Section 2 of H.R. 4566, this quantity of tuna would not be counted against the quota.

The severe disruptive effect that the 1980 re-interpretation has had on a system which had been operating smoothly is as apparent as it is deleterious. Only by the enactment of Section 2 of H.R. 4566 will the recent annual scramble to enter imports before the quota fills be avoided.

Technical Analysis

Attached is a technical analysis of the Customs re-interpretation, its effect and the changes which Section 2 of H.R. 4566 brings about.

Conclusion

Section 2 of the H.R. 4566 garnered widespread support because it seeks to correct an anomaly and restore order in the marketplace. The Administration has recognized the need for this legislation. After approval by "voice vote" in the House Ways and Means Committee, the provision was passed unanimously by the House of Representatives on October 31, 1981. The record indicates that passage by the Senate is in the best interest of the industry, of consumers and of this country.

We therefore respectfully urge the adoption of Section 2 of H.R. 4566.

TECHNICAL ANALYSIS RELATING TO THE TARIFF TREATMENT OF TUNA PACKED IN AIRTIGHT CONTAINERS

July 21, 1982

Introduction

Section 2 of H.R. 4566 is designed to correct a classification anomaly which has had the unintended effect of altering international commitments and imposing a double duty on substantial amounts of tuna entering the United States. The current Customs practice of including canned tuna from American Samoa in determining when tuna "imports" have surpassed the quota results in trade distortions and adverse price consequences for consumers of canned tuna.

In 1956, President Eisenhower imposed a tariff rate quota on tuna packed in airtight containers. Presidential Proclamation 3128. Cans weighing with their contents more than fifteen pounds or packed in oil were excluded. The legal basis for the quota is item 718(b), Part II, Schedule XX of the Protocol of Terms of Accession of Japan to the GATT, which states that:

> The United States reserves the right to increase the rate of duty on fish...which are entered in any calendar year in excess of an aggregate quantity equal to 20 per centum of the United States pack of canned tuna fish during the immediately preceding calendar year...

Imported tuna, prepared or preserved in any manner, not in oil, in airtight containers, is classifiable in TSUS item 112.30 or 112.34. Item 112.30 applies to tuna "in containers weighing with their contents not over fifteen pounds each, for an aggregate quantity entered in any calendar year not to exceed 20 percent of the U.S. pack of canned tuna during the immediately preceding calendar year, as reported by the U.S. Fish and Wildlife Service." Item 112.34 applies to tuna (1) in containers weighing with their contents over 15 pounds each, or (2) which would otherwise be classifiable under TSUS 112.30 except that the quota specified in that item has been filled. The column 1 within-quota duty rate is 6 percent ad valorem, and the respective over-quota duty rate is 12.5 percent ad valorem.

The article description for TSUS Item 112.30 does not specify the source of shipment of canned tuna which counts toward the tariff quota. From 1956 through 1979, the tariff rate quota was computed based on Bureau of Census import statistics. Imports from American Samoa, a U.S. insular possession, were not included in calculating the quota. However, this practice changed in 1980, when quota imports were computed by adding American Samoan-produced canned tuna to the Bureau of Census import statistics. The basis for this change was a June, 1979 memorandum from the Customs Classification and Value Division to the Regulatory Audit Division holding that canned tuna from American Samoa, although labeled "Made in U.S.A.," constitutes imports entered or withdrawn from warehouse for consumption and therefore must be included in the quota computation.

The immediate consequences of the change in Customs Service practice are twofold: first, the quota was filled for the first time in recent years, and second, because more tuna is considered to be "above-quota", more tuna is subject to the higher duty. In 1980, the quota was filled by December and in 1981, the quota was reached in October. All entries subsequent to those dates were subject to the double duty.

The 1982 year-to-date quota statistics are useful in demonstrating the impact of the Customs Service re-interpretation. The Customs Service computes that over 86 million pounds of tuna "imports" had entered the U.S. as of July 15. With almost 80% of the quota filled, it appears evident that at the current rate, tuna imported after early September will be subject to the increased 12.5% duty. However, 31 million pounds of the "imported" tuna is actually from American Samoa, that is "Product of the U.S.A." Under Section 2 of H.R. 4566, this quantity would not be counted against the tuna quota, just as it had not been up until 1980. Thus, the actual level of imports would be some 55 million pounds, far below the quota and in keeping with the intent of the 1956 Proclamation and Trade Agreement.

The 1956 Proclamation did not intend that tuna from American Samoa be included in determining when the import quota was filled. In support of the proposition, the duty treatment of American Samoan tuna must be considered. Products from that country enter duty-free whether above or below the quota. The Customs Service interpretation affects only tuna which is actually "imported" from foreign sources.

H.R. 4566 incorporates 17 tariff and trade bills approved by the House Committee on Ways and Means. Section 2 contains a provision introduced by Congressman Sam Gibbons (D. Fla.) on April 7, 1981, as H.R. 3075, approved by the House Ways and Means Committee and unanimously passed by the House on October 13, 1981. The measure has been incorporated into H.R. 4566 and is now being considered by the Senate Finance Committee. Section 2 of the bill amends the article description for TSUS Item 112.30 to indicate clearly that shipments from the U.S. insular possesions are not to be included in determining the extent to which the canned tuna quota has been filled. The section also amends the description to indicate that the agency responsible for administering the quota is the National Marine Fisheries Service, formerly the U.S. Fish and Wildlife Service.

STATEMENT OF HERBERT E. HARRIS, COUNSEL TO THE ASSOCIATION OF FOOD INDUSTRIES

Mr. HARRIS. May I indicate to the Chair and the committee that the group which has worked together to bring this legislation before you is a little nonplused at this point. Agreement had been worked out, and as the legislation was proposed and moved through the House, no opposition was noted.

We moved through the House committee and before the House with unanimous votes, with the domestic industry understanding the need to correct what we think is an anomaly in the law.

The Chair will recall that in October comments were requested with respect to anyone who might have opposition to H.R. 4566, and the domestic industry at that time, again, failed to express any opposition with respect to this provision.

Mr. Chairman, what is the provision? We have bound, under the Japanese Accession Treaty, a 6-percent tariff rate with respect to imports of tuna up to 20 percent of the domestic pack. Over 20 percent of the domestic pack it is a 12.5-percent duty.

From the time that that binding took effect, tuna from American Samoa was not charged against the quota. As an insular possession, it often bears the notation "product of the U.S.A." It enters the U.S. custom district free of duty. Whether it is below or above quota, as the product of an insular possession, it comes in free of duty.

It was only in 1978 that, because an audit by the Customs Service, an administrative reclassification took place. For the first time in our history we were classifying American Samoan products as "imports." I know it is confusing to the industry as well as to us in this regard, because they refer in their statement to "imports amounting to 80 million pounds of tuna." Mr. Chairman, 30 million pounds of that is from American Samoa.

The notion that we would include free of duty items from an American possession against a tariff quota is totally inconsistent with American trade policy, and an anomaly which should be corrected.

I am going to submit that the American industry agreed with this until very, very recently. I hope that we can go ahead and work it out and that this correction of the anomaly can take place. Otherwise it is going to be very disruptive to the trade.

We are seeing right now, if I could emphasize to the chairman, a situation where, because tuna from American Samoa now, this year, is being charged against a tariff quota, that that level—20 percent of the pack—will probably be reached in September. Obviously that influences the trade very drastically and deleteriously. You will have a rush by importers to get in before the quota closes. This has a market effect that is bad both for domestic producers and for importers as that rush occurs.

When Samoan tuna was not charged against the quota, that situation did not exist, and trade operated in a more normal fashion.

Mr. Chairman, the administration has indicated no opposition to this provision. I think those who are familiar with the trade urgently request you to correct this anomaly in the law to allow the trade to go ahead in the fashion that it always has prior to this

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administrative ruling about a year and a half ago. I think it is in the best interest of this country, I think it is in the best interest of the industry, and it certainly is in the best interest of our trade relations.

I thank the chairman for this opportunity to appear.

Senator DANFORTH. Thank you, gentlemen.

The next witnesses are John Halloran and John Arnesen.

Mr. Halloran, would you go first, please?

STATEMENT OF JOHN E. HALLORAN, PRESIDENT, MACHINE KNIFE ASSOCIATION, PRESIDENT, MICHIGAN KNIFE CO.

Mr. HALLORAN. Mr. Chairman, I am John Halloran, president of the Machine Knife Association and Michigan Knife Co., one of the largest American chipper knife manufacturers.

With me today are Bill McKillip of Oregon and Herb Katanos of New York, officers of R. Hoe & Co., one of the oldest chipper knife manufacturers. We are here to urge you to support section 4 of H.R. 4566, which passed the House of Representatives last fall without opposition.

H.R. 4566 would equalize the rate of duty on our raw material, chipper knife steel, with the rate of duty on foreign-manufactured chipper knives. This legislation, which the House considered noncontroversial, merely extends the temporary duty reduction on the chipper knife steel Congress enacted in 1980, and does so in the manner suggested by the Reagan administration.

Before going further I would like to show you a typical chipper knife. It is used in heavy machinery to chip trees into wood chips and wood fiber. The special alloy tool steel used to manufacture chipper knives is not produced in the United States at prices, quantities, and quality to meet the requirements necessary for U.S. knife manufacturers to compete against foreign imported finished knives.

Mr. Chairman, I have been coming to Washington repeatedly during the past 6 years with the same problem and message, that there is not a consistent, stable, and adequate domestic supply of chipper knife steel, and that we are forced to purchase our raw material overseas to obtain the lowest possible prices enabling us to compete with imported knives.

My recent attempt to obtain chipper knife from eight capable domestic sources merely confirms that first, no domestic company is willing to make a long-term commitment to my industry; second, no domestic company is attempting to become competitive with overseas suppliers, regardless of protectionary duties; and third, no domestic company is willing to accept the quality specifications necessary for American knife manufacturers to compete.

Mr. Chairman, in 1980 this committee investigated the serious problems facing our industry and decided the solution was to equalize the duties on chipper knife steel and imported chipper knives. Unfortunately, that relief expires on September 30 of this year.

H.R. 4566, on the other hand, provides our industry with long-term relief, making the duty equalization permanent, allowing us to invest in our future.

Only a few companies have opposed H.R. 4566, none of which currently supplies or has recently supplied more than a small quantity of chipper knife steel. What these companies and this committee must understand is that if the duty on chipper knife steel returns to its former levels, domestic steel companies will not sell more chipper knife steel, they will sell less. The high duty on chipper knife steel actually helps the foreign knife manufacturers which have dominated our markets.

For us the choice is not between foreign steel and domestic steel; it is between purchasing the raw material at the best possible terms or following the path of many chipper knife manufacturers who have closed their plants, moved production overseas, or become distributors of foreign-produced imported finished knives.

Mr. Chairman, it appears the domestic specialty steel industry does not dispute the fact that they are not competitive. Instead they complain that foreign steel suppliers are subsidized and are dumping their products in the United States. In response, let me make one thing very clear: I do not represent foreign steel interests. I am the president of an American knife company and the president of an association of American knife producers. I am in no position to speak on the issue of dumping and subsidization raised by the domestic steel industry. However, I would point out that the smokescreen the steel industry is raising should not cloud the fact that if H.R. 4566 is not enacted it will not hurt foreign steel companies. It will hurt American knife manufacturers, depriving this country of jobs.

If the duty on chipper knife steel returns to its former levels, foreign steel companies will supply foreign knife manufacturers who will export finished knives into the United States.

By comparison, chipper knife steel is not important to the domestic steel industry. Why, it only represents at most two-tenths of 1 percent of the total specialty steel production, and only 1 or 2 percent of total specialty steel imports.

Mr. Chairman, we are dealing here with our lives and careers. Please do not let the specialty steel industry cast off us as a symbolic gesture. I ask that you let us survive, compete, and create American jobs by supporting section 4 of H.R. 4566.

Thank you.

[The prepared statement of John Halloran follows:]

Statement of John E. Halloran

Mr. Chairman, my name is John E. Halloran. I am the current president of the Machine Knife Association, which represents ten companies from around the country that are engaged in the manufacture and sale of machine knives for the wood industry. A list of our members and the locations of their facilities is attached to my statement as Attachment 1.

I am also president of Michigan Knife Company, which is probably the largest American manufacturer of chipper knives. We have facilities in Big Rapids, Michigan, and Springfield, Oregon.

As president of the Machine Knife Association and as president of Michigan Knife Company, I strongly urge you to take swift affirmative action on Section 4 of H.R. 4566, which would permanently reduce the rate of duty on chipper knife steel.

Chipper knife steel is a special analysis of alloy steel which is used solely to manufacture wood chipping knives for the pulp, paper and forestry industries. The domestic specialty steel industry has had the benefit of high protectionist duties on chipper knife steel for years. Yet American knife manufacturers have experienced great difficulty obtaining more than small portions of their chipper knife steel requirements from domestic sources. The domestic supply of chipper knife steel has been inconsistent, high-priced, and of uneven quality.

There has been repeated testimony before Congress to the inadequate domestic supply of chipper knife steel. As an example, I refer you to the statement submitted to this Committee on

November 6, 1981. But further evidence comes from the results of my recent attempt to obtain chipper knife steel from domestic sources

On May 26, 1982, I sent formal inquiries to eight domestic specialty steel producers, including every domestic company known to have produced chipper knife steel at any time within the past ten years. Most of these firms made no response. Only two firms were willing to offer any price quotations or other specifications. No domestic firm was able or willing to offer prices or terms that are competitive with foreign sources of chipper knife steel -- regardless of whether or not the rate of duty on imported chipper knife steel is 12 percent. */ My inquiry and some of the letters I received in response to it are attached to my statement as Attachment 2.

My recent experience merely confirms that:

1. No domestic company is willing to make a long-term commitment to supply my industry;
2. No domestic company can offer prices or terms that are competitive with our foreign suppliers, regardless of duty; and

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*/ Michigan Knife Co. is prepared, on request and on a confidential basis, to submit to the Committee evidence of the prices it pays for imported chipper knife steel.

3. No domestic company is willing to accept the quality specifications we believe are necessary for our product.

Domestic chipper knife steel is not only more expensive and its supply less consistent than foreign raw material, it has also caused American knife manufacturers far greater quality problems than imported chipper knife steel. As evidence of these quality problems I have attached to my statement, as Attachment 3, several letters complaining about such quality problems.

The greater quality problems caused by domestic chipper knife steel translate into higher costs of manufacturing for American chipper knife manufacturers. For instance, domestic chipper knife steel typically is not manufactured to the same tolerances as the foreign steel we purchase. As a result of such "oversize" problems, we must expend extra labor -- at extra cost - to make a knife with American chipper knife steel. Consequently, the effective prices of domestic chipper knife steel -- after taking into acount quality problems such as unusable product or failure to meet tolerances -- is even higher than their quoted prices, and just that much higher than the prices of imported chipper knife steel.

The crux of the problem facing American chipper knife manufacturers is that the permanent rate of duty on chipper knife steel, which would take effect after the current temporary duty reduction expires in September 1982, is more than 10 percent, whereas the permanent rate of duty on finished chipper knives, against which American manufacturers must compete, is less than 5 percent.

Chipper knife steel constitutes the predominant cost of manufacturing chipper knives. Therefore, even a minor difference in duties between the steel and the knives would offer a competitive advantage to our foreign competitors. But a duty discrepancy of almost 250 percent has almost crippled the American chipper knife industry, causing more than a dozen American knife manufacturers to leave the chipper knife market, to move their production facilities abroad or to become distributors of imported knives.

In 1980, after thorough investigation, the Congress decided that the solution was to equalize the rates of duty on chipper knife steel and imported chipper knives. Unfortunately, that relief expires on September 30, 1982.

H.R. 4566, on the other hand, would permanently equalize the rates of duty on chipper knives and chipper knife steel. A schedule of staged reductions in the rate of duty on chipper knife steel was incorporated into H.R. 4566 by the House Ways and Means Committee upon the suggestion of the Reagan Administration and the U.S. Department of Commerce. A copy of the Commerce Department's comments to the Ways and Means Committee is attached to my statement as Attachment 4.

The American knife industry needs permanent duty relief. In making plans for the future, knife manufacturers cannot depend upon a series of short-term duty reductions. American chipper knife manufacturers will not make substantial investments in future production capacity unless they can plan upon a consistent supply of reasonably priced raw material.

Enactment of H.R. 4566 will do no harm to the domestic specialty steel industry. To begin with, chipper knife steel is itself insignificant to the domestic specialty steel industry, accounting for, at most, only about 2/10 of 1 percent of total specialty steel production and only about 1 or 2 percent of total specialty steel imports. Chipper knife steel is not a major product line for any domestic steel company.

However, equally important is that domestic steel companies will sell <u>less</u>, not more, chipper knife steel if duties on chipper knife steel are allowed to rise to their former levels. A high duty on chipper knife steel only helps foreign knife manufacturers take over our markets. The choice for American knife producers is not between foreign and domestic steel. The choice is between getting our raw material at the lowest possible price -- including the lowest possible duty -- or following the path of the more than a dozen American knife manufacturers who have closed their plants, moved production overseas or become distributors of foreign-produced knives. Unless the American knife industry is allowed to prosper, there will be no industry to purchase either imported or domestic chipper knife steel.

American knife manufacturers have paid millions of dollars in protectionist duties over the years. The result has been fewer American knife companies and no tangible improvement in the ability of the domestic specialty steel companies to serve those that remain.

The problems created for American chipper knife manufacturers by the inadequate and inconsistent domestic supply of chipper knife steel have been thoroughly examined by the United States International Trade Commission (in 1977), the Executive Branch's Trade Policy Committee (in 1977 and 1978), and the Congress (since 1979). The result has been a special Presidential Proclamation to exempt chipper knife steel from the specialty steel quotas then in effect in 1978 and temporary legislation to reduce the rate of duty on chipper knife steel in 1980.

We urge you to endorse a final solution to this matter by approving H.R. 4566 in the form passed by the House of Representatives.

ATTACHMENT 1

CHIPPER KNIFE MANUFACTURERS AND
MEMBERS OF THE MACHINE KNIFE ASSOCIATION
WHO SUPPORT H.R. 4566

Bolton-Emerson, Inc.
Lawrence, Massachusetts
Philadelphia, Pennsylvania
Seattle, Washington

Detroit Edge Tool Company
Detroit, Michigan

Disston, Inc.
Greensboro, North Carolina
Seattle, Washington

Hannaco Knives & Saws, Inc.
Monroe, Louisiana
Greenville, Mississippi
Eugene, Oregon
Florence, South Carolina

Lancaster Knives, Inc.
Lancaster, New York
Portland, Oregon

Michigan Knife Company
Big Rapids, Michigan
Springfield, Oregon

The Ohio Knife Company
Cincinnati, Ohio
Portland, Oregon

R. Hoe & Co., Inc.
Birmingham, Alabama
Scarsdale, New York
Portland, Oregon

Simmonds Cutting Tools
Chicago, Illinois
Shrevesport, Louisiana
Fitchburg, Massachusetts

The Wapakoneta Machine Company
Wapakoneta, Ohio

MACHINE KNIFE ASSN.
Thomas D. Dolan
Executive Secretary
Machine Knife Association
800 Custer Avenue
Evanston, Illinois 60202
312-864-8444

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-4858
TWX NO. 8102928793

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774
TWX NO. 9104592031

"The Knife People"

The attached letter was sent to the following:

Jessop Steel
Washington, PA 15301
Attn: Lloyd Susini

Bethlehem Steel
701 E. Third Street
Bethlehem, PA 18016
Attn: Donald Williams

Al Tech Specialty Corporation
Willowbrook Avenue
Dunkirk, NY 14048
Attn: Sales Manager

Ingersol Johnson Steel Company
2400 E. Devon Avenue
Des Plaines, IL 60018
Attn: George Stam

Gutrel Steel Corporation
695 Ohio St., Box 509
Lockport, NY 14094
Attn: Sales Manager

Crucible, Inc.
Specialty Metals Division
Box 977
Syracuse, NY 13201
Attn: Sales Manager

Universal Cyclops
24800 Plymouth Road
Detroit, MI 48239
Attn: Sales Manager

Carpenter Steel
Reading, PA 19603
Attn: Sales Manager

Michigan Knife Co.

120 Pere Marquette St.
Big Rapids, Michigan 49307
Phone (616) 796-4858
TWX NO. 8102928793

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774
TWX NO. 9104592031

"The Knife People"

May 26, 1982

Subject: 1983 A_8 Modified Steel Requirements

Michigan Knife is requesting your participation in offering us your best price and quality A_8 modified steel as per our attached specification sheets.

Michigan Knife Company uses approximately 2 million pounds of this material in various crossectional rectangular shapes (list of standard sizes attached). We are accustomed to ordering no less than 2000#/size and many sizes are ordered in 20,000 and 40,000# lots.

We will accept the product of a heat, and can speculate on future size requirements with release dates enabling you to better prepare your production requirements.

It is our request that all sizes be priced at the same price per pound and a firm 12 month price F.O.B. Big Rapids be offered.

I would appreciate hearing from your firm by June 16, 1982 if you feel you are in a position to participate.

Very truly yours,

John E. Halloran
President

JEH/ss
enclosure

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-7602 or 4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

AISI A8 MODIFIED

CHIPPER KNIFE STEEL

MATERIAL COMPOSITION: Grade A (Medium C - Medium Chrome, Tungsten, Vanadium, & Moly)

	Aim	Range
Carbon	.50	.48 - .55 (.45 - .55)
Silicon	.85	.75 - 1.00
Manganese	.30	.30 - .50
Tungsten	1.40	0 - 1.75
Chrome	8.00	7.25 - 8.75
Vanadium	.35	.20 - .55 (.35 Max.)
Moly	1.50	1.25 - 1.75

FORM: Bar - 14/16 Foot Random Length

APPLICATION: An air-hardening, non-deforming tool steel, developed for minimum distortion during hardening and hot straightening is permissible. This tool steel has very good shock resistant and wear resistant properties. This steel's primary use is chipper knives.

HARDNESS: As received hardness shall be Brinell 180-229. RB 99 Max.

TOLERANCES: Tolerances shall be Commercial AISI tolerances on width, thickness, and camber. (see attached tables)

CONDITION:
1) Material shall be supplied hot rolled and annealed to Brinell hardness specifications.
2) Fine grain #5 to #8.
3) Physical - 4,000 lb. maximum per bundle (as shown on attached sketch)
   Oil free
   Metal straps - No wooden boxes

MANUFACTURE:
1) The tool steal shall be made by the electric furnace.
2) Sufficient discard shall be taken from each ingot to insure freedom from piping and undue segregation.
3) Ingots shall be reduced in cross-section sufficiently and in such a manner as to assure proper refinement of the structure in the finished product.
4) Macrostructure in the annealed condition, after etching shall exhibit a uniform and dense structure, free from excessive porisity, slag, dirt, pipes, cracks, and other injurius defects.
5) Microstructure of a longitudinal section in the spheroidized annealed condition after polishing, etching, and examination at 750x shall show carbides well broken-up and evenly distributed.
6) Hardened fracture shall show a surface of uniform texture and no harmful defects such as segregation, laminations, cracks, splits, pipes, and seams.
7) Decarburization in the as received annealed condition as checked on a micro specimen shall not exceed standard AISI tolerances.

Michigan Knife Co.

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"The Knife People"

SIZE REQUIREMENTS

+.040 + .016 Acceptable Rec'd Raw Size Under 5 Inches In Width	+.050 + .016 Acceptable Rec'd Raw Size Over 5 Inches In Width	Size to Finish
.217 / .233	-----	.187
~~.285~~ / ~~.301~~ .306	-----	.250
.352 / .368	-----	.312
.415 / .431	.425 / .441	.375
.477 / .493	.487 / .503	.437
.540 / .556	.550 / .566	.500
.602 / .618	.612 / .628	.562
.665 / .681	.675 / .691	.625
.727 / .743	.737 / .753	.687
.790 / .806	.800 / .816	.750
.853 / .869	.863 / .879	.813
.915 / .931	.925 / .941	.875
.978 / .994	.988 / 1.004	.938
1.040 / 1.056	1.050 / 1.066	1.000
1.165 / 1.181	1.175 / 1.191	1.125
1.290 / 1.306	1.300 / 1.316	1.250

Manufacturers of Quality Chipper, Counter, and Other Wood Related Industrial Knives/Products

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-7602 or 4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

October 25, 1978

RAW MATERIAL SIZE

(All sizes are stated in finished dementions)

.187 x 1.59
.187 x 2
– .187 x 2.165
.187 x 2 1/2
3/16 x 2 1/2
.187 x 2 15/16
.197 x 2.4
.200 x 3
– .225 x 3.950
.235 x 2.165
.235 x 3 3/4
– .235 x 3.937
.315 x 2.165
.315 x 2.4
3/16 x 2
3/16 x 3
3/16 x 3 5/16
3/16 x 3 3/4
1/4 x 1 3/8
1/4 x 1 3/4
1/4 x 2
1/4 x 2 1/2
– 1/4 x 3
1/4 x 3 3/8
1/4 x 3 7/16
1/4 x 3 1/2
1/4 x 3 3/4
– 1/4 x 4
– 1/4 x 4 1/2
1/4 x 4 9/16
– 1/4 x 5
5/16 x 2 5/8
5/16 x 3 3/16
5/16 x 3 1/4
5/16 x 3 7/16
5/16 x 4
5/16 x 4 1/32
5/16 x 4 1/2
5/16 x 4 9/16
5/16 x 5
3/8 x 5/8
– 3/8 x 1
3/8 x 1 1/2
3/8 x 2 1/2
3/8 x 2 5/8
3/8 x 2 3/4
– 3/8 x 3
3/8 x 3 1/4
3/8 x 3 3/8
3/8 x 3 1/2
3/8 x 3 3/4
– 3/8 x 4
3/8 x 4 3/16
3/8 x 4 1/4
.375 x 4 1/4
3/8 x 4 3/8
– 3/8 x 4 1/2
3/8 x 4 7/8
– 3/8 x 5
3/8 x 5 1/2
3/8 x 5 5/8
3/8 x 5 3/4
– 3/8 x 6
3/8 x 6 1/2
.437 x 2 5/32
– .450 x 2 3/8 SS
– .450 x 2 5/8 SS
– .450 x 3 1/16 SS
– .450 x 3 5/8 SS
7/16 x 2 1/4
7/16 x 3 3/8
7/16 x 3 3/4
7/16 x 4
7/16 x 4 7/8
7/16 x 5
7/16 x 7 1/2
1/2 x 1 1/2
– 1/2 x 1 3/4
1/2 x 2
1/2 x 2 1/8
1/2 x 2 3/16
1/2 x 2 1/4
1/2 x 2 3/8
1/2 x 2 7/26
1/2 x 2 1/2
1/2 x 2 5/8
1/2 x 2 9/16
1/2 x 2 11/16
1/2 x 2 3/4
– 1/2 x 3
.5 x 3 SS
1/2 x 3 1/16
1/2 x 3 1/4
.5 x 3 1/4
1/2 x 3 1/2
1/2 x 3 3/4
1/2 x 4
– 1/2 x 4 1/2
1/2 x 4 3/4
– 1/2 x 5
.562 x 5.090
1/2 x 5 1/2
– 1/2 x 6
– 1/2 x 6 3/8
– 1/2 x 6 1/2
1/2 x 6 3/4
1/2 x 7
9/16 x 2 1/2
9/16 x 2 5/8
9/16 x 5.625
5/8 x 1 5/8
5/8 x 2 1/4
5/8 x 2 1/2
.628 x 2 1/2
5/8 x 2 5/8
– 5/8 x 3
5/8 x 3 1/8
– 5/8 x 4
5/8 x 4 1/2
5/8 x 5
5/8 x 5 1/2
5/8 x 5 3/4
– 5/8 x 6
5/8 x 6 1/8
– 5/8 x 6 1/2
5/8 x 6 5/8
5/8 x 6 3/4
5/8 x 7
– 5/8 x 7 5/3
– .625 x 7 5/8 SS
5/8 x 7 3/4
5/8 x 8
11/16 x 6
11/16 x 6 1/2
11/16 x 8 5/8
3/4 x 1 5/8
3/4 x 2 1/4
3/4 x 3 1/8
3/4 x 4
3/4 x 5
3/4 x 5 1/4
3/4 x 6 1/4
3/4 x 6 1/2
3/4 x 6 3/4
3/4 x 7
3/4 x 7 1/2
3/4 x 7 5/8
3/4 x 8
3/4 x 9
– 13/16 x 6
13/16 x 6blk
13/16 x 7.677
– 13/16 x 8
7/8 x 6
7/8 x 6 1/4
7/8 x 6 1/2
7/8 x 7 7/8
1 x 2 3/16
1 x 3
1 x 4 3/8
1 x 6
1 x 7 5/8
– 1 x 8
1 1/8 x 4
1 1/8 x 9 5/
1 3/16 x 1/4
1 3/16 x 15
1 1/4 x 5 1/
1.25 x 5 9/1
1 1/4 x 6
1 1/4 x 6 1/
1 1/4 x 7
1 1/4 x 8
1 1/4 x 10
1 1/2 x 3 1/
1 1/2 x 5 1/
1 1/2 x 6
2 5/8 x 2 3/

— Common sizes

Bethlehem Steel Corporation

BETHLEHEM, PA 18016

TOOL STEEL
H. I. WILLIAMS
MANAGER OF SALES
L. I. AINSWORTH
ASST. MANAGER OF SALES

May 28, 1982

APPR BY:________
EXT CKD BY:_______
REC'D JUN 1 1982 REC'D
DATE PAID________
CHECK NO.________

Mr. John E. Halloran, President
Michigan-Knife Company
Disston-Philbrick Products
120 Pere Marquette Street
Big Rapids, MI 49307

Dear John,

Your inquiry letter of May 26, 1982 is very much appreciated. Don has asked me to add his congratulations on your successful acquisition of the Disston-Seattle plant to my own. It is indicative of the strength and vitality of your company.

As you know, Bethlehem has shut down those Bethlehem Plant facilities that rolled our tool steel bar product and we are currently in the process of selling out the bar and billet inventories that supported it.

However, several lines are expected to continue in production at other plants. For example, plate items at Sparrows Point and bars at Johnstown.

Our patented knife steel analysis "Duracut" is in the latter category. We have had successful trial rollings at our Johnstown Plant and when all production and cost studies are completed I will be able to review our capabilities with you.

In the meantime, if you have any requirements for bars in analyses such as AISI S5, A2, S7 etc. please ask our Grand Rapids people to check our inventories or call me direct.

Hopefully, I will have a more complete story in the near future. Again, thanks for your interest and best wishes for your continued success.

Very truly yours,
BETHLEHEM STEEL CORPORATION

L. I. Ainsworth
Assistant Manager of Sales

LIAinsworth:mla

Steel Company
Washington
Pennsylvania 15301
(412) 222-4000

June 14, 1982

Mr. John E. Halloran,
President
Michigan Knife Company
120 Pere Marquette Street
Big Rapids, Michigan 49307

Dear Jay,

Congratulations on your acquisition of The Disston-Seattle, Washington operation from Sandvik, Inc. Our best wishes for continuing success in your endeavors.

Jay, thank you for your recent inquiry for Jessop Grade 86 - Chipper Knife Steel. We, however, can not quote a firm price for 12 months nor can we quote one price for all the different sizes inquiried of us in your inquiry letter of 26 May 1982. We are submitting our new price schedule on Jessop's 86 Grade - Chipper Knife Steel for your consideration. This new schedule takes effect with orders received June 15, 1982.

We have also attached a copy of our Chipper Knife Specification to which we customarily comply. Any changes to this Chipper Knife Specification, if required, must be treated as a separate inquiry. As you will observe, we have a few differences in our specification from the one which you submitted in your letter of 16 May 1982.

We hope this quotation meets with your favor.

Sincerely yours,

Lloyd J. Susini

Lloyd J. Susini
Product Manager - Tool Steel

LJS/pld
Attachments
xc: File (2)

APPR BY:
EXT CHD BY:
REC'D JUN 16 1982 REC'D
DATE PAID
CHECK NO.

An Allegheny Ludlum Company

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

June 3, 1980

Mr. Lloyd Susini
Jessop Steel
500 Green Street
Washington, Pennsylvania 15301

Dear Lloyd:

This letter will confirm my conversation with you of this morning regarding the rejected load of Jessop's grade 86 saw cut plate - or as we term it, chipper knife steel.

This material being a trial order, enabling you to test your costing and for us to evaluate your material, was very disappointing to us receiving it in this deplorable condition. As discussed, the bars were bent, bowed, and twisted far beyond any useful condition. To make matters worse, I was relying on this particular size material for a specific customer order. It is unknown at this time, what problems this delay will create.

One area that concerns me, is that there was some specific attention payed to this order in order to follow your costs and make sure that it is well looked after because it was a proto-type lot - and we receive it in this type of condition. I hope that you will be able to correct this situation in the future, but at this point we question what the future has in store for us.

It would be appreciated if you would restraighten or remanufacture the lot in question in hopes to quickly rectify this situation.

Very truly yours,

John E. Halloran
President

JEH/caj

Manufacturers of Quality Chipper, Counter, and Other Wood Related Industrial Knives/Products

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Phone (503) 726-1774

"The Knife People"

June 4, 1981

Mr. Lloyd Susini
Jessop Steel
300 Green Street
Washington, Pennsylvania 15301

Dear Lloyd:

As you know, we have talked about inconsistent quality of your chipper knife steel to a point where it is now a point of major concern to me. My people are complaining about the extra time necessary to inspect and make sure your material will finish up to a finished knife, as well as my Blanchard operators have experienced a high rejection rate because thin knives have not been properly cleaning. Also we have experienced trouble from our customers saying that the knives are acting soft when in actuality the skin condition was not completely removed from the back edge of the knife due to the exceptionally thin material we received.

All of this, as you know, ends up to cost us money which I feel is unnecessary, especially when we are paying a premium for the raw material to begin with. In purging our inspection department, I have come up with the following parts that are considered junk due to thin material. They are as follows:

Size	Quantity	Size	Weight	Total Weight	Labor Cost Ea.	Total Labor
20 x 6 x 13/16	13 Pcs.	13/16 x 6	33.1	430.3	21.10	274.30
17-15/16 x 6 x 13/16	6 Pcs.	13/16 x 6	29.5	177.0	17.25	103.50
19 x 8 x 13/16	5 Pcs.	13/16 x 8	46.	230.00	22.11	110.55
12-1/2 x 6 x 5/8	3 Pcs.	5/8 x 6	14.1	42.3	7.29	21.87
14-15/16 x 6 x 13/16	1 Pcs.	13/16 x 6	27.4	27.4	17.82	17.82
31-5/32 x 8-13/16 x .786	3 Pcs.	.880 x 9	75.	225.	42.11	126.33
24-15/16 x 6 x 13/16	2 Pcs.	13/16 x 6	41.1	82.2	20.83	41.66
31-1/2 x 6 x 5/8	15 Pcs.	5/8 x 6	43	645.	18.21	273.15
				1,859.2		$969.18

As you can see, we have accumulated 1,859 pounds on eight different items times $1.21 per pound which is $2,249.63 on steel alone. I calculated the $1.21 being $1.20 for the raw material and $.01 for the transportation back to Big Rapids.

Jessop Steel
June 4, 1981
Page Two

On top of this, we have a sizable labor loss in converting the raw material at our direct standard cost with no burden. We have accumulated a $969.18 cost bringing the total credit which I would appreciate you issuing for $3,218.81.

Now in addition to this particular problem, we have received 8,558 pounds of 3/8 x 5-1/2 which unfortunately will not clean up. The material has been received as low as .406 to .409 in thickness. It is necessary for this material to finish up at.375 and unfortunately this will not possibly make a good 3/8 knife. The next size down is 5/16 x 5. I am not in need of this amount of tonnage but would be willing to keep it here and grind down the thickness and the width to use as 5/16 x 5 by reducing the price of some of my 5/16 x 5 knives to encourage higher sales volume. But in order to do so, I could not pay more than $.90 per pound for this particular material.

I have been very encouraged by the program that you have done, but must say the last shipment received here on April 13,1981 really has us concerned. We have another shipment which we will be picking up on or about the 15th of June. This material will be inspected thoroughly and give me the confidence whether we should proceed further. I firmly believe that Jessop is capable of producing a quality material, but fear the concentrated effort might have taken a back seat to some more pressing projects.

Very truly yours,

John E. Halloran
President

JEH/caj

Michigan Knife Co.

120 Pere Marquette St.
Big Rapids, Michigan 49307
Phone (616) 796-7602 or 4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

April 10, 1981

Mr. Lloyd Susini
Jessop Steel
300 Green Street
Washington, Pa. 15301

Dear Lloyd:

On March 19, 1981 I wrote to you concerning some thin 13/16 x 8 material. We have completed usage of a certain quantity of this material and have come up with 426 pounds of scrap knives - not to mention the labor in the knives which I would like to receive credit on. In addition to the 13/16 x 8, we now have accumulated 310 pounds of 5/8 x 7-1/2 which would not clean. It was received at .657 to .675. Unfortunately .657 left us with several knives that did not clean on the back edge.

Please issue credit on these two weights accordingly. Your cooperation would be greatly appreciated.

Very truly yours,

John E. Halloran
President

JEH/caj

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-7602 or 4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

March 19, 1981

Mr. Lloyd Susini
Jessop Steel
~~300 Green Street~~
Washington, Pa. 15301

Dear Lloyd:

The last batch of 13/16 x 8 steel we received is causing us considerable trouble. The problems are that the material is too thin, plus a wave in the bar has created considerable expense through junked parts.

Per our attached sheet which is supplied with every order, your bars are running .845/.851 and to finish at .813 with equal removal and a .012/.020 wave is next to impossible. I will notify you at a later date as to the magnitude of this problem but wanted to inform you that we are experiencing this problem.

Please try to follow our suggested thickness.

Very truly yours,

John E. Halloran
President

JEH/caj

Enclosure

Michigan Knife Co.

120 Pere Marquette St.,
Big Rapids, Michigan 49307
Phone (616) 796-4858

West Coast Sales & Distribution Center
886 Shelley St., Springfield, Oregon 97477
Phone (503) 726-1774

"The Knife People"

October 9, 1979

Mr. Jim Calos
Gutrel Steel
Post Office Box 509
Lockport, New York 14094

Dear Jim:

I have just come back up to my office from a rather disturbing call from the shop. Upon receiving our recent load of chipper knife steel, we find that three sizes have been received with excessive edge warpage. We have just cut up the entire lot of 5/8 x 6 which is all at the present time considered junk because the knife blanks will not clean up on the back edge due to excessive warpage. I cannot see how this material could possibly leave your inspection department or get through your rolling mills in this condition. In a length of 18 inches, there is almost 1/8 inch edge warp on the average blank. Upon inspection the rest of the load, I find that the entire lot of 3/4 x 7 and 5/8 x 5, as well as the 5/8 x 6, has the same defects.

We are forced due to your deliveries to do what we can to salvage this material. At the end of our manufacturing cycle, I will be contacting you on the credits necessary to rectify this situation. I would also request that before any additional material be shipped to us, it be thoroughly inspected to within the proper tolerances.

Very truly yours,

John E. Halloran
President

JEH/caj

[illegible]
[illegible]ISION OF IKS, INC.

Factory
Box 3669 • Florence SC 29502 • Phone (803) 662-6345 • Telex 57-3448

HANNACO

May 13, 1981

Mr. Lloyd Susini
Jessop Steel Company
500 Green Street
Washington, Pennsylvania 15301

Dear Mr. Susini:

The recent shipments on Jessop type 86 grade chipper steel were not satisfactory to us. Although, particularly on the last shipment, the multiples were (at least theoretically) close to what we require, the steel had several other problems attached to it.

When you visited with us we showed you considerable waviness in the material and now after most of the steel has been cut up we must say that this problem is even larger than we originally anticipated. We had about 6 pieces to straighten which took three of our hammermen about 14 hours to correct. In addition to this, we found more of this material not properly cut in the ends. In fact, it looks like some of the sizes were not cut at all. Where the multiples situation is concerned, on most of the material the length was correct but due to the fact that on quite a few bars we could not use the end pieces, we lost a whole knife per bar.

One problem of grave concern to us (unfortunately not discovered before the recent meeting) is the fact that most of the steel to finish 6" x 5/8", shipping ticket #75726, is extremely bad and porous. This is true for most of that particular shipment of 12,454 pounds. To make things even worse, we now discovered (only in our final grinding operation) that at least one full plate was rolled too thin. This material measures up at .630 to .635 in the raw stage and it was supposed to finish up at .625. As mentioned, this was not detected during our incoming inspection and we used the material and now have a finished product which is unsaleable. The total order for 450 knives size 32" x 6" 5/8" was for export and up to this point we have already discovered 20 pieces which we cannot clean up.

On the material to finish 6 1/2" x 5/8", your shipping ticket #75648, we found several bars with deep surface cracks. We used this material since we were really in a bind on delivery for knives but found quite a few pieces which we could not clean up, even though we ground the knives already undersized.

-continued-

[illegible]nch Offices
Box 2498 • Eugene, OR 97402 P.O. Drawer B • West Monroe, LA 71291
Phone (318) 388-2539
Divisions of IKS

Jessop Steel Company
500 Green Street
Washington, Pennsylvania 15301

May 13, 1981

Page Two

In a shipment we are making to you today, we are sending you samples of each of the various problem areas.

(1) 8 x 1 steel - not straight and bad ends

(2) 6 x 5/8 steel - porous and rolled to wrong thickness

(3) 4 x 2 material - not cut at all in the ends

(4) 6 1/2 x 5/8 material - one finished knife still showing surface cracks despite having taken off about .040 and now being undersized at .610 dimension

Since all of the material out of the recent shipment has not been cut yet, we are not in a position to give you the final material we cannot use due to being undersized, unacceptable surface, bad ends, or wrong multiples. We would like to point out, though, before a final conclusion is made, that material in the conditions described above is not going to be acceptable by our company at all in the future. As you know, we were real pleased, or we might even say impressed, with the earlier material shipments we received from you. The quality of the material has deteriorated to such a point now that we are afraid to purchase any additional steel from your company. We would propose that the four pieces we are sending you today be checked immediately after receipt and then we would like to have your suggestions on how to prevent this from happening again in the future.

Thanks for your cooperation.

Yours truly,

HANNACO KNIVES & SAWS
Division of IKS, Inc.

Horst Brautigam
Vice President

HB/ak

HANNACO

HANNACO KNIVES & SAWS, INC.
P. O. BOX 3889 • FLORENCE, S. C. 29502 • PHONE (803) 662-6345 • TELEX 57-3448

BRANCH OFFICES

P. O. Drawer 8
West Monroe, LA 71291
(318) 388-2539

P. O. Box 2498
Eugene, OR. 97402
(503) 485-8225

April 2, 1980

Senator Herman E. Talmadge
109 Russell Senate Office Building
Washington, D. C. 20013

Reference: Bill Number HR 2535

Dear Senator Talmadge:

It has been brought to our attention that the two opponents of Bill No. HR 2535 are under the impression that our company does not favor further action on this Bill. This is absolutely incorrect. In fact, in our telegram to you dated February 1, 1980 we asked for your help in having the Bill passed just as quickly as possible. For your consideration, we would like to mention a few details about how our company looks upon the two opponents as suppliers.

A. Guterl Steel - Lockport, New York

In 1978 we were informed that Guterl Steel was interested in getting started in chipper steel manufacturing. We did place some orders with the organization which were promptly delivered at a slightly higher price than what we were paying at that time from our overseas supplier. Additional orders were placed after the initial trial and the quality as well as the reliability on delivery deteriorated. In fact, it got worse from one order to another. The middle of last year we were informed by Guterl Steel that they were not interested in continuing their chipper steel program for cost reasons. In fact, we were told the price would have to be increased by 65% in order to make this a profitable item. There has not been any additional orders placed with Guterl since the middle of last year and we do not intend any future purchases even if Guterl Steel would be competitive with their product, as we have serious doubts of their being capable of solving their quality problems.

-continued-

Senator Herman E. Talmadge
109 Russell Senate Office Building
Washington, D. C. 20013

April 2, 1980

Page Two

B. Bethlehem Steel - Bethlehem, Pennsylvania

Early last year Bethlehem informed us that they had developed a new type of chipper steel. We were assured that the performance would be considerably better (approximately 50%) than the presently used chipper steel and their price would definitely be competitive, which at that time would have meant approximately $ .80 per pound. On this basis, Hannaco purchased a small amount of steel. At this time it already turned out that the price was no longer competitive. The reason given for this was that Bethlehem had substantial cost increases since developing the product. Purchasing this particular steel today from Bethlehem would only be possible if we asked for a higher price for the finished product, and test results made by several of our customers have not been encouraging enough for them to pay a higher price for the chipper knives made from Bethlehem steel. Our purchases from Bethlehem Steel were less than 1% of our total 1979 steel requirements. At the present time there is no firm order for steel pending with Bethlehem.

It looks to us that both companies in their lobbying are trying to use tactics which are not representing the true picture. We would hope that our today's explanation will be taken into consideration in your supporting this Bill even more so than you did in the past.

Yours truly,

HANNACO Knives & Saws, Inc.

Horst Brautigam
Vice President

HBak

ATTACHMENT 4

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

JUN 19 1981

Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of this Department with respect to H.R. 2485, a bill:

"To extend duty-free treatment to imports of chipper knife steel."

If enacted, H.R. 2485 would amend the Tariff Schedules of the United States (TSUS) to eliminate the Column-1, most-favored-nation duty applicable to imports of certain alloy tool steels generally defined as chipper knife steel. The statutory (column-2) duty would not be affected by the bill. Imports of chipper knife steel are classified under TSUS item 606.93 and are dutiable at 10.5 percent ad valorem plus additional duties assessed on certain alloys contained in the steel. This column-1 tariff was reduced temporarily in December 1980 by PL 96-609, and imports of chipper knife steel now enter under TSUS 911.29 at a rate of 4.6 percent ad valorem. This duty reduction expires on September 30, 1982, when the ad valorem component of the duty is scheduled to return to 9.6 percent. The duty on chipper knife steel is being reduced in stages under agreements reached in the Multilateral Trade Negotiations and in 1987 the final duty rate provided for TSUS 606.93 will be 6 percent ad valorem plus additional duties.

The Department of Commerce opposes enactment of H.R. 2485 as presently drafted.

A tariff anomaly that permits the finished chipper knife to enter the United States under TSUS 649.6750 at a rate of 4.7 percent ad valorem (being reduced to 3.7 percent ad valorem by 1987) was a factor prompting Congress to enact the duty reduction for the imported raw material. Equalizing the tariff rates resolved this anomalous situation; however, once the duty suspension expires in 1982, and the chipper knife steel tariff returns to 9.6 percent, the anomaly will recur.

The temporary reduction of duties on chipper knife steel should have a beneficial effect on the domestic chipper knife industry. Previously, we understood that chipper knife producers were largely dependent on imports to meet their raw material requirements and that most U.S. producers favored higher-profit steels and did not produce chipper knife steel in sufficient quantities on a consistent basis. However, we are informed that several domestic steel companies now are able and willing to produce chipper knife steel at prices competitive with imported chipper knife steel. Elimination of the tariff on chipper knife steel would erode the incentive that domestic chipper knife manufacturers have to purchase domestic chipper knife steel.

We note that non-price factors, such as the availability and security of supply, will encourage knife manufacturers to continue to utilize a domestic source. Thus, the chances of serious adverse effects of the duty reduction should be minimized. Nonetheless, the duty reduction has not been in effect long enough to gauge the impact of this legislation on domestic producers and consumers of chipper knife steel. Therefore, the Department does not favor duty elimination at this time.

However, the Department would not object to an amendment which would reduce the total duty on chipper knife steel to 3.7 percent ad valorem, thereby minimizing the anomaly which would recur upon expiration of the duty reduction. When the Congress enacted the duty reduction on chipper knife steel, it recognized the relationship between the raw material (chipper knife steel) and the more processed product (chipper knives), and established a tariff for the steel slightly below that for chipper knives. The Department believes that Congress should maintain this differential and reduce the duties on chipper knife steel as the duties on chipper knives are being reduced. Such a duty reduction could occur in the following manner, which is a one-year acceleration of the staging of the tariff reductions on chipper knives.

	1982	1983	1984	1985	1986	1987
605.93	4.4%	4.2%	4.0%	3.9%	3.7%	3.7%

Total duties assessed in 1980 on TSUS 606.93 were $249,997.

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

Sincerely,

for Sherman E. Unger
General Counsel

Senator DANFORTH. Mr. Arnesen, why do you want to "cast out the machine knife association as a symbolic gesture"?

Mr. ARNESEN. Why do we want to cast out, sir?

Senator DANFORTH. I was just repeating a comment made about what you are allegedly doing.

Mr. ARNESEN. Repeat the question, please, sir.

Senator DANFORTH. No, just proceed with your comments.

Mr. ARNESEN. All right. Thank you.

STATEMENT OF JOHN P. ARNESEN, MARKETING MANAGER, GUTERL SPECIAL STEEL CORP., BUFFALO, N.Y.

Mr. ARNESEN. Mr. Chairman and members of this subcommittee, I am John P. Arnesen, marketing manager of Guterl Special Steel Corp.

My testimony today is represented and presented on behalf of Guterl and the specialty steel industry of the United States, and briefly summarizes a written statement we have submitted for the record.

I am accompanied today by counsel, Alan M. Dunn, of Collier, Shannon, Rill & Scott, attorneys at law for the specialty steel industry of the United States.

The specialty steel industry of the United States vigorously opposes passage of section 4 of H.R. 4566, a provision that will reduce the duty on imports of chipper knife steel from an effective rate of 12 percent ad valorem to 3.6 percent. Such imports are now subject to a temporary duty reduction to 4.6 percent, which is scheduled to expire on September 30, 1982.

Chipper knife steel is an alloy tool steel, of which more than 95 percent of domestic production is used to make industrial or chipper knives. Chipper knives are essential to the heavy machinery utilized to chop wood into pulp, chips, and other wood products. These lumber products are used to manufacture paper, corrugated boxes, and particle board, in sewage treatment and landscaping, and as an alternative energy source.

There are four issues regarding this legislation that should be emphasized to this subcommittee:

First, U.S. producers of chipper knife steel are import sensitive. More than 90 percent of the domestic market is now dominated by imports which are either subsidized or dumped. Ten years ago the United States had three producers of chipper knife steel which supplied about 80 percent of the domestic consumption of chipper knife steel. Foreign producers accounted for the remaining 20 percent.

In the past decade, however, more than a complete reversal of market shares has been achieved. During 1981, the volume of domestic shipments plunged an estimated 78 percent from 1980, while shipments from my firm, Guterl, dropped by 91.7 percent during the same period.

Concurrently, imports increased their share of the U.S. market from 56.5 percent to 82.4 percent between 1980 and 1981. During the first 5 months of 1982, import penetration jumped to 92.7 percent. Given this devastating import penetration, the reduction in the duty on such imports from an effective rate of 12 percent to 3.6

percent will most certainly eliminate the remaining U.S. production of this product line.

Foreign producers have not achieved their domination of the U.S. chipper knife steel market through any superiority of process or product. The U.S. specialty steel industry is one of the most technologically advanced and efficient industries in the world today. In fact, reports prepared by the International Trade Commission consistently have confirmed that the U.S. specialty steel industry is second to none.

Imports of chipper knife steel have dominated our market because they are either heavily subsidized or dumped. For example, West German producers, which account for approximately one-third of the U.S. chipper knife imports subject to H.R. 4566 are dumping their products in the U.S. market. In response, Guterl, in conjunction with several other U.S. producers of tool steel, is preparing an antidumping petition on imports of allied tool steel, including chipper knife steel, which will be filed within the next few weeks. Our research indicates that the West German producers are selling those products in the U.S. market at prices considerably below their cost of production, in contravention of international agreements and U.S. law.

Sweden, the largest source of chipper knife steel imports, has heavily subsidized its specialty steel producers by direct government grants, large preferential loans, transportation subsidies, and an array of tax incentives. In response to illegal subsidization by Sweden and other foreign steel industries, the specialty steel industry of the United States filed a complaint under section 301 of the Trade Act of 1974 against Sweden and six other countries.

Second, the multilateral trade negotiation agreements, bargained for in good faith by our Government and approved by Congress, will reduce the duty rate on imported chipper knife steel to 7 percent by 1987. It appears that these reductions were negotiated so that the U.S. duty would be comparable to those assessed by the countries that export chipper knife steel to the United States. If Congress reduces the U.S. duty on chipper knife steel to 3.6 percent, the duties imposed on this product by our foreign trading partners will be more than 60 percent higher than the U.S. tariff.

Third, the domestic specialty steel industry wants only to maintain the tariff agreements already negotiated by the U.S. Government. It is the chipper knife industry that has been aggressively seeking special interest legislation, even though imports of chipper knives decreased by more than 40 percent between 1979 and 1981.

Annualized import data for the first 5 months of 1982 indicates that 1982 imports will still be lower than the average level for the preceding 3 years.

Finally, other avenues of redress exist for domestic chipper knife manufacturers suffering from what they perceive to be excessive import penetration—avenues that will not harm an essential domestic industry in the process. If chipper knife manufacturers perceive a problem with imported chipper knives, their remedy lies with the various legal avenues provided by the U.S. trade laws, including the escape clause provisions as well as the countervailing duty and antidumping statutes.

In conclusion, the specialty steel industry of the United States opposes this blatant attempt to destroy domestic production of yet another specialty steel product line. Passage of additional reductions in the duty on imported chipper knife steel would do precisely that. We cannot help but be concerned about the future of this essential and technologically advanced industry if grade by grade, product by product, foreign producers successfully assault our market. The specialty steel industry of the United States and the companies producing chipper knife steel are seeking only the opportunity to compete on a fair and equal basis.

Section 4 of H.R. 4566 should be rejected.

I would be pleased to address any questions you have.

[The prepared statement of John P. Arnesen follows:]

TESTIMONY OF JOHN P. ARNESEN

My name is John P. Arnesen and I am the marketing manager of Guterl Special Steel Corporation. I am appearing here today on behalf of Guterl and the Specialty Steel Industry of the United States. See Exhibit A.

The Specialty Steel Industry of the United States vigorously opposes the passage of section 4 of H.R. 4566, a provision which will reduce in stages the duty on imports of chipper knife steel (TSUS No. 606.93) from an effective 12 percent ad valorem rate to 3.6 percent by 1987. Such imports are currently subject to a temporary duty reduction to 4.6 percent which is scheduled to expire on September 30, 1982.

Chipper knife steel is an alloy tool steel, of which more than 95 percent of domestic production is used to make industrial or "chipper" knives. Chipper knives are essential to the heavy machinery designed to chop wood into pulp, chips and other wood products. These lumber products are used to manufacture paper, corrugated boxes and particle board, in sewage treatment and landscaping, and as an alternative energy source.

Import penetration of the U.S. chipper knife steel market has increased drastically during the past decade, primarily because most of these imports are dumped or subsidized. Ten years ago, the United States had three producers of chipper knife steel, Bethlehem Steel Corporation, Cyclops Corporation and the predecessor of Guterl Special Steel Corporation, Simonds Steel. These three companies supplied approximately 80 percent of domestic consumption of chipper knife steel. Foreign producers accounted for the remaining 20 percent.

In the past decade, however, there has been more than a complete reversal of those market shares. As a result of substantial price cutting engaged in by foreign producers, both Bethlehem and Cyclops were forced out of the market during the mid-1970's, leaving only one U.S. producer of chipper knife steel. However, after a significant investment in research and development and new production techniques, Bethlehem reentered the chipper knife steel market and was joined by two new entrants -- Jessop Steel Company and Ingersoll Johnson Steel Corporation. As a result, U.S. production capacity was more than adequate to satisfy existing and foreseeable demands of domestic chipper knife manufacturers. In fact, Bethlehem, alone, has the capacity to supply 75 percent of domestic requirements.

Unfortunately, the revitalization of this segment of the specialty steel industry is currently plagued by increasing imports which are jeopardizing continued production of this product line in the United States. During 1981, total domestic shipments plunged an estimated 78 percent from 1980, while shipments by my firm, Guterl, dropped by 81.7 percent during the same period. As a result, imports increased from 56.5 percent to 82.4 percent of the U.S. market for chipper knife steel between 1980 and 1981. During the first five months of 1982, import penetration increased even further to 92.7 percent. A table summarizing domestic shipments, imports, domestic consumption and import penetration is attached as Exhibit B. Given this devastating import penetration, the reduction in the duty on such imports from an effective rate of 12 percent to 3.6 percent will most certainly eliminate the remaining U.S. production of this product line.

Even the Executive Branch has acknowledged the aggressive behavior of specialty steel imports during the past year. Last week, on July 14, 1982, the Department of Commerce announced that "surge" conditions still exist in imports of alloy tool steel, including chipper knife steel. In fact, Commerce recognized that imports of alloy tool steel have been surging for more than a year. The surge mechanism is Commerce's attempt to monitor unusually large increases in imports of specialty steels that could be caused by dumping or subsidization. To those attempting to compete with these unfairly traded tool steel products, the surge announcement was "old" news.

Indeed, a graphic illustration of the devastating effect of such imports on the U.S. industry is Bethlehem Steel Corporation's announcement that it is phasing out its tool steel production. Although Bethlehem is not currently producing chipper knife steel, no final decision has as yet been reached regarding continued production. The enactment of section 4 of H.R. 4566 could well influence that decision.

Moreover, foreign competitors have not achieved their domination of the U.S. chipper knife steel market by virtue of any superiority of process or product. The U.S. specialty steel industry is one of the most technologically advanced and efficient industries in the world today. In fact, various reports prepared by the International Trade Commission ("ITC") confirmed that the United States specialty steel industry is second to none. A brief excerpt from one ITC report will suffice:

> Although some of the foreign mills are newer than many U.S. mills, the U.S. industry has long been a leader in developing new processes for production of specialty steel. The melting and refining technique for the production of stainless steel is licensed by a U.S. firm. Many of the processes currently being used throughout the world were the result of research in the United States. Most of the domestic producers have stressed alloy development, process improvement, and technical service to customers; they have eliminated unprofitable departments, facilities, and product lines.

Stainless Steel and Alloy Tool Steel, Inv. No. 751-TA-201-5, USITC Pub. No. 756, at A-13 (1976) (emphasis added).

The importance of the specialty steel industry to the United States cannot be overstated because its stainless, tool and super alloy steels are vital to the defense of this nation as well as its industrial base. Many of this industry's products are utilized in high technology, military and defense-related applications. Specialty steels are integral components in complex electronics systems, jet engines, nuclear reactors and even spaceships. Combined with the essentiality of tool steel to the basic industries of America, the particular applications for weapons, armaments and national defense render the specialty steel industry and its products essential to maintaining this country's industrial base. The specialty steel industry believes that Congress should be encouraging companies in this industry to produce this invaluable steel, rather than contemplating passage of legislation that will reward foreign producers for unfair trade practices which have allowed them to capture most of the U.S. market.

Regrettably, U.S. technological proficiency has not been sufficient to overcome the advantages obtained through the use of unfair trade practices. Imports of chipper knife steel have dominated our market because they are either heavily subsidized or dumped. According to a study prepared for the specialty steel industry in 1977, the Swedish government has provided extensive subsidies to its steel industry during the past decade. A summary of Swedish subsidy practices is contained in Exhibit C. It is notable that Uddeholms, the major Swedish exporter of chipper knife steel to the United States, received a $122 million loan from the Swedish government, to be repaid only if and when the company becomes profitable. In response to such unfair trade practices, the Specialty Steel Industry of the United States filed a complaint under section 301 of the Trade Act of 1974 against Sweden and six other countries.

The domestic specialty steel industry is also plagued by dumped imports. West German producers, which account for approximately one-third of the U.S. chipper knife imports subject to H.R. 4566, are dumping their products in the U.S. market. In response, Guterl, in conjunction with several other U.S. producers of tool steel, is preparing an antidumping petition on imports of alloy tool steel, including chipper knife steel, which will be filed within the next few weeks. Our research indicates that the West German producers are selling these products in the U.S. market at prices considerably below their cost of production in contravention of international agreements and U.S. law.

In view of the unfair competitive advantages already enjoyed by foreign producers of chipper knife steel, it is inappropriate and entirely unnecessary to provide additional benefits by unilaterally reducing the duty on imported chipper knife steel. Piecemeal, special interest legislation such as section 4 of H.R. 4566 subverts the careful balancing of national and international considerations that served as the basis for the tariff concessions under the Multilateral Trade Negotiations ("MTN"). Moreover, it aids our Swedish, West German and Japanese trading partners without exacting any quid pro quo. Under the terms of the MTN agreements, the U.S. duty on imported chipper knife steel will be reduced from an effective rate of 12 percent ad valorem to approximately seven percent by 1987. That negotiated staged reduction will be implemented without further action by Congress.

The MTN agreements were bargained for in good faith by our government and our foreign trading partners, and then approved by Congress. It appears that these reductions were negotiated so that the U.S. duty would be comparable to those assessed by the countries that export chipper knife steel to the United States. For example, the tariff on imports of chipper knife steel into the European Economic Community is six percent; Japan, 10.8 - 5.7 percent (in staged reductions between 1980 and 1987); and Sweden, six percent plus certain additional duties. If Congress reduces the U.S. duty on chipper knife steel to 3.6

percent, the duties imposed on this product by our foreign trading partners will be more than 60 percent higher than the U.S. tariff.

The domestic specialty steel industry wants only to maintain the tariff concessions that have already been negotiated by the U.S. government; it is the chipper knife industry that has been aggressively seeking special interest legislation, even though imports of chipper knives have decreased by more than 40 percent between 1979 and 1981. Annualizing such imports for the first five months of 1982 shows projected 1982 imports to be below the average level for the preceding three years. If chipper knife manufacturers perceive a problem with imported chipper knives, their remedy lies with the various legal avenues provided by U.S. trade laws, including the "escape clause" provisions as well as the countervailing duty and antidumping statutes. The policies underlying the duty rate on imported chipper knife steel established by Congress and modified by the Executive Branch during the MTN process should not be cavalierly disregarded when other remedial avenues exist and when a vital domestic industry will be severely harmed in the process.

To reiterate, the specialty steel industry wishes to emphasize the following points:

(1) U.S. producers of chipper knife steel are import sensitive; more than 90 percent of the domestic market is now dominated by imports which are either subsidized or dumped.

(2) If section 4 of H.R. 4566 is adopted, the duties on chipper knife steel imposed by our foreign trading partners will be more than 60 percent higher than the U.S. duty.

(3) Without further congressional action, the duty on imported chipper knife steel will be reduced to seven percent by 1987, pursuant to the MTN.

(4) U.S. chipper knife manufacturers are still seeking this special interest legislation, despite the fact that imports of chipper knives have declined by more than 40 percent in recent years.

(5) Other avenues of redress exist for domestic chipper knife manufacturers suffering from what they perceive to be excessive import penetration -- avenues that will not harm an essential domestic industry in the process.

In conclusion, the Specialty Steel Industry of the United States opposes this blatant attempt to destroy domestic production of yet another specialty steel product line. Passage of additional reductions in the duty on imported chipper knife steel would do precisely that. We cannot help but be concerned about the future of this essential and technologically advanced industry if grade by grade, product by product, foreign producers successfully assault our market. Neither the Specialty Steel Industry of the United States nor any company producing chipper knife steel is seeking a subsidy. Rather, this vital domestic industry is merely requesting the opportunity to compete on a fair and equal basis.

For the aforementioned reasons, section 4 of H.R. 4566 should be rejected.

EXHIBIT A

The member firms of the Specialty Steel Industry of the United States are listed below:

Allegheny Ludlum Steel Corporation (PA)

AL Tech Specialty Steel Corporation (NY)

ARMCO Stainless Steel Division, ARMCO, Inc. (MD)

Braeburn Alloy Steel Division, Continental Copper & Steel Industry, Inc. (PA)

Carpenter Technology Corporation (PA)

Columbia Tool Steel Company (IL)

Crucible Materials Group, Colt Industries, Inc. (PA)

Eastern Stainless Steel Division, Eastmet Corporation (MD)

Electralloy Corporation (NY)

Guterl Special Steel Corporation (NY)

Jessop Steel Company (PA)

Jones & Laughlin Incorporated (PA)

Joslyn Stainless Steels (IN)

Latrobe Steel Company (PA)

Republic Steel Corporation (OH)

Universal-Cyclops Specialty Steel Division, Cyclops Corporation (PA)

Washington Steel Corporation (PA)

EXHIBIT B

U.S. DOMESTIC SHIPMENTS AND U.S. IMPORTS OF HOT ROLLED CHIPPER KNIFE STEEL BARS 1980 - MAY 1982

(tons)

	Domestic Shipments 1/	U.S. Imports 2/	Apparent Consumption 3/	Import Penetration
1980	1,158(3)	1,502	2,660	56.5
1981	249(3)	1,374	1,623	84.7
1982 (Jan.-May)	49(3)	622	670	92.7

1/ Domestic shipments 1980 include shipments of Grade 178 (a chipper knife substitute) in addition to Grade 176. Grade 178 constitutes approximately 50 percent of these years' shipments. Note that the number in parentheses indicates the number of companies responding.
2/ TSUSA 606.9300, hot rolled chipper knife bars.
3/ Calculated as domestic shipments plus imports. Export statistics do not break out chipper knife steel from total tool steel, but chipper knife exports are assumed to be nil or insignificant.

Source: U.S. Department of Commerce data (imports), and a survey conducted by Economic Consulting Services Inc. (shipments).

EXHIBIT C

SWEDEN

SOURCE AND DATE	ITEM DESCRIPTION
American Metal Market 2/13/79	Uddeholms AB (Sweden's main producer of stainless steel bar products and an important supplier of pipe, tubing and tube fittings) and Granges Nyby AB (manufacturer of strip mill products in stainless steel and producer of a wide range of stainless pipe and tubing in both stainless and welded forms) are conducting negotiations which could lead to the merger of the stainless steel operations of the two firms. Assistance from the Swedish government may determine whether or not the merger is culminated. In 1977, the Swedish government established a guarantee loan program of up to US $275m to aid the specialty steel industry in restructuring its operations.
Metal Bulletin 3/23/79	Granges Nyby's stainless steel operations are merged with the stainless steel activities of Uddeholms AB, thereby creating the second largest stainless steel producer in the Nordic countries. Government funds are likely to play a large role in the merger. Uddeholms has been granted an Skr600m loan from the state Special Steel Restructuring Commission. Nyby has also had aid from the Commission for its stainless steel powder for billet project. In 1977, Nyby's loss was Skr160m and Uddeholms' was Skr193m. In 1978, Nyby's loss was Skr29m and Uddeholms' was Skr28m.
Metal Bulletin 6/5/79	The Swedish Parliament passed a bill enabling Uddeholms to transfer a government loan of Skr400m to the proposed company. The loan, which was necessary for the merger, was received by Uddeholms from the Swedish Special Steel Restructuring Commission last summer and will help finance the setting up of the country's second largest stainless steel producer.
Metal Bulletin 6/15/79	The proposed merger of Nyby and Uddeholms is virtually certain, but will require further state loan guarantees amounting to Skr75m.

SWEDEN (continued)

SOURCE AND DATE	ITEM DESCRIPTION
Metal Monthly December 1979	In an attempt to counter the slump affecting Swedish ordinary steel production by increasing productivity and to exploit advantages of scale and specialization, the Swedish government brought together three integrated ordinary steel works under a plan of semi-state ownership in a new company, Svenskt Stal AB (SSAB). To accomplish this merger the state made available to SSAB two loans totaling Skr3,100m.
Metal Bulletin 1/15/80	In 1980, SSAB will require Swedish government subsidies totaling Skr300m to cover losses.
American Metal Market 2/18/81	Uddeholms Corporation of America is shifting its marketing emphasis to high temperature alloys and special steels. The move mirrors a similar swing in production at the parent Nyby Uddeholm AB. The Swedish firm plans to convert about 25% of its stainless capacity at its Torshalla facilities to the production of high temperature alloys, high alloy steel and specialty steels.
Financial Times 10/1/81	An agreement between the state and private shareholders will result in a new capital input of Skr1.8bn (US $320m) for Svenska Staal (SSAB), and will increase the state's shareholding from 50% to 75%. SSAB was formed by the merger in 1978 of Granges and Stora Kopparberg. The state will purchase Stora Kopparberg's 25% share for a nominal Skr1. This action cancels a previous agreement under which Granges would take over Stora's holding. SSAB's share capital is to be raised from Skr500m to Skr2.5bn, with new shares priced so high that Skr1bn will be available for an investment fund. The total Skr1.5bn new capital breaks down as follows: Statsforetag (state holding company) will subscribe Skr575m in cash and transform an Skr175m loan into share capital; the state (now a third shareholder) will translate an Skr375m loan into equity; Granges will pay Skr375m in cash; and Granges and the state will each make unsecured loans of Skr150m to SSAB. Loan repayments are to begin in 1991. Under the earlier agree-

SWEDEN (continued)

SOURCE AND DATE	ITEM DESCRIPTION
(Financial Times continued)	ment, Granges was given the right to sell its shares to the state for Skr875m in 1991. If that option is exercised, the state will be obliged to take over, wholly or in part, Granges outstanding loans to SSAB.
Metal Bulletin 10/6/81	An agreement was reached between the Swedish government and SSAB's 50% owner Granges which provides for SSAB to become wholly state-owned in 10 years and provides for a large infusion of new funds for SSAB. Under the agreement, Granges will provide an Skr500m capital increase and an Skr1,500m package of cash and credits. Additionally, the state's holding in SSAB will increase from 50% to 75%. It requires Granges to retain its 25% stake in SSAB until 1991, at which time it can sell it to the state for Skr875m.
Metal Bulletin 10/27/81	The state has committed about Skr4,000m to the reorganization of SSAB, according to an SSAB interim report. Just recently an agreement provided a new injection of funds into the company of Skr2,000m, to be provided by the state and its 25% partner in SSAB, Granges-Electrolux.

AMERIC METAL MARKET, FEBRUARY 13, 1979

Swedish Firms Talk of Merging Stainless Groups

By DONALD NORDBERG

LONDON—Talks are under way that could lead to the merger of the stainless steel operations of Uddeholms AB and Granges Nyby AB in Sweden.

Senior officials of both companies confirmed trade reports that the discussions are being conducted, but both companies emphasized they are only at a preliminary stage.

If a merger is not possible, the firms will try to seek some sort of joint marketing the production cooperation, the officials said.

Uddeholms is Sweden's main producer of stainless steel bar products and an important supplier of plate, tubing and tube fittings. It also makes tool steels and has a distributor network in the United States that would not be affected by the proposals under consideration.

Granges Nyby is a producer of strip mill products in stainless steel and produces a wide range of stainless pipe and tubing in both seamless and welded form. It also owns a tube mill through its Granges Nyby Canada Ltd. subsidiary located in Brockville, Ont. That company, together with it U.S. sales affiliate in Atlanta, would likely figure in the proposed combination.

"We have had some discussions

(Continued on page 24)

Uddeholms, Granges Tall. Of Merging Stainless Units

(Continued from first page)

with Uddeholms, but that's only discussions," said Olof Lund, president of Granges Nyby.

Goran Herslow, vice-president for stainless steel at Uddeholms, said the talks were in a "very preliminary stage," but he said he hoped the preliminary stage—deciding whether enough money was available—could be concluded by the end of this month.

Herslow said detailed investigations of ways to combine the companies would then be conducted. If the two companies together with a special government agency cannot find enough funds to make the merger worthwhile, the firms would rather not waste the time conducting detailed investigations, he said. In that case, some other form of cooperation will be attempted—perhaps in the form of joint production campaigns, or some limited form of mutual sales activity.

Herslow said there are certain obvious areas of overlap between the two companies that could be eliminated and help stem losses. The greatest savings, he said, could probably come in the area of pipe and tube fittings. Both firms currently produce valves and couplings in stainless steel, and each owns a third of another fittings producer, Broderna Ekberg AB—with the other third belonging to Sandvik AB.

Control of Ekberg, together with the merger of their in-house fittings capacity, would make the combined Uddeholms-Nyby overwhelmingly the largest producer in Sweden.

The companies also think they could close down the melt shop of one or the other, rationalize the tubing product range, and eliminate certain remaining overlaps in plate capacity. Uddeholms had previously purchased the plate capacity of Granges, though some ties still exist.

During much of last year, Uddeholms was involved in discussions with two companies about a merger—Fagersta AB and the Steel division of Svenska Kullagerfabriken AB (SKF). Those talks collapsed after four months of detailed investigation on the technical questions, when it became apparent the three firms could no[t] raise sufficient capital to ma[ke] the merger worthwhile. Th[e] merger had sought more mo[ney] from the government's loan f[und] than was allocated for all c[om]panies.

Although Uddeholms [and] Granges Nyby have had c[on]tacts with each other for sev[eral] years since the industry recog[niz]ed the need for a paring of ca[pa]city, the current round got und[er] way only during December [and] has been kept largely un[der] wraps.

Approaches were made to [the] government to see whether [a] new company could be given [ac]cess to loans under the gov[ern]ment guarantee program [es]tablished at the end of 1977.

That program authorized u[p to] $275-million in loans to be mad[e a]vailable to the specialty steel [in]dustry to aid in restructuring [ef]forts. To date, about half the fu[nds] have been taken up, a governm[ent] source said. The program is du[e to] expire by the end of this yea[r].

Detailed studies and talks [with] unions about possible job los[ses] will be held only after it can be [de]termined whether the merger [can] go ahead. A definite decision [on the] merger would follow after th[e] studies and discussions are c[om]pleted.

Both Herslow and Lund indi[cat]ed their companies are contin[uing] to lose money on stainless s[teel] sales. Lund said that by the en[d of] 1978, Granges Nyby was clos[e to] breaking even after all char[ges] and he forecast the compa[ny] would be near the breakeven p[oint] for the full year of 1979.

Sales in the last year for wh[ich] figures are available, 1977, w[ere] equal to about $160-million.

Herslow said stainless steel [has] stopped being a drain on Ud[deh]olms' cash flow, though he ad[ded] it continues to make losses ([de]preciation charges add to cash f[low] but subtract from income.)

Herslow said that even if [the] companies do merge, Uddehol[ms'] service center chain in the U[.S.] would not be involved. The ch[ain] is administered by Uddeh[olm] Steel Corp., Totowa, N.J., [and] would presumably serve as [a] sales outlet for the merged st[ain]less steel producer.

AMERICAN METAL MARKET
February 13, 1979

Stainless merger goes ahead

THE Nordic countries' second largest stainless steel producer is to be created by a merger of Grängès group's Nyby Bruk subsidiary with the stainless steel activities of Uddeholms AB. Talks have been going on since early this year on the financial aspects of a merger (MB Feb 16), and it has been decided to form a joint subsidiary which would be majority-owned by Uddeholm.

The new company would have a stainless steel product capacity well in excess of 100,000 tpy, making it second in size in Scandinavia and Finland only to Axel Johnson group's Avesta Jernverk. It would be particularly strong in stainless tubes, with a capacity of over 20,000 tpy making it one of the world's largest producers. Turnover would be of the order of Skr1,800m and it would employ some 4,000.

Plans are for Nyby's stainless sheet and tube works near Eskilstuna, west of Stockholm, to be merged with Uddeholm's five stainless steel works and a subsidiary linked with stainless steel which makes industrial degreasing systems. The steelworks are at Degerfors, Storfors, Munkfors and Molkom. The two Molkom works are those of subsidiaries AB Calamo and Nords Verkstads AB, which both produce tube and pipe fittings. Degerfors is the major works involved, with its raw steel capacity (not all stainless) of some 205,000 tpy. Its main product is stainless plate. Storfors works has seamless and welded pipe mills, while Munkfors works will contribute its stainless wire-drawing activities; Munkfors' cold rolling side is being hived off to a joint subsidiary with Sandvik (MB Mar 20).

The operation with Nyby and that with Sandvik will leave Uddeholm with only two steelworks, both concentrated on producing tool and high-speed steel. These are Hagfors and Söderfors, the latter acquired from Stora Kopparberg in 1977. With Uddeholm's forestry and chemicals activities now also part of a joint subsidiary with Billerud, all that remains of the previously highly diversified Uddeholm group is the two steelworks and the power generation business which has historically made profits. Although Uddeholm expects little change in its production pattern, gains are expected to be made on production rationalisation and overseas marketing.

Further studies of the proposed merger will now be continued, and the terms of the deal should be firm enough for the government to be officially informed in May. Government funds are likely to play a large role in the proposed merger. Uddeholm has been granted a Skr600m loan from the state's special steel restructuring commission, of which it retains Skr400m. Government permission (via restructuring commission chief Bengt Westerberg) will be needed if this is to be used for the Nyby merger. Nyby has also had aid from the commission for its stainless steel powder for billets project.

For Grängès group, the move means another step away from steel production and a further easing of the group's balance sheet. The group's only direct holding in steel will be tubemaker Wirsbo Bruk, which it took over last year. Its former Oxelösund steelworks is now part of the semi-state SSAB (owned 25% by Grängès). Nyby had a 1978 loss of Skr29m, cut from 1977's Skr160m, while Uddeholm also reduced its steel operating loss last year to Skr28m from 1977's Skr191m.

METAL BULLETIN
Friday, March 23, 1979

Swedish merger draws near

THE formation of a joint subsidiary grouping Grånges group's Nyby Bruk with the stainless steel activities of Uddeholms AB came a step nearer completion last week when the Swedish parliament passed a bill enabling Uddeholm to transfer a government loan of Skr400m to the proposed company. The loan, which Uddeholm received from the Swedish special steel commission last summer, will help finance the setting up of the country's second largest stainless steel producer. As yet unnamed, it will be 90% owned by Uddeholm and 10% by Grånges.

A formal announcement of the merger, which would group Nyby's stainless sheet and tube works near Eskilstuna with Uddeholm's five stainless steel works (MB Mar 23), is believed imminent, but no details are expected for about a month. Under the terms of the merger Grånges is likely to be given shares in Uddeholm plus some cash. The new company's head office is to be near the Nyby works at Eskilstuna, it is understood, and a prime contender for the post of managing director is believed to be Nyby's Olof Lund. The latter confirmed that a new continuous caster would form part of the investment plans for the joint subsidiary, but he was unable to say as yet whether this would be installed at Nyby or at Uddeholm's Degerfors works. The merger will lead to no direct redundancies, it is understood, but long-term rationalisations are planned.

METAL BULLETIN
June 5, 1979

Sweden merger very close

TALKS with trade unions are in their final stages, and agreement is expected to be announced next week on the formation of one of the Nordic countries' largest stainless steel producers. Union reaction to the proposed grouping of Uddeholm's stainless steel operations with Grånges Nyby has so far been encouraging.

Nyby and Uddeholm have agreed on the financing of the new company, which will include further state loan guarantees amounting to Skr75m, to be agreed soon with the government's special steel restructuring commission (MB June 5). The planned continuous caster is likely to go to Degerfors works, but this will not be decided until the new company is formed.

The structure of the new enterprise has, however, been agreed. Managing director will be Nyby's Olof Lund, head of finance E. Larsen (Uddeholm), in charge of subsidiaries Lennart Hednert (Nyby finance chief), purchasing Stig Göransson (Nyby production head), technology Bo Janzon (Uddeholm).

There will be five divisions: steel and flat products will be headed by Per Molin (currently Uddeholm plate divisional manager), tube systems division Ove Stoltz (Uddeholm tubes division), wire and bar division Bo Mellin (Uddeholm wire products manager), powder division Christer Aslund (Nyby), and fabrications Evert Wijkander (Nyby flat products manager).

Meanwhile, Uddeholm and Sandvik are making progress in talks on cold rolling co-operation involving a joint subsidiary to take control of Uddeholm's Munkfors works (MB Mar 20). Uddeholm says final stages should be reached before Sweden's July holiday period.

METAL BULLETIN
June 15, 1979

SSAB's first year report

It is over a year since Sweden's three integrated ordinary steelworks were brought together under semi-state ownership in a new company, Svenskt Stal AB (SSAB). An operating plan and rationalisation plan were drawn up at the time of the reorganisation, and closures have begun. This article is based on SSAB's annual report for 1978, its first trading year, which show the lines along which the Nordic countries' largest steel producer is to develop.

SVENSXT STAL had its origins in a study presented in March 1977 to Sweden's Steel Industry Council by the Commission of Inquiry on Commercial Steel. The report determined that in the light of the slump affecting Swedish ordinary steel production no less than that of the rest of western Europe, the profitability of the industry could be increased only by raising its productivity.

Raw steel production accounts for 70% of the production costs of finished products, and it is in this area that the Commission found the greatest scope for rationalisation. It proposed that ore-based steelmaking be concentrated on two works to exploit advantages of scale. At the rolling end, a greater specialisation of Sweden's mills was recommended, in order to achieve higher capacity utilisation. Thus Oxelosund works would be the sole producer of heavy plate, Domnarvet of HR and CR sheet and coil, and Lulea of heavy sections. Medium sections and bars would be produced by other rolling mills, each with its degree of specialisation.

It was as a result of this report that the owners of the three large integrated works, Gränges AB (Oxelosund works), the state-owned Norrbottens Järnverk AB (Lulea) and Stora Kopparbergs Bergslags AB (Domnarvet), began talks on a merger. By November 1977 most details had been worked out, a bill approving the state participation in the new concern was passed by parliament in April 1978 and the three works and their subsidiaries merged with retroactive effect from January 1, 1978. Granges and Stora each have 25% of SSAB, with the state holding company Statsföretaget having 50%. The state also made available two loans totalling Skr3,100m to SSAB.

SSAB's first year of trading saw Swedish steel production rise 9% from 1977 to 4.3m tons, though at this level, it remained more than 27% lower than its 1974 level. In addition to the structural difficulties faced by the entire western European steel industry, Sweden is also handicapped by its small home market and its outstandingly high level of costs.

Sweden's ordinary steel deliveries fell by 4.9% from the 1977 figure to 2.28m tons, a reflection of the continued low level of activity in Swedish industry. The order intake at Swedish mills continued to decline for the sixth year in succession, with domestic orders falling 8.2%

map out a long-term strategy, together with the integration of the businesses taken over by the new group into an efficient organisation. A decentralised management structure came into effect on May 1, 1978, with responsibility for profits devolved to divisional and service unit level.

Iron mining and steelmaking is structured into a number of well-defined divisions under four broad headings: raw materials (iron mines and coking plants), semi-finished products (ironmaking, steelmaking and semis production), rolled products, and selling and upgrading (coated sheet production, other finishing operations, and sales subsidiaries). Service units include the TGOJ railways, a computer concern, and a mining consultant operation. A group-wide sales organisation, the Steel Centre, was created.

A structural plan was drawn up, laying down SSAB's strategy as regards markets, products and production facilities and including specific measures to be immediately implemented. The plan sets SSAB's market sights firmly on its local market of Sweden and the other Nordic countries, where SSAB aims to gain a greater share. For certain special products exports beyond this area will continue to be sought, but for ore, semis and other low added value products, Sweden will be the almost exclusive market.

In its product strategy, SSAB wants to reduce dependence on less processed products while offering as complete a range of ordinary steel as possible either from its own production or by marketing products made by other firms. Production is to be concentrated on as few facilities as possible to achieve economies of scale and extending co-operation along with high capacity-utilisation. In the course of restructuring, production facilities are to be upgraded to the best European standards, SSAB plans.

Domnarvet works is to be SSAB's sheet, bar and rod centre. Sweden's imports of these products are very high and at present SSAB can do little about this since its capacity and range are restricted. The rate of consumption growth in HR and CR sheets and wire rod is expected to be higher than the average for ordinary steel. These market areas also offer potential for further upgrading. Hot and cold rolled sheet and coil production at Domnarvet is to be boosted from 700,000 tpy of HR to 1m tpy, and from 350,000 tpy of CR to 700,000 tpy. In the longer term, SSAB sees possible scope for expansion to 1m tpy of CR and 2m tpy of HR. Hot strip finishing facilities are also to be uprated. Domnarvet's merchant mill rolls light sections, reinforcing bars and wire rod. To improve rod production, two non-twist blocks are to be added to the mill, which will henceforth produce only rod and bar. Continuous-cast billets will be the exclusive feedstock.

Future plans

Lulea is the centre for medium and heavy sections and heavy and universal bars. While merchant bar production in Sweden is fragmented between a number of small companies, SSAB is the only producer of the heavier end. There is little overcapacity in this sector, but SSAB wants to replace the Lulea medium section mill for quality reasons. This proposed investment was not approved by the Swedish parliament and is currently the subject of further studies by SSAB. Rail production will be transferred from Domnarvet to Lulea where the heavy section mill will undergo changes.

At the plate production centre, Oxelösund, SSAB aims to diversify away from ship plate into material for general industrial uses. The targeted production level for Oxelösund is 400,000-500,000 tpy, and the move away from ship plate will require some investment spending.

At the hot metal and raw steel side of SSAB's production cycle, the expensive hot metal production and oxygen steelmaking at Domnarvet are to be phased out. SSAB's raw steel overcapacity is to be cut back: currently capacity is 4m tpy, expected demand by 1982 is estimated at only 2.6m tpy. Since 60-70% of the cost of SSAB's finished steel is incurred in the production of semis, SSAB regards it as being of the utmost importance that raw steel be produced as competitively as possible.

Ore-based raw steel production is to be continued at Lulea and Oxelösund, and continuous slab casting will be expanded at Oxelösund and introduced at Lulea, while at the latter works a billet caster will also be installed to supply the Domnarvet bar mill. Electric steelmaking at Lulea will be closed and transferred to Domnarvet where the electric furnaces will be modernised and uprated.

SSAB's iron mining division has a capacity of some 4m tpy of ore products, but is running at about 70% of full capacity. Of SSAB's mines, only those at Grängesberg have prospects of meeting the price of imported ore at Oxelösund, and then only after a substantial amount of rationalisation work. Export prospects for SSAB's ore are expected to be confined in the longer term to concentrates from Grängesberg and Dannemora for sale in the Baltic region. The high-cost mines of Haksberg and Blötberget are to be closed, and the future of Strassa—which sells ore to the central Swedish special steelworks—depends on market developments.

SSAB's structural plan over the next five years is estimated to cost some Skr3,900m at 1978 prices. This excludes normal replacement and other costs. Of this, some Skr1,200m is high-priority investment in continuous casters, rod blocks at Domnarvet, hot and cold mill expansion and other projects. SSAB's board has formally adopted a 1979-81 investment plan of Skr2,000m, a large part of which will go on improving strip and sheet production at Domnarvet. Decisions remain to be taken on heavy plate and steel fabrication activities.

First year's ope ions

In 1978, SSAB's iron ore production was 2.9m tons, and the large stocks of ore on hand at the start of the year rose slightly despite production cutbacks, standing by the year end at 1.7m tpy. The ore division is studying development of a method to produce sponge iron and iron powder from Grängesberg concentrate. The division's operating loss was Skr81.2m.

The coking division, with batteries at Oxelösund and Lulea, utilised only 70% of its 1.2m tpy capacity in 1978, with a production of 848,000 tons of coke. The division recorded an operating profit of Skr64.4m.

The metallurgy division comprises ironmaking, steelmaking and semis production. Raw steel capacity is some 3.6m tpy but production in 1978 was only 2.35m tons, while pig iron output was 2.07m tons (65% of capacity). The division had a loss of Skr250.3m. Closures took place at the Lulea sinter plant and electric arc furnace, and the OBM and Asea-SKF units at Domnarvet.

The sections division at Lulea experienced slack demand last year, with sales to the domestic building and metalworking industries largely unchanged from 1977 when it was at a nadir. This was partly offset by a continued high volume of exports. The state of the shipbuilding industry—one of Lulea's major markets—meant that sales to the yards continued to decline both in Sweden and abroad. Prices of sections generally rose by an average 18%, largely as a consequence of the EEC's Davignon Plan.

Production in 1978 was restricted to 326,000 tons (368,000 tons in 1977), because a fire damaged one of Lulea's mills. Capacity utilisation was maintained at about 90% by a number of hire-rolling contracts. The division made a loss of Skr 37.2m.

The special products division makes permanent way material, reinforcing bars and fabricated reinforcement, and wire rod. Production amounted to 184,000 tons, and the division's operating loss was Skr8.7m. Decline in the Swedish building industry meant a continuation in the ten-year trend of slowing rebar consumption in Sweden. Import pressure from Spain and the UK forced a cut in home producers' market share. In wire rod, imports caused price competition, while rail prices also suffered as EEC producers endeavoured to secure footholds in the Nordic markets. The division's rail capacity is in excess of the requirements of its traditional markets, Sweden and Norway. But exports were not large because of unsatisfactory prices.

Oxelösund's mill, the centre of the heavy plate division, produced 437,000 tons in 1978 (369,000 tons in 1977). The major feature of the market was the continued decline of the shipbuilding industry in Western Europe, whose plate consumption has declined 47% since 1975. In Sweden the decline over the same period has been of 60%. This has resulted in considerable overcapacity in plate and consequently depressed prices. Oxelösund has moved away from the shipyards and tried to boost its sales of plate for general industrial purposes; but even here, because of the depressed level of capital investment, prices remain unsatisfactory. The plate division's operating loss was Skr104.2m.

Strip mill division is centred on the Domnarvet hot and cold mills, and also takes in the Lulea hot planetary mill. For hot rolled products the market was firm in 1978, but on the cold rolled side the year was unsettled. Competition was no less adverse than in 1977 since

continued overleaf

SWEDISH STEEL

although Japanese exports eased off, imports from Finland increased threefold to 120,000 tons. The division's external sales were Skr457.6m and capacity utilisation was high as HR output reached 213,000 tons (178,000 tons) and that of CR 325,000 tons (313,000 tons). The operating result was a profit of Skr12.0m. Last year's investments were aimed at improving quality and improving product flow at bottlenecks. A Skr6.8m expansion of annealing capacity was completed during the year.

SSAB's pre-finished steel division undertakes further processing of the other divisions' products. Its Roloc wing at Lulea makes special grades of CR sheet, including formable high-strength low-alloy steel, boron-alloy hardenable steel, and decarburisation-annealed steel. Pre-finishing activities elsewhere in SSAB cover flame-cutting of plate, processing of HR and CR sheets, welding shipbuilding sections and building sections, and steel building manufacture. The division had a 1978 loss of Skr2.8m.

Dobel division makes galvanized and plastic-coated sheet and coil at Domnarvet. Production last year was 195,000 tons of galvanized sheet (188,000 tons), of which 62,000 tons (59,000 tons) was plastic-coated. This represented a near-100% capacity-utilisation rate, but the division had an operating loss of Skr14.5m.

The Plannja AB subsidiary makes coated steel roll-formed sections for building purposes. It had a profit last year of Skr1.9m. Ljusne Kätting AB makes steel anchor chains for ships, offshore oil platforms. One new market being developed is chain for use in strip-mining of coal. Ljusne Kätting's 1978 result was a profit of Skr100,000.

SSAB's Simox division was set up to market sponge iron from the Höganäs direct-reduction plant at Oxelösund. Its main customers are special steel works in Sweden and abroad. Simox's deliveries last year were 8,000 tons against 12,000 tons the previous year: capacity-utilisation was only 25%, and the division made a loss of Skr600,000.

Other SSAB divisions have activities in the fields of transport, engineering, mining consulting, data processing, and recovery of steelmaking by-products.

Since its formation, SSAB has been pursuing its ambition of gaining a greater share of the Nordic market, with the acquisition of a number of stockholders. It formed Ahlsell Stalgrossisten, in which it has a 50% share, by merging its existing stockholding subsidiaries including Dickson & Sjöstedt with those of Ahlsell. This year it has acquired Tibnor, the largest Swedish steel stockholder, from the Ratos group. The deal also included a Norwegian stockholder.

SSAB has foreign sales subsidiaries in Norway, Denmark, Finland, France, West Germany and the U.K. Because of the company's history it has more than one subsidiary in some of these countries. Rationalisation of these outlets is in progress. □

Strike threat at SSAB

EUROPE's second state steel firm to be hit by a strike in 1980 could be Svenskt Stål AB. The semi-state Swedish steel producer is holding lengthy talks with the trade unions this month, which are to arrive at some conclusion towards the end of this month. Whether or not the unions will then accept SSAB's plans for cutbacks remains an open question. Shopfloor feeling is mounting against job cuts. Although some union quarters respect SSAB's logic which requires some 2,000 job losses, there will almost certainly be a struggle.

The fight is likely to be at its most intense at Domnarvet works in Borlänge near Falun in central Sweden, which will suffer the brunt of SSAB's closure programme. There was a brief strike at Domnarvet late last year, and, led by the local opposition member of parliament, Domnarvet's steelworkers are bracing themselves for a year of protest. SSAB wants to stop ore-based raw steel production at Domnarvet, but will retain the works' electric steelmaking and will expand HR and CR flat product output. One blast furnace could be closed this summer, and the second later this year. Cuts at the Luleå works in northern Sweden have already begun, and at Oxelösund works south of Stockholm more reductions in plate production are envisaged as the market continues to shrink and the plight of Sweden's shipbuilding industry—Oxelösund's major customer—grows no better.

The cutbacks are an essential element of the restructuring plan drawn up at the time of SSAB's formation two years ago. The plan needs to be implemented if SSAB is to reach profitable operation in 1981, as planned. In 1980, a loss of Skr400-500m is laid down in SSAB's financial plans. This is similar to 1979's result. In 1981 a profitable level of operation should be achieved, but financial charges will again produce a result in the red overall. The firm's first net profit is looked for in 1982.

State subsidies for SSAB in 1980 will total Skr300m, granted to cover losses, and managing director Björn Wahlström has promised the government he will not be asking for any more money this year. He would probably have difficulty getting it if he were to ask, since the new right-wing coalition government's first budget—made public last week—featured curbs in public spending as one of its chief elements. Subsidies to the state shipyards and other ailing industries are to be cut, but SSAB's budget is not affected by last week's announcement.

METAL BULLETIN
January 15, 1980

AMERICAN METAL MARKET
February 18, 1981

AMM - 2/18/81

Uddeholm Plans to Stress Specialty Metals in US

By PAT WECHSLER

NEW YORK—Uddeholm Corp. of America, the domestic sales subsidiary of Sweden's major stainless steel producer, is shifting its marketing emphasis to high-temperature alloys and specialty steels. The move mirrors a similar planned swing in production at the parent Nyby Uddeholm AB.

Although formerly acting as a service center primarily concentrating on stainless bars, the Totowa, N.J.-based operation said it now will concentrate on direct producer sales, shipping semi-finished and finished tubing and other products to redraw mills and end-use consumers.

The transition in marketing at Uddeholm in New Jersey reflects a new thrust at Uddeholm's powder and stainless steel divisions in Sweden where plans are underway to convert about 25 percent of its stainless capacity at its Torshalla, Sweden, facilities to the production of high-temperature alloys, high-alloy steels and specialty steels. By early 1983, Uddeholm said the capacity at the operations will be equally divided between stainless and specialty metal powder production.

In an interview here last week, Christer Aslund, vice-president of Nyby Uddeholm's powder products division, said the Stockholm-based company was basing the planned shift to specialty metals on what it sees as a growing demand in high-technology industries, such as sour gas well production, and more traditionally stainless markets, such as pulp and paper mills and power generation.

Currently, Uddeholm has 75 percent of its close to 9,000-ton annual production capacity in powder and tubing in common grades of stainless and the remaining 25 percent in specially steels and nickel-

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Uddeholm to Emphasize Specialty Metals in US Sales

(Continued from first page)

based alloys

In conjunction with the product shift Aslund said Uddeholm also plans to convert its production in seamless tubing to a patented powder metallurgy process developed by Nyby over the past five years.

The company has forecast slow growth in the market for stainless steels and demand for technologically sophisticated products. Aslund said the new marketing thrust—in specialty metals being attempted in Europe as well as the U.S.—also was prompted by quota systems and tariffs in various countries on stainless products.

Aslund said the company found it impossible to maintain competitive prices on stainless goods in the U.S. because of a 13 percent tariff. The tariff on specialty metals is 2.9 percent, he said, making it possible for Uddeholm to market products at about the same prices as the U.S. producers.

The company markets a large portion of its nickel-based alloys and high alloy steels in its largest market, Europe, which consumes about 50 to 60 percent of the company's production, according to Aslund.

Aslund said the company also is planning to make greater inroads into the Third World market for specialty steels. Initially it hopes to establish ties through contractors with established relationships in countries embarking on significant industrial construction.

"We must act more worldwide today," Aslund said, "because the growth—the big growth—is likely not to be in the industrialized nations."

The transition to powder metallurgy is another attempt at better penetration into markets, according to Aslund, who said the Nyby p/m process allows the company to get better yields from raw materials, produce small lots and market a "more homogeneous product.

"We have begun to ship these p/m parts and tubing regularly to our European customers," Aslund said. "And many have begun to specify the p/m product."

He said only small quantities have been brought into the U.S. to date.

Although power metallurgy in high alloy and specialty steels has been used more extensively in sophisticated technology, such as turbine discs for jet engines, Aslund said Uddeholm plans to compete with very simple forged or cast parts like flanges.

Nyby Process Described

The company uses the same steel and nickel based powders in its seamless tubing operations and in production of these simple parts. The company can produce between 5,000 and 10,000 tons of powder annually.

The Nyby process consists of s steps: powder production via g atomization, filling of powder ir capsule, compacting of the caps by cold isostatic pressing, heat of a billet, extrusion of the hot b let and finishing operations of t tube.

Uddeholm uses hot isostat pressing to produce the parts at tool steel division

Financial Times
10-1-81
Sweden

$320m injection at Swedish steel group

BY WILLIAM DULLFORCE IN STOCKHOLM

SVENSKA STAAL (SSAB), the troubled Swedish steel company, will receive a new capital input of SKr 1 8bn ($320m) under an agreement announced yesterday between the state and the private shareholders. The state will increase its shareholding from 50 to 75 per cent.

The agreement will enable Electrolux, the Swedish household appliance group, to complete the sale to the state power board of the hydro-electric stations it acquired when it took over Gränges, the engineering and metals company. That sale will net Electrolux a capital gain of SKr 950m.

The steel company was formed in 1978 from the merger of the steel interests of the state, Granges and Stora Kopparberg. It lost SKr 1.6bn in the first three years, and is expected to post a further pre-tax loss of around SKr 800m this year.

The financial reconstruction involves the purchase by the state of Stora Kopparberg's 25 per cent share for a nominal sum of SKr 1. This move cancels the agreement announced earlier this year by which Gränges would take over Stora's holding.

The steel company's share capital is to be raised by a nominal SKr 500m to SKr 2 5bn, but with the new shares priced so high that SKr 1bn will be available for an investment fund.

Of the total SKr 1 5bn new capital Statsforetag, the state holding company, will subscribe SKr 575m in cash and transform a SKr 175m loan into share capital. The state, which now enters as third shareholder, will translate a SKr 375m loan into equity.

Gränges will pay its SKr 375m in cash. In addition Gränges and the state will each make unsecured loans of SKr 150m to SSAB. Repayment of the loans will start in 1991. Granges obtains the right to sell its shares to the state for SKr 875m from January 2, 1991 If it exercises that option, the state will also be obliged to take over, wholly or in part, Granges' outstanding loans to SSAB.

Mr Per Skold, its chairman, said conservative assumptions had been made about steel prices and market developments in calculating that a capital input of SKr 1 8bn would produce a positive cash flow.

The workforce would be cut further from 13,200 to around 10,000 The target was to raise productivity from 180 tonnes to 200 tonnes per employee, which he said, would still be lower than that achieved by the best European and Japanese steel mills.

SSAB did not expect to make large exports or dominate the Swedish market. It had assumed that a low price level for steel would prevail for the next few years.

Mr Bo Abrahamsson, managing director of Granges, said that without government approval of the sale of its power stations to the state, his company would not have had the financial resources to continue investing in SSAB Yesterday's agreement has to be approved by the Riksdag (parliament).

METAL BULLETIN
Tuesday, Oct. 6, 1981

Sweden

New funding for SSAB

IN a deal which provides for SSAB to become wholly state-owned in ten years' time, the major Swedish steelmaker is to get a substantial injection of new funds. An agreement announced last week between the government and SSAB's 50% owner Granges provides for a Skr500m capital increase and a Skr1,500m package of cash and credits to boost SSAB's investment plans and to help pay the costs of surplus manpower.

Under last week's agreement, the state will increase its holding in SSAB from 50% to 75% with the acquisition for a nominal sum of the 25% holding which Granges bought from Stora Kopparberg for Skr1 earlier this year. SSAB was formed in 1978 by the merger of the three steelworks formerly owned by the state, Granges and Stora. The agreement obliges Granges (now owned by the Electrolux group) to retain its 25% stake in the steelmaker until 1991, when it can sell it to the state for Skr875m. The agreement also allows Granges to sell its hydro-electricity plants to the state power board.

The steel producer has recorded losses totalling Skr1,600m since its formation, and this year losses are predicted at Skr800m. Under a restructuring plan drawn up on its formation, SSAB was supposed to return to break-even in 1982, but the severe market depression of the last year or two has made this a clear impossibility.

Next year's results should be "at least 50% better" than this year's, thanks to the recent krona devaluation, expected higher prices because of EEC moves, and improved operations. The important hot strip mill revamp at Domnarvet works should be complete next year, and SSAB is looking to take a greater share of the home market with the new mill's products, especially with major users like consumer goods manufacturer Electrolux and the Volvo motor company. Benefits will also come from the rationalisation of ironmaking. The currency devaluation alone should contribute Skr200m to SSAB's results next year, and the company is now looking to break even in 1983 when it should complete its job-cutting programme.

METAL BULLETIN
Tuesday, Oct. 27, 1981

SWEDEN

Higher loss forecast for SSAB

SWEDEN'S major steel producer, SSAB forecasts a 1981 pretax loss of around Skr900m compared with a 1980 loss of Skr585m. The mostly state-owned company had earlier forecast a deficit of Skr800m this year. Group sales in the first half of this year were Skr4,300m against Skr4,800m in the same 1980 period.

An SSAB interim report says that the state has already committed about Skr4,000m to the reorganisation of the company. A new injection of funds was agreed only recently with a total of Skr2,000m provided by the state and its 25% partner in SSAB, the Gränges-Electrolux group (MB Oct 6).

Senator DANFORTH. Senator Heinz.

Senator HEINZ. No questions, Mr. Chairman.

Senator DANFORTH. Gentlemen, thank you all very much for being here.

Mr. HALLORAN. Thank you very much, Mr. Chairman.

Mr. ARNESEN. Thank you.

Senator DANFORTH. Well, this concludes today's portion of the hearing, and we will resume tomorrow at 9:30 a.m.

[Whereupon, at 11:50 a.m., the hearing was recessed, to be reconvened at 9:30 a.m., Thursday, July 22, 1982.]

MISCELLANEOUS TARIFF BILLS—1982

THURSDAY, JULY 22, 1982

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:37 a.m. in room 2221, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Danforth, Matsunaga, and Moynihan.

Also present: Senators Packwood, Mitchell, and Cohen.

[The prepared statements of Senators Matsunaga and Roth follow:]

STATEMENT BY HON. SPARK M. MATSUNAGA ON S. 1723 BEFORE THE FINANCE SUBCOMMITTEE ON TRADE, JULY 22, 1982

Mr. Chairman, I urge the Committee to act expeditiously on S. 1723, a bill to implement articles 7(B) and 9 of the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

The Convention's chief purpose is to stop the illegal international trade in national art treasures. The parties to the Convention undertake to prohibit importation of cultural property stolen from museums, public monuments, and similar institutions, and also undertake to recover and return such property to the rightful owners.

The United States played an active role in negotiating this Convention and it was adopted by the United Nations Educational Scientific and Cultural Organization (UNESCO) on November 14, 1970. The U.S. Senate approved the Convention by a vote of 77 to 0 on August 11, 1972. Despite the U.S. role in bringing about this Convention, the U.S. Congress has still to enact the implementing legislation.

In 1979 the House passed implementing legislation only to have the legislation killed by this Committee's inaction.

On February 5, 1981, Senator Baucus and I introduced S. 426 to implement the UNESCO Convention. This Committee again did nothing.

After introducing S. 426, I worked with various groups to address potential concerns. On October 7, 1981, Senator Baucus and I introduced a revised bill, S. 1723, to answer these concerns.

The revisions provide among other things:

(1) A requirement that other nations having a significant import trade, implement comparable restrictions;

(2) The inclusion of archeological or ethnological material of a native population or nonindustrial society;

(3) The limitation of the period for emergency import restrictions;

(4) The restructuring of the cultural property advisory committee;

(5) A revised documentation procedure;

(6) The return of certain forfeited material to the bona fide purchaser or holder of title; and

(7) A safeguard for museum acquisitions.

The revised bill which is the subject of these hearings should expedite consideration of the measure,.

The need for this legislation is pressing, and I urge expedition and favorable action by this subcommittee.

STATEMENT BY SENATOR WILLIAM V. ROTH, JR., BEFORE THE FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE, JULY 22, 1982

I wish to thank the Chairman of this subcommittee for convening these hearings on miscellaneous tariff bills. I wish to comment on three of these bills—S. 2396, S. 1588 and S. 2560—and seek Committee support for their passage.

S. 2396, which I introduced earlier this year, would temporarily suspend the import duty on high alumina fiber, an extremely efficient high temperature insulation material. Imported by ICI Americas Inc. of Wilmington, Delaware, and distributed under the trade-name, Saffil, this alumina fiber is designed for use in furnaces reaching temperatures of up to 3,000 degress, Fahrenheit.

Because of its high tolerance, Saffil is used in the production of iron and steel, petrochemicals and heavy metal castings and forgings. Users of high alumina fiber insulation have been able to save 10 to 30 percent on energy costs, have lowered maintenance costs and have increased productivity.

In addition, Saffil has important strategic applications, forming a vital part of the heat protection system of the space shuttle, Columbia.

It is important to note that neither Saffil nor any similar high alumina fiber is produced by a U.S. company. Moreover, no other ceramic fiber approaches the insulating capability of Saffil. The current 6.5 percent duty therefore only serves to increase the cost of the product to end-users while providing no useful import protection to U.S. firms. In addition, certain U.S. producers now incorporate imported high alumina fiber into their manufacturing processes to produce a material with higher insulating capabilities than would be possible using domestic goods alone.

In 1981, $1.5 million in the high alumina fiber, Saffil, was imported into the United States, with nearly $100,000 in duties paid. Imports in 1982 could reach $2.5 million, as steel and petrochemical producers attempt to cut energy costs. Passage of S. 2396 could save these users some of the $162,500 in duties that would otherwise be incorporated into this year's imported price.

At a time when we are seeking ways to cut costs, improve efficiency and productivity and reduce energy use, passage of S. 2396 makes good sense. I urge my colleagues to support these efforts and approve the duty suspension for high alumina fiber.

I also urge approval of S. 1588, legislation I introduced to provide a temporary suspension of the duty on bulk imports of carrots. S. 1588 allows for a three-year suspension of the duty on carrots imported in packages weighing more than five pounds, and is intended to alleviate an inequity in our tariff system which unfairly penalizes American processors, including Draper-King Cole of Milton, Delaware.

In 1979, as part of the overall tariff agreements negotiated with our foreign trading partners, the United States increased the duty imported fresh carrots from 6 percent ad valorem to a specific rate of one-half cent per pound. The purpose of the increase and change in duty structure was to equalize the U.S. rate with the Canadian rate, which nominally is also one-half cent per pound.

In fact, the change from ad valorem—that is, duties assessed on the value of the product—to a specific, or per-pound, rate had the effect of reducing the tariff on imported packaged carrots from Canada, while increasing the tariff paid by American packagers on imported bulk carrots. Draper-King Cole, for example, has seen the duty it must pay for a truckload of carrots from Canada increase from $20 to $225. Since it is not economical for the Delaware company to ship carrots from domestic growers in as far away as Texas, Draper-King Cole has no choice but to augment its local supplies with Canadian imports.

To make matters worse, the company must also compete with lower-priced imported processed carrots from Canada. Processors in that country must pay duties on imported carrots for only part of the year.

Thus, far from benefiting the economy, the 1979 U.S. tariff revision has created unnecessary hardship and should be changed.

S. 1588 accomplishes this objective with a temporary three-year suspension of the duty on bulk imports of carrots.

Last, I wish to express my support for S. 2560, legislation that would ensure potatoes imported as seed are not diverted for human consumption. S. 2560 would provide that our tariff schedules be amended to require that potatoes be labeled as imported for use as seed.

This legislation is needed because our Nation's potato farmers, including those in Delaware, are being hurt by the unfair trade practices of Canadian importers. At this time, importers may ship in 114 million pounds of seed potatoes at a duty of 36½ cents per hundredweight. Only 45 million pounds in table stock may be imported at this tariff rate, however. Potatoes imported over either quota level are subject to nearly twice the amount of duty, or 60 cents per hundredweight.

The disparity in quota amounts encourages importers to label table stock potatoes as seed once the quota level for the former has been reached. In this way, importers can avoid higher duties for longer than is legal.

Approximately 5,200 acres in Delaware are planted in potatoes, with the harvest used almost entirely for table stock. These farmers' livelihood depends on fair practices, and the Canadians are certainly not playing fair.

I call upon this Committee to approve S. 2560 and reverse this unfair import practice.

Senator DANFORTH. This begins the second day of hearings on a variety of trade bills.

Senator Mitchell is here today, and he is interested in one or two of these bills. One I see involves the Maine Potato Council. I wonder why you are interested in that, Senator?

Senator Mitchell has another committee meeting to go to. I understand he is going to participate in a markup on the acid rain bill. I am delighted to recognize his interest in Maine potatoes, and I know he will be very concerned about the Missouri interests in the acid rain bill

Senator MITCHELL. Indeed I will, sir.

Senator DANFORTH. Senator Mitchell.

Senator MITCHELL. Thank you very much, Mr. Chairman, first for holding these hearings, and second for inviting participation by representatives of two industries that are of great importance to Maine. I hope that today's hearing will highlight the merits of two bills that I have introduced, and that the committee will act favorably on them in the near future.

Mr. Chairman, I have a lengthy statement which I ask be inserted in the record, and I would like now to make just some brief comments from that statement.

The first issue before us is the repackaging of imported seed potatoes as table stock potatoes. This problem is related to the surge in Canadian potato imports that has occurred in the last few years. Canadian potatoes sold in the United States experienced a fivefold increase in the last 5 years.

Since most of these imports are destined for Maine's traditional markets, Maine's potato growers have disproportionally borne price-depressing effects of these imports.

Behind the rising imports levels is strong Canadian Government support for its domestic potato growers. While the U.S. industry may seek statutory relief from Canada's unfair trade practices, and that process is now underway, there is direct action that Congress can take now to relieve a part of this problem. The diversion of imported Canadian seed potatoes in the supermarkets in this country gives tariff and grading advantages to importers of the Canadian product. The current practice of selling imported seed potatoes as table stock is unfair to U.S. growers who market table stock potatoes and unfair to consumers who are unknowingly purchasing seed potatoes. My legislation, S. 2560, would stop this practice and help the Government recoup revenues it now loses because seed potatoes have a lower tariff.

I ask the members of the committee to pay close attention to the testimony of Dorothy Kelley, executive vice president of the Maine Potato Council, who has witnessed firsthand the impact of Canadian imports on Maine's potato industry.

The second issue before the subcommittee of importance to the State of Maine relates to the existing high duty on imported fishing nets. Today this subcommittee will receive testimony on S. 1565, legislation which I introduced a year ago, which would greatly benefit commercial fishermen who use synthetic nets in their operation.

A subcommittee of the Ways and Means Committee of the House of Representatives recently has purportedly favorably reported a companion bill, H.R. 4002, which that full committee is expected to approve shortly. Both measures would reduce substantially the high import duty that our Government now levies on imported synthetic nets.

Between 1963 and the first of this year the tariff was 32.5 percent ad valorem, plus 25 cents per pound of netting The rate of duty for 1982 is only slightly lower than the 1981 rate. This rate results in extremely high netting prices for U.S. fisherman who cannot obtain in this country synthetic nets of certain shapes and sizes or nets made of synthetic fibers other than nylon. A large Maine fishing vessel, for instance, may purchase over $15,000 in netting over a 12-month period. Because of the steep duty now required under the tariff schedules of the United States, almost $5,000 of this $15,000 amount is in the form of import duty.

On a U.S. tuna-fishing vessel the figures are even more dramatic. For the large and expensive purseine nets used by tuna fishermen, the duty alone can increase the selling price of the net by more than $70,000. My bill would reduce this overprotective duty from its present level of 36.6 ad valorem, plus 21 cents per pound, to 17 percent ad valorem. This would place the duty rate in line with the 17.5 percent protective duty which currently applies to imported nets made of cotton. My bill would set the duty level at 17 percent ad valorem immediately. This acceleration of the duty reduction is warranted at this time because of the numerous financial pressures which now weigh heavily upon the U.S. domestic fishing industry.

Mr. Chairman, I want to thank you.

I would like to make two requests: First, that the record remain open for a period of time for additional testimony from persons and groups in Maine who could not be here. Second, my colleague, Senator Cohen, is unable to be here at this time. He hopes to be here by 10. I would ask the chairman's leave that when he appears he be given permission to testify at that time.

Senator DANFORTH. The record will be kept open, and we will be delighted to hear from Senator Cohen.

Senator MITCHELL. Thank you, Mr. Chairman.

Senator DANFORTH. The first witness is Dorothy Kelley on S. 11 and S. 2560.

STATEMENT OF DOROTHY P. KELLEY, EXECUTIVE VICE PRESIDENT, MAINE POTATO COUNCIL

Ms. KELLEY. Mr. Chairman and members of the committee, my name is Dorothy Kelley. I am executive vice president of the Maine Potato Council, an organization that represents all potato producers within the State of Maine. I wish to address the importance of legislative dockets S. 11 and S. 2560. Both call for Treasury to insure that potatoes entering the United States as seed, and having a tag so designating, are reported as seed and used as seed only and not diverted for human consumption.

Congress established two separate categories for importing potatoes, namely, seed and tablestock, as well as two separate quotas; therefore, the intent for usage was of paramount importance to Congress. And, indeed, the usage of imported seed potatoes is of paramount importance to the U.S. potato producers and should be just as important to Treasury due to the tariff differential.

The U.S. Government is losing money when imported potatoes enter as seed to escape the payment of higher duty.

The seed quota is 114 million pounds, and that had never been filled until the 1980 and 1981 season. Within the GATT Agreement, the tariff will reduce gradually until in 1987 the tariff will be 35 cents for both tablestock and seed, and there will be no quota for either category.

The past 2 years the tablestock quota has been filled in mid-November. In the past, it was the very last of February before the tablestock would be filled. When that is filled, the seed immediately starts entering the United States. In 1981 and 1982, the past 2 years, the seed quota has been filled November 20, and on November 16, immediately, seed potatoes started coming in.

When seed potatoes enter during December through March with a destination of New York, Connecticut, and New Jersey they are headed for repackers.

There are three reasons for the U.S. buyers purchasing Canadian seed in midwinter. One reason, of course, is the lower tariff. The second reason is the difference in the grade of the potatoes. And, of course, the difference of 20 percent in the exchange gives the buyer more profit when sold in the U.S. market.

Canadian tablestock potatoes are packed at a 60 percent 2¼ inch minimum standard. Seed potatoes can be packed at 1⅞ minimum, which compares with the U.S. No. 1 package, and thus the seed is ideal for the re-packer.

These potatoes enter at the height of Maine's marketing season, and therefore result in greatly reduced prices due to abundant supplies. Potatoes are perishable and therefore cannot be carried over from year to year. The potato industry is characterized as price-sensitive. Price flexibility inherent in the price-sensitive industry is said to be market specific. Increased supplies coming into a definite market area without a corresponding increase in consumption depresses prices, according to the supply-demand ratio. USDA economists say a 1-percent increase in supply results in a 7-percent decrease in price.

The enormous year to year increase in Canadian potato imports—in 1976 it was 532,000 hundredweight. It has increased, in 1981, to 3,923,000 hundredweight.

Most of the potatoes come in through Maine ports; 75 percent of the Canadian production is produced in the Maritime Provinces and Quebec. Those potatoes come through Maine.

The 1975 Maine development plan called for the seed exports to be increased by 40 percent. Canada can use only 40 percent of her entire production; so 60 percent moves in export. In 1981-82, New Brunswick alone moved 45 percent of her seed to the United States.

The Plan calls for a total of exports of seed of 1.7 million hundredweight. In 1981 and 1982, the truck shipments by May 29 was 2,603. This would be a total amount of 1.5 million hundredweight. Of these potatoes that came in in January of 1981, 119 truck units went into areas where they could not plant seed. This was 9,950,000 pounds of seed potatoes. When repacked, they took 1 million customers away from U.S. producers. The price in January dropped 25 cents on a 50-pound bag. It regained, the last of January, that 25 cents. This price drop and lost sales can be attributed to nothing but seed potatoes coming in from Canada.

I urge you to look favorably on this piece of legislation, and I would be happy to answer any questions.

Senator DANFORTH. Thank you very much, Ms. Kelley.

[The prepared statement of Dorothy Kelley follows:]

TESTIMONY
BEFORE THE COMMITTEE ON FINANCE
ON
S-11 AND S-2560
BY
DOROTHY KELLEY

Mr. Chairman and Members of the Committee:

My name is Dorothy Kelley. I am Executive Vice President of the Maine Potato Council, an organization which represents all the potato producers of five acres or more within the State of Maine. The Council presently has a membership of 1,150 producers.

I wish to address the importance of these legislative dockets S-11 and/or S-2560, both call for Treasury to insure that potatoes entering the United States as seed, and having a tag so designating, are imported for seed use only, and not diverted for human consumption.

Congress established two separate categories for importing potatoes, namely, seed and tablestock, as well as two separate quotas, therefore, the intent for usage was of paramount importance to Congress.

The intent for usage of imported seed potatoes is of paramount importance to the United States potato producer today, and should be just as important to Treasury due to the tariff differential. The United States government is losing money when imported potatoes enter as seed to escape payment of the higher duty. Tablestock potatoes are defined as potatoes used for human consumption, while seed potatoes are defined as used for sowing.

Before the International General Agreement on Tariffs and Trade (GATT), the lower tariff rate was 37.5 cents on tablestock potatoes and the quota was 45 million pounds. When the quota was filled, the tariff then increased to 75 cents. It was normally late February before the tablestock quota was filled.

The seed quota was 114 million pounds with the lower quota being the 37.5 cents and increasing to 75 cents when the quota was filled. The seed quota was never filled until the 1980-1981 season. Within the GATT agreement, the tariff will reduce gradually until 1987 when the tariff will be 35 cents for both tablestock and seed with no quota for either category.

Presently, on this graduating scale, the lower tariff is 36.5 cents while the higher tariff is 60 cents.

The past two years the tablestock quota has been filled in mid-November; and the seed immediately starts entering the United States. This past season, 1981-1982, a 250 hundred weight entered through Maine ports on November 4, 1981. The tablestock quota was filled on November 20, 1981, and seed shipments started increasing on November 16, 1981. The past two years, the seed quota of 114 million pounds has been filled.

Seed potatoes entering December through March with destination of New York, Connecticut, and New Jersey are destined for the re-packer.

The week of January 4 through 9 of 1982, twenty-two loads of seed entered Maine. Eleven loads had a destination of New York, New York; and the other eleven moved to New Jersey per the Federal Market News Report.

Likewise this year, manifests show at the Houlton, Maine customs office 274,000 pounds of seed was imported early March with a destination of Riverhead, New York; during the same period, 201,000 pounds of seed moved to Newark, New Jersey with another 105,000 pounds going to Edgewater, New Jersey and some 50,000 pounds moving to the Bronx, New York area. The last of February or the first of March is a little early for planting in those areas, and the Bronx, New York area does not plant potatoes except in window boxes.

There are three reasons for the United States buyer purchasing Canadian seed in mid-winter. One reason, of course, is the lower tariff and the second reason is the difference in the grade and thirdly, the difference of 20% in the exchange gives the buyer more profit when sold in the United States markets.

Canadian tablestock potatoes are packed at a 60% 2¼ inch minimum standard. Seed potatoes are packed at 1 7/8 inch minimum which compares with our United States No. 1 package, thus ideal for the re-packer.

These potatoes enter at the height of Maine's marketing season, as per attachment No. 1, and, therefore, result in greatly reduced prices due to abundant supplies. Potatoes are perishable and therefore, cannot be carried over from year to year. The potato industry is characterized as price-sensitive. Price flexibility inherent in a price-sensitive industry is said to be market specific. Increased supplies coming into a defined market area without corresponding increase in consumption depress prices according to supply demand ratio. U.S.D.A. economists say studies show a one percent increase in supply results in a 7 percent decrease in price.

The enormous year to year increase in Canadian potato imports is detailed in attachment No. 2, which shows an increase in imports from 532,018 hundred weight, in 1976 to 3,923,152 hundred weight in 1981, while at the same time, United States exports to Canada decreased from 4,969,428 hundred weight in 1976 to 2,394,441 hundred weight in 1981.

Attachment No. 3, shows potato imports from Canada according to U.S. Customs districts, the record shows the vast majority of Canadian potato imports enter the United States through Maine ports. Seventy-five percent of Canada's potato production is in the Maritime Provinces and Quebec; thus these potatoes have easy access to Maine's eight ports of entry.

The 1975 New Brunswick Development Plan calls for the increase of seed exports by 40 percent to a total of 1.7 million hundred weight. This plan of 1975 also calls for an increase in potato production in New Brunswick from 10.8 million in 1975 to 14 million in 1983. Canada can use only 40 percent of her entire production so 60 percent must be moved in export--off-shore or to the United States. This past season, 1981-1982, New Brunswick alone moved 45 percent of her export seed to the United States, as per attachment No. 4.

As previously stated, the 1975 Development Plan calls for an increase of seed exports to a total of 1.7 million hundred weight-attachment No. 5 details truck exports to the United States through Maine ports. In 1980-1981 season, 2,483 truck units of 500 hundred weight entered which would be a total of 1.2 million pounds.

Attachment No. 6 details 1981-1982 truck shipments through May 29, 1982 as 2,603. This would be a total of 1.5 million hundred weight through Maine ports only.

It is extremely important to all potato producing areas, that imported seed does not reach the supermarket shelf. I have been speaking for Maine; however, the imported Canadian potatoes previously mentioned are sold in the Eastern market. These potatoes are subsidized so the Canadian producer can afford to sell at a reduced price. For example, under the Agricultural Stabilization Act, payments are made to producers to stabilize returns to a level of 90 percent of the previous five year average adjusted by any increase or decrease in the cost of production over the past five years average cost. From 1976 to 1980, annual payments to New Brunswick and Prince Edward Island producers amounted to over 4 million dollars.

The buyer in the United States can purchase the potatoes for 20 percent (at the present time the exchange is nearing 30 percent) less than the price of United States potatoes from any area, and importing seed potatoes gives benefit in the lower duty.

During the month of January, 1981, per attachment No. 7, 224 loads of Canadian seed potatoes were imported to East coast destinations. Of these imports, 199 truck units were destined for cities where no potatoes could be planted in January. These 199 truck units would consist of 9,950,000 pounds of seed potatoes. These seed potatoes then packed in consumer bags of five and ten pounds would result in a loss of one million customers to Eastern potato producers. In January of 1981, the price dropped 25 cents a fifty pound bag in the markets of Boston, New York, and Baltimore and regained the 25 cents the last of January.

This price drop and lost sales can be attributed to seed potatoes in these markets in the month of January.

I urge this committee to approve this legislative docket to assure the end use of imported seed potatoes.

Thank you. I would be happy to answer any questions.

EXHIBIT No.1

FARM MARKETING OF U.S. FALL-CROP POTATOES
1980-81 CROP YEAR (IN%)

	AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MARCH	APRIL	MAY	JUNE
Colorado		4	10	12	12	14	11	12	11	9	5
Idaho	1	5	29	10	5	6	7	10	12	8	5
Maine		6	11	11	11	11	13	17	13	7	
Michigan	7	13	20	15	14	10	8	6	4	2	
Minnesota		7	8	10	13	14	12	17	15	4	
Long Island	15	17	19	12	8	12	8	6	3		
N.Y.- upstate	6	24	21	11	10	9	7	7	4	1	
North Dakota	1	8	6	14	12	17	16	16	8	1	1
Ore-Malheur	7	15	70	2	2	3					
Ore-Other	8	15	17	7	7	7	10	7	8	8	5
Pennsylvania	10	16	15	14	10	12	9	6	3	2	1
Washington	9	20	28	6	3	5	6	7	7	6	3
Wisconsin	8	13	15	8	18	10	8	9	6	2	1

IMPORT OF CANADIAN FALL-CROP POTATOES
1980-81 CROP YEAR (IN %)

AUG.	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	JULY
.3	4.4	5.3	7.6	7.7	13.4	18.1	19.1	14.2	6.8	1.9	5.6

EXHIBIT No. 2

U.S. POTATO IMPORTS FROM AND EXPORTS TO CANADA
(Calendar Years in CWT)

	POTATO IMPORTS FROM CANADA INCLUDES SEED AND TABLESTOCK NOS. 137.20, 137.21, 137.25 137.28	POTATO EXPORTS TO CANADA INCLUDES SEED AND TABLE-STOCK. SCHEDULE "B" NOS. 135.4920, 135.4940
Calendar Year	Quantity (CWT.)	Quantity (CWT.)
1976	532,018	4,969,428
1977	1,064,291	4,171,281
1978	1,499,772	2,715,527
1979	1,594,337	2,377,897
1980	2,182,315	1,749,541
1981	3,923,153	2,394,441

SOURCE: U.S. Department of Commerce, Bureau of Census, Forms IA 245X, EX 546 (1976-1981): Forms IM 146, EX 546 (1982).

EXHIBIT No. 3

CANADIAN POTATO EXPORTS TO U.S. - PORT-BY-PORT TSUS # 137.20, 137.21, 137.25 and 137.28

CALENDAR YEARS - IN CWT.

	1976	1977	1978	1979	1980	1981
From Canada to:						
Portland Me.	322,310	456,069	877,581	1,088,836	1,320,360	2,448,427
St. Albans, Vt.	13,256	23,639	60,391	36,394	75,912	74,833
Ogdensburg, N.Y.	4,724	65,301	34,671	59,441	290,973	400,075
Buffalo, N.Y.	16,747	38,500	45,311	24,684	242,972	90,456
Boston, Mass.		460	225		500	450
Bridgeport, Conn.	300					
TOTAL - above ports	354,337	583,969	1,018,619	1,209,355	1,931,202	3,019,241
TOTAL - all other ports	177,681	480,322	481,153	384,482	251,113	903,912
TOTAL - from Canada to U.S.	532,018	1,064,291	1,499,772	1,594,337	2,182,315	3,923,153

SOURCE: U.S. Dept. of Commerce, Bureau of Census

Forms IM 245X

Exhibit No 4

DESTINATION	TABLE	SEED SEMENCE
Barbados	-	433
Cuba	-	277,589
Jamaica	-	21,650
Puerto Rico	-	15,961
Dominican Rep.	-	2,200
Panama	-	2,519
Brazil	-	572
Argentina	-	48,950
Venezuela	-	-
Uruguay	-	48,200
Finland	26,400	-
Spain	-	39,666
Hungary	-	-
United States	576,852	379,737
Exports	603,252	837,477

NEW BRUNSWICK POTATO SHIPMENTS TO MARCH 31

1981 - 1982

Exhibit No 5

CANADA IMPORTS – [illegible] UNITED STATES [illegible] PORT OF ENTRY
([illegible] cwt. units)

Week Ending	Table	19[illegible] Table Iodide	Seed	[illegible] Total
[illegible]	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	–	–
[illegible]	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	–	–
[illegible]	[illegible]	488	–	–
"	[illegible]	[illegible]	13	13
"	54	641	[illegible]	[illegible]
"	63	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	711	47	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	842	[illegible]	[illegible]
"	[illegible]	[illegible]	33	[illegible]
[illegible]	[illegible]	[illegible]	64	[illegible]
"	61	[illegible]	[illegible]	[illegible]
"	44	[illegible]	[illegible]	[illegible]
"	48	1,074	[illegible]	[illegible]
"	[illegible]	1,146	156	[illegible]
[illegible]	64	1,210	[illegible]	[illegible]
"	[illegible]	[illegible]	131	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	1,383	[illegible]	[illegible]
[illegible]	[illegible]	1,472	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	1,862	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	44	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	2,301	[illegible]	[illegible]

Week Ending	[illegible]	19[illegible] Table [illegible]	[illegible]	[illegible] Total
[illegible]	–	–	–	–
[illegible]	–	–	–	–
" [illegible]	–	–	–	–
" [illegible]	[illegible]	[illegible]	–	–
" [illegible]	[illegible]	[illegible]	–	–
[illegible]	[illegible]	[illegible]	–	–
"	[illegible]	[illegible]	1	[illegible]
" [illegible]	[illegible]	[illegible]	–	1
" [illegible]	[illegible]	[illegible]	1	[illegible]
"	[illegible]	[illegible]	–	[illegible]
[illegible]	[illegible]	[illegible]	–	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"		[illegible]	1	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	711	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	14	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	41	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	24	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]
"	[illegible]	[illegible]	112	[illegible]
"	[illegible]	[illegible]	64	[illegible]
"	[illegible]	[illegible]	[illegible]	[illegible]

[illegible] reported by U.S. Customs Service, Portland, Maine, Duty Paid
[illegible] duty quotas at 114 million lb.

Exhibit No 6

1981-1982

STATE DESTINATIONS OF CANADA SEED POTATO IMPORTS THROUGH MAINE PORTS OF ENTRY IN TRUCK UNITS

(Duty paid)

WEEK ENDING	AL	CT	DE	FL	GA	IN	IA	KY	MD	MA	ME	MI	MO	NJ	NY	NC	OH	PA	RI	SC	TN	TX	VA	WVA	DC	PUERTO RICO	TOTAL
Oct 31	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Nov 7	-	-	-	4	-	-	-	-	-	6	-	-	-	-	-	1	-	-	-	-	1	-	-	-	-	-	12
" 14	-	-	-	1	-	-	-	-	-	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6
" 21	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
" 28	-	-	-	4	-	-	-	-	-	-	-	-	-	4	5	-	-	-	-	-	-	-	-	-	-	-	13
Dec 5	-	-	-	16	-	-	-	-	1	3	1	-	-	6	8	1	-	2	1	-	1	-	1	-	-	-	41
" 12	-	-	-	28	-	-	-	-	-	3	-	-	-	8	5	-	1	-	-	-	-	-	-	-	-	-	45
" 19	-	-	-	27	1	-	-	-	-	5	3	-	-	3	7	-	-	2	1	-	-	-	-	-	-	-	49
" 26	-	-	-	14	-	-	-	-	-	1	-	-	-	2	2	-	-	-	-	-	-	-	-	-	-	-	19
Jan 2	-	-	-	12	4	-	-	-	-	2	3	-	-	1	6	-	1	2	-	-	-	-	-	-	-	-	31
" 9	-	1	-	32	4	-	-	-	-	5	9	-	-	11	11	2	-	7	4	-	-	-	-	-	-	-	86
" 16	-	-	1	18	5	-	-	-	-	12	8	-	-	6	7	3	-	8	[illegible]	1	-	-	-	-	-	-	71
" 23	-	1	-	20	6	-	-	-	2	7	3	-	-	19	7	4	-	6	1	4	1	1	-	-	-	-	82
" 30	-	1	-	14	2	-	-	-	2	8	15	-	-	5	1[illegible]	9	-	3	-	2	1	-	-	-	-	-	73
Feb 6	-	1	1	24	6	-	-	-	1	8	12	-	-	7	13	11	-	3	2	7	4	-	1	-	-	-	102
" 13	-	1	3	7	7	-	-	-	-	4	15	-	-	11	19	22	-	6	-	[illegible]	7	-	2	1	-	-	1[illegible]
" 20	1	-	1	3	3	-	-	-	3	10	18	-	-	6	16	17	-	4	1	4	2	-	10	3	-	-	1[illegible]
" 27	-	-	-	3	2	-	-	1	[illegible]	2	2[illegible]	1	-	12	11	8	1	3	[illegible]	1	[illegible]	-	6	1	-	-	[illegible]
Mar 6	-	2	[illegible]	2	1	-	-	-	6	[illegible]	[illegible]	-	-	15	18	14	[illegible]	6	1	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	-	14[illegible]
" 13	-	[illegible]	[illegible]	2	-	-	-	1	1	-	15	-	-	[illegible]	15	13	[illegible]	[illegible]	-	[illegible]	[illegible]	-	18	[illegible]	-	-	[illegible]
" 20	[illegible]	5	-	-	[illegible]	[illegible]	-	[illegible]	5	[illegible]	22	-	-	[illegible]	[illegible]	[illegible]	[illegible]	10	[illegible]	[illegible]	[illegible]	-	[illegible]	4	-	-	[illegible]
" 27	-	[illegible]	4	[illegible]	4	[illegible]	-	1	[illegible]	[illegible]	18	-	2	[illegible]	[illegible]	[illegible]	[illegible]	19	[illegible]	4	-	-	[illegible]	[illegible]	-	4	13[illegible]
Apr [illegible]	-	[illegible]	[illegible]	[illegible]	-	-	2	-	[illegible]	[illegible]	2[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]	6	[illegible]	-	-	[illegible]	-	8	[illegible]	-	-	[illegible]
" [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	-	[illegible]	-	[illegible]	[illegible]	2[illegible]	-	-	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	-	-	[illegible]
" 17	7	3	[illegible]	[illegible]	5	1	-	-	-	2[illegible]	[illegible]	-	-	[illegible]	[illegible]	6	6	25	[illegible]	[illegible]	[illegible]	-	[illegible]	2	[illegible]	[illegible]	25[illegible]
" 24	5	[illegible]	[illegible]	3	-	-	-	1	[illegible]	[illegible]	12[illegible]	-	-	[illegible]	[illegible]	-	[illegible]	20	[illegible]	1	-	-	[illegible]	[illegible]	-	-	25[illegible]
May [illegible]	5	-	-	1	-	-	-	-	-	[illegible]	[illegible]	-	-	[illegible]	[illegible]	1	[illegible]	6	-	-	1	-	-	[illegible]	-	-	1[illegible]
" 8	[illegible]	-	-	2	-	-	-	-	1	[illegible]	10[illegible]	-	-	-	17	-	4	[illegible]	-	-	[illegible]	-	-	-	-	-	[illegible]
" 15	1	-	-	-	-	-	-	-	-	[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]	[illegible]	7	[illegible]	-	-	-	-	-	-	-	[illegible]
" 22	-	-	-	-	-	-	-	-	-	-	1[illegible]	-	-	-	[illegible]	-	-	2	-	-	1	-	-	-	-	-	24
" 29	-	-	-	1	-	-	-	[illegible]	-	-	2[illegible]	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	2[illegible]
TOTALS	17	[illegible]	[illegible]	[illegible]	45	[illegible]	[illegible]	6	38	[illegible]	7[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	49	[illegible]	67	[illegible]	[illegible]	[illegible]	2,663

Exhibit #107

[illegible]

Senator DANFORTH. Senator Mitchell?

Senator MITCHELL. Thank you, Mr. Chairman.

Ms. Kelley, we discussed tariff advantages regarding imported seed potatoes. Are there grading advantages involved in this as well?

Ms. KELLEY. Yes; there is a grading advantage, because seed potatoes can come in at a smaller size, 1⅞ inches, whereas the tablestock potatoes enter at 2¼. The repacker likes the smaller potato because it meets U.S. standards.

Senator MITCHELL. I also would like to ask you about the views of potato growers in other regions of the country. Obviously, as I indicated in my statement, the brunt of these imports are being borne by these growers in Maine. Do other growers from regions of the country other than New England, who have less direct competition from the Canadians, support this legislation? For example, do you know what the position of the National Potato Council is on this legislation?

Ms. KELLEY. The National Potato Council, Senator, supports this legislation. All potato-producing areas in the United States are being hurt by the Canadian potatoes coming into the Eastern market, because most of our population is in the East.

Senator MITCHELL. I understand it is difficult to identify and quantify the precise amount of seed potatoes that are sold as tablestock. Some are easily identified, others are more difficult. Have you had any success in quantifying the amount of seed sold as tablestock?

Ms. KELLEY. This is a very difficult thing to prove due to the fact that the repackers can use both the seed and tablestock. We have tried to get cooperation from the PACA, because it actually is misbranding. This has been rather difficult. We hope that in the future we will get the support of PACA to check in regard to the branding laws

Senator MITCHELL. If you know, can you tell us what the attitude of the Canadians may be regarding an end-use provision?

Ms. KELLEY. I have met several times with the Canadian Horticultural Society, the Maine Department of Agriculture, and some of the industry officials. I have also met with officials of the Maritime Provinces. The Canadians are extremely supportive of this legislation because they believe the seed coming in is also hurting their image where it is packed at a smaller size standard.

Senator MITCHELL. Now, the tariff schedules reflect a difference between seed and tablestock potatoes, and obviously the effort here is to see that the end use is consistent with the labeling on importation. If such legislation is not enacted is there any reason for preserving a distinction in the tariff schedules between seed and tablestock?

Ms. KELLEY. As I stated, of course it does. The tariff schedule will be 35 cents in 1987. We are quite concerned in the U.S. potato industry in regard to this, because Canada has a development plan, and we could completely ruin our potato industry by having such a low tariff, and of course the difference in the exchange.

Senator MITCHELL. Thank you very much, Ms. Kelley. Your testimony is very forthright and helpful. We appreciate your coming here.

Ms. KELLEY. Thank you.

Senator DANFORTH. Thank you very much, Ms. Kelley.

Senator Cohen is here. We are delighted to have you with us, Senator, to enlighten us about the potato and fishnet situations.

STATEMENT OF HON. WILLIAM S. COHEN, U.S. SENATOR FROM THE STATE OF MAINE

Senator COHEN. Thank you very much, Mr. Chairman.

In response to the question from Senator Mitchell I have the National Potato Council's statement. Mr. Herschel Heilig, the president, asked me to submit the statement which represents 14,000 potato producers in some 38 States. I will submit that for the record.

Senator DANFORTH. All right.

[The National Potato Council's statement follows:]

STATEMENT OF HERSCHEL HEILIG, PRESIDENT OF THE NATIONAL POTATO COUNCIL, DENVER, COLO.

The National Potato Council is a non-profit trade association representing over 14,000 potato producers in 38 states across the United States. The Council is pleased that the Senate Finance Subcommittee on International Trade is conducting this hearing on S. 11 and the problems encountered by U.S. potato producers as a result of increasing potato imports from Canada.

The National Potato Council is concerned that Canadian producers and exporters may be using a loophole in the U.S. Customs laws in order to avoid paying a higher duty on potatoes imported into the U.S. for the fresh market. There are two classifications for potatoes being imported into the United States: The first is certified seed potatoes; the second consists of all potatoes other than such certified seed, i.e. table stock or processed potatoes. These potatoes are imported under a "tariff-rate" quota schedule which permits a specified quantity of merchandise to enter for consumption at a reduced duty rate during a specified period. The tariff rate quota for tablestock potatoes is 45,000,000 pounds during the twelve month period beginning on September 15 in any year. Certified seed potatoes presently have a quota of 114,000,000 pounds for potatoes entered during the same twelve month period. When either quota is filled the tariff rate nearly doubles for that category; increasing from 35¢ to 60¢ per hundredweight.

Import volumes for the two categories of potatoes almost certainly evidence a Canadian scheme to circumvent the quota rates. Canadian producers are exporting potatoes under the seed quota once the table stock quota is filled. By doing so, the Canadians have gained access to lower tariff rate even though the potatoes are actually intended to be sold as table stock.

During 1979-1980, Canada exported 3.3 million pounds of seed potatoes between July and December 1979. The quota for table stock potatoes was reached on December 27, 1979. In the next three months, over 21 million pounds of so-called seed potatoes were exported to the U.S. from Canada under the lower tariff. A similar situation developed during 1980-1981. This sudden surge in imports of seed potatoes, commencing as it does, only when the table stock quota is filled, testifies to the manipulation of the tariff provisions by the Canadians.

The Council supports S. 11 because it would halt this bold transgression of the relevant tariff provisions. Moreover, these Canadian actions come when Canadian potatoes already have penetrated Northeastern markets significantly. Canadian producers who are receiving government subsidies and benefit from a nearly 20 percent advantage in currency exchange rates when selling to the United States should not be permitted to flagrantly misuse U.S. law. Any continuation of the current practice can only serve to exacerbate an already inequitable situation and to further disrupt the orderly marketing of potatoes in the northern and eastern markets of the United States.

Senator COHEN. Mr. Chairman, I am pleased that the subcommittee is holding this hearing, and I commend Senator Mitchell for his efforts on this legislation. I want to indicate my strong support for the legislation, which would amend the tariff schedules in order to insure that potatoes imported as seed are not diverted for human consumption.

As you have heard from Ms. Kelley, during the past 5 years the shipments of eastern Canadian table and seed potatoes have entered U.S. markets in increasing volume—as a matter of fact, they have increased by some 300 percent—with a specific increase in seed potato shipments. I think it is rather apparent that many of these seed shipments are entering under the lower-tariff classification and then being repacked as table stock and thus circumventing the very purpose of the tariff item.

For example, the 45,000 hundredweight annual quota on table stock potatoes was filled on November 14, 1980, at which time the tariff then doubled—it went from 35 cents to 70 cents per hundredweight. And the potato seed quota is 114,000 hundredweight with a tariff at 37 cents. After November 14, 1980, the number of seed shipments increased dramatically, with shipments that were destined for the very same markets as table stock.

Now, I think it is interesting to note that for the first time in history Canada filled its seed quota of 114,000 hundredweight. And while legitimate seed shipments do occur in the late fall and early winter months with destinations being in Florida and other southern producing areas, I think it is rather unlikely that any potential seed buyers would require shipments to Bronx, N.Y.; to Chelsea, Mass.; Huntspoint, Conn.; Newark, N.J.—just to mention a few of the January destination points.

The practice of repacking seed into table stock also circumvents, as Ms. Kelley answered in response to Senator Mitchell's questions, the Canadian table stock grade standards which require a 2¼ inch minimum sizing of potatoes, meeting appearance and visual quality standards.

Seed standards differ only in that a certification of quality and the absence of disease is required. There are no sizing standards.

By 1987 the differences in the tariff rates are going to disappear as Canada and the United States attempt to harmonize their potato tariffs as a result of the multilateral trade negotiations. I know that a number have argued that therefore there is no sense in resorting to the end use, that it is unnecessary at best, and only a short-term solution. I notice the chairman is sort of smiling in anticipation of this particular argument. But, in fact, it is not the case. An end-use provision will protect not only the U.S. producers from the practice but it will also protect the table stock standards of the Canadian shippers. And that~~, I~~ assume, is why the farmers and the growers in Canada are concerned that this table stock is being—that the seed is being diverted, as a matter of fact.

An end-use provision will also insure that table potatoes entering the United States from Canada are of the quality and standards established by the Canadians themselves.

Finally, a designation will also improve the product flow into eastern markets. Currently we have very wide discrepancies in the import records of our U.S. Department of Agriculture, the Department of Commerce, and the export figures of the Canadian Government. And, without question, this has resulted in a great deal of confusion over how much seed Canada is actually exporting into this country.

At present the Customs Service has to rely on the product designation or the seed tag that certifies that the Canadian Government has inspected the potatoes and that they meet seed-quality requirements. The service has no jurisdiction, in its view, for determining the end or ultimate use of the product or destination. Frankly, I find the current situation unacceptable. If you have a large load of seed potatoes heading for Boston, Mass., in January, it seems to me a red flag ought to be raised immediately, and that the Customs Service should be contacting the agricultural marketing service of PACA to say, "Hey, take a look at this shipment. We don't think it is going to be planted, unless you are going to do it with shotguns, into the soil of Boston or surrounding areas during the month of January, February, or March."

Now, the service is currently required to allow into the country all seed potatoes which have been certified to have been grown and approved especially for use as seed. It is obvious to me that the original purpose of the separate tariff items was to distinguish between seed and table stock, and though the language is somewhat ambiguous I think the intent is quite clear. There was and is a distinction between the two products and their ultimate use.

Mr. Chairman, the potatoes entering the United States from Canada under the seed quota, benefiting from the lower duty should be planted by potato farmers as intended, they should not be repacked only to be resold in our markets and our supermarkets. Neither the consumer nor the farmer-producer is benefiting from this practice, and I would urge your support for this legislation.

Senator DANFORTH. Senator Mitchell?

Senator MITCHELL. I have no questions, Mr. Chairman. I merely wanted to commend Senator Cohen for his very effective and persuasive statement and for his continuing efforts and support for the Maine potato growers over many years.

Senator DANFORTH. Can you tell a seed potato from a nonseed potato?

Senator COHEN. Can I tell one? No.

Senator DANFORTH. Can they be identified?

Senator COHEN. Only in terms of perhaps size. Generally they are of the same essential appearance, but there is a size difference. That's what makes it so difficult. When they start just tagging them as seed potatoes and put a red tag on, we certify that there is no disease, they are free from disease, and they are intended for seed potatoes. Our officials say that is none of our business; once the Canadians have certified it, it's free to go.

Senator DANFORTH. Could they find out through the Customs people? Would a Customs officer know the difference, whether they were seed potatoes?

Senator COHEN. The key would be destination. There is almost a presumption of guilt at that particular point. But other than surface appearance, I think there would not be a marked distinction.

Senator DANFORTH. Could an expert tell the difference? Is there a difference between a seed potato and the other?

Senator COHEN. Only in the size requirement. There is essentially no difference.

Senator DANFORTH. Thank you very much. Next we have two witnesses on S. 1565: Gustave Fritschie and Joseph Amore.

Senator MITCHELL. Mr. Fritschie, we will begin with you.

STATEMENT OF GUSTAVE FRITSCHIE, VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. FRITSCHIE. Thank you very much, Senator Mitchell.

I am very pleased to be here this morning to testify in strong support of legislation introduced by you and several other cosponsors in the Senate, S. 1565, which would immediately reduce the customs duty on synthetic fiber fish nets and netting to a rate of 17 percent ad valorem.

As you indicated in your earlier opening statement, similar legislation, H.R. 4002, has been favorably reported by the House Subcommittee on Trade under the chairmanship of Representative Sam Gibbons, and it is also my understanding that the legislation will likely be favorably considered by the full committee in the near future.

I have a prepared statement which I ask be included in the hearing record, and I would like to make several points at this time.

First, the legislation is very important to U.S. fishermen for several reasons, one particularly in New England and in your State of Maine, and in areas such as Portland, Prospect Harbor, Rockland.

The fishing industry over the past several years has had significant economic difficulties, caused in large measure by a very restrictive management plan on ground fish which aggravated a significant increase in overhead costs, including diesel fuel, ice, food, nets and netting, other necessary supplies for a fishing vessel.

The seafood industry recently was successful in getting a revised management plan adopted by the Government, which will hopefully improve fishing conditions in the ground fish fleet, and at this time it is important to carry on with that momentum by reducing artificially high overhead costs confronting the fishermen.

As you indicated, again, in your statement, fishermen in New England pay approximately $15,000 a year in net and netting costs. At a current tariff rate of approximately 40 percent ad valorem, somewhere around $6,000 in additional costs will have to be borne by fishermen in New England in order to acquire (1) the type of netting which is generally not available in the United States, and (2) a netting which is signficantly superior in fishing characteristics, according to fishermen that I have spoken with, than nets and netting available in the United States.

The cost differential is, of course, exaggerated as the cost of the initial nets get higher, and results in a more significant burden on the fishermen. Fishing vessels in Alaska may spend approximately $100,000 on netting. This would result in a tariff of approximately $40,000. Your legislation would reduce that tariff to $17,000, resulting in a $23,000 savings per vessel.

I believe that the reduction in the tariff, which will be carried out gradually, anyhow, will not adversely impact the domestic net and netting industry. One, two-thirds of the netting used in the United States over the past decade and more has been produced by the domestic fish net manufacturers. Second, if your legislation is adopted by the Congress there will still be a very high 17 percent tariff on fish nets and netting. There are very few other tariffs in the Tariff Code which are as significant as that, much less the current 40 percent ad valorem tariff. Third, it is likely that the net and netting industry would be provided protection under the Multifibers Agreement, and it is also protected under statutes which regulate adverse types of trade practices. Finally, the fishing laws of many coastal States do not permit the use of monofilament nets in State waters as a conservation measure, and thus a significant amount of netting would continue to be supplied by domestic net manufacturers.

In conclusion, Mr. Chairman, the institute believes your proposed legislation is most compatible with this Nation's overall trade policy.

In the seafood industry we have been working aggressively with the Departments of State and Commerce and with the U.S. Trade Representative's office to reduce or eliminate existing tariff and nontariff trade barriers on the exportation of U.S. fishery products to other nations.

Most recently the Government of Japan has announced a reduction in trade barriers in various agricultural and fishery items. Adoption of your bill will signal to the Japanese that there are benefits to be derived from free international trade.

Mr. Chairman, we strongly support your bill, and we trust that the Senate Finance Committee will move expeditiously towards passage.

Thank you.

Senator MITCHELL. Thank you, Mr. Fritschie.

[The prepared statement of Gustave Fritschie follows:]

Testimony of

GUSTAVE FRITSCHIE
Vice President - Government Relations
NATIONAL FISHERIES INSTITUTE

On

S. 1565
A BILL TO REDUCE DUTIES ON FISH NETS AND NETTING IMPORTS

Before the

SUBCOMMITTEE ON INTERNATIONAL TRADE
SENATE COMMITTEE ON FINANCE

July 22, 1982
Washington, D.C.

Mr. Chairman, I am Gustave Fritschie, Vice President, Government Relations, of the National Fisheries Institute. The Institute is a national trade association representing more than 1,200 member companies which harvest, process and distribute fish and seafood products. I am pleased to have the opportunity to appear today and testify in support of S. 1565, which would reduce customs duty on the synthetic fiber fish nets and netting to a rate of 17% ad valorem. This legislation is responsive to the current economic situation in the seafood industry and to ongoing efforts by the industry and the government to accelerate development of the Alaskan groundfish industry. The reduction to a 17% ad valorem rate proposed in S. 1565 would, if passed, bring into effect immediately the phased in reduction agreed to by the United States in 1979 during the Multilateral Trade Negotiations. At the present time, the effective duty rate is approximately 40% ad valorem. It is scheduled to be reduced to 17% by 1989.

At the current time, the U.S. commercial fishing industry uses approximately $25 million worth of fish nets and nettings annually. According to statistics, usage of fish nets increased from 3.2 million pounds in 1970 to 6.3 million pounds in 1980. Even with the current high rate of duty, U.S. consumption of imported nets and nettings increased through the 70's, but declined in 1980 and 1981 to a level of 1,662,000 pounds. This decline is due, we believe, to the current economic difficulties confronting the seafood industry. According to comments from the industry, the level of imports is due to the quality of the monofilament webbing which is lighter and ensures exact mesh size. Another important reason for the level of imports is the limited synthetic net and netting production in the United States. Thus, the current high tariff is not providing protection for the U.S. net and netting industry since the industry does not produce a comparable product.

At the same time, this tariff imposes a significant financial burden on the United States fishing industry. According to statistics obtained from the National Marine Fisheries Service, initial costs for a net for a fishing vessel entering the Alaskan groundfish fishery is approximately $100,000. The passage of this legislation would reduce the tariff from $40,000 to $17,000. The resulting $23,000 in savings per vessel is significant particularly since all sectors of the fishing industry have been impacted by increased overhead costs including diesel fuel prices. Other segments of the industry, including the East Coast groundfish fleet, the salmon fleet and the shrimp fleet, would incur similar savings.

The Alaskan groundfish fishery is currently fished primarily by foreign nations, with more than one million metric tons of fish harvested in the fishery conservation zone off Alaska. A reduction in the tariff would complement congressional intent expressed in the American Fisheries Promotion Act and in pending amendments to the Magnuson Fishery Conservation and Management Act to provide for the development of fisheries which are currently underutilized by the United States industry, including bottomfish off Alaska.

I believe the domestic net and netting industry, which produces two-thirds of the domestic fish netting requirements, will still be protected if S. 1565 is adopted. The proposed 17% tariff is still quite high, the domestic net and netting industry is covered by the Multifibers Agreement and is afforded protection under statutes which regulate types of trade practices. In addition, the fishery laws of most coastal states do not permit the use of monofilament nets in state waters.

Finally, the Institute believes the proposed legislation is compatible with this nation's overall trade policy. In the seafood industry, we have been working aggressively with the Departments of State and Commerce to reduce or eliminate existing tariff and non-tariff trade barriers to U.S. fishery products. The government of Japan has announced a reduction in trade barriers on various agricultural and fishery items. Adoption of this legislation would signal to the Japanese that there are benefits to be derived from free international trade.

In summary, Mr. Chairman, enactment of S. 1565 would: (1) result in an immediate cost savings of between $2,000 and $100,000 annually per vessel; (2) implement a duty reduction already agreed to in the 1979 Multilateral Trade Negotiations; (3) support U.S. initiatives to reduce foreign tariff and non-tariff trade barriers on U.S. fishery products; (4) maintain adequate protection for the domestic net and netting industry; and (5) recognize that the U.S. net industry is not producing all the monofilament nets and netting utilized in our salmon, shrimp and bottomfish fisheries. I urge your committee to support this legislation and thank you once again for the opportunity to testify.

STATEMENT OF JOSEPH R. AMORE, VICE PRESIDENT OF SALES, NYLON NET CO., REPRESENTING THE AMERICAN NETTING MANUFACTURERS ORGANIZATION, MEMPHIS, TENN.

Mr. AMORE. Mr. Chairman, I am Joseph Amore, vice president of sales of the Nylon Net Co. I am accompanied, on my left, by Mr. William Ince of the law firm of Williams & Ince.

The 12 member companies that comprise the American Netting Manufacturers Organization produce approximately 90 percent of all fish netting manufactured in the United States.

S. 1565 would immediately reduce the tariff on imported fish netting and nets of man-made fibers from 36 percent ad valorem equivalent to 17 percent ad valorem. This 55-percent reduction in tariff protection was negotiated in the recent Tokyo round.

The purpose of staging tariff reductions over a period of years is to allow the U.S. industry affected by the consequent loss of tariff protection the opportunity to adjust gradually to the expected increase in foreign competition.

The U.S. fish netting industry has been particularly hard hit by import competition, mainly from the Far East. However, the industry is taking steps to improve its competitive position. These steps will take time. For this reason we oppose the early and immediate reduction called for by this bill.

The industries in Korea and Taiwan have much lower wage rates than we do, and that accounts for their ability to undersell us. In Japan, vertical integration allows the netting manufacturer to price his product lower than we can.

The imported netting is not necessarily of a higher quality than ours; in some cases our customers buy from us at higher prices because we have a better quality. But if the imports are priced so low that the fisherman has no choice, we cannot compete.

In the face of severe import competition, the U.S. industry is struggling to improve its competitive position. Two examples will demonstrate our efforts:

For many years the domestic industry was excluded from the lucrative salmon gill netting market because the special yarn required to produce the competitive gill netting was not available from U.S. synthetic yarn manufacturers, and the Japanese yarn producers would only sell the yarn to U.S. netting producers when demand for the gill netting was weak. Recently, however, Nylon Net Co. has persuaded the Firestone Fibers & Textiles Division to produce a yarn specifically for salmon gill netting. Nylon Net Co. has made substantial capital investment in machinery, equipment, and technology to make use of the new yarn.

The example of the salmon gill netting yarn development follows by not more than 1 year another joint development project undertaken by Firestone and Nylon Net Co. to develop a special yarn for use in making tuna netting.

In most fisheries the cost of netting is not a significant portion of the fisherman's total cost. If this bill were to be enacted, the resulting sudden reduction in tariff would be of no benefit to the U.S. fishing interests; the fishermen would see no lowering of the prices to them for foreign netting; the foreign manufacturer or the U.S.

importer would reap the windfall profit that would result from such a reduction.

U.S. netting manufacturers are typically small, closely held concerns. Far Eastern textile industries benefit greatly from vertical integration. The Japanese netting industry, for example, has 10 times the U.S. production capacity. Without tariff protection, the U.S. industry cannot survive. If there is no viable U.S. netting industry, the U.S. fisherman would then be entirely at the mercy of foreign netting manufacturers who can then raise prices at will, unrestricted by either domestic competition or the U.S. antitrust laws.

The U.S. fish netting industry opposes this bill because the bill would immediately telescope staged reductions in the tariff on imported fish netting and nets of man-made fiber, and thus deprive the industry from needed protection while it attempts to adjust to the already severe import penetration.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you very much.

[The prepared statement of Joseph R. Amore follows:]

TESTIMONY OF

JOSEPH R. AMORE
VICE PRESIDENT, SALES AND MARKETING
NYLON NET COMPANY

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE COMMITTEE ON FINANCE

UNITED STATES SENATE

JULY 22, 1982

<u>Summary of Testimony of Joseph R. Amore On Behalf of the American Netting Manufacturers Organization In Opposition to S.1565.</u>

1. S. 1565 would immediately reduce the tariff on imported netting and nets of man-made fibers from 36% to 17% <u>ad valorem</u>. This reduction has already been negotiated and is scheduled to go into effect in stages over an eight-year period. An immediate reduction would seriously hinder the U.S. netting industry in its attempt to adjust to import competition and depressed market conditions.
2. Imports, mainly from the Far East, amount to almost 30% of U.S. consumption.
3. There is a history of dumping of fish netting by Japan, the largest supplier of netting to the United States.
4. Large segments of the market - notably tuna netting - have been lost to the domestic industry because of tariff loopholes.
5. The U.S. netting industry is making demonstrable efforts to improve its competitive position vis-a-vis imports: at least two new types of yarn have been developed in the past two years.
6. A reduction in the tariff on fish netting would likely not be passed on in savings to the U.S. fishermen. There is no Canadian tariff, and the price paid for imported netting by Canadian fishermen is the same as that paid by U.S. fishermen.
7. An immediate reduction in the tariff on fish netting and nets would demoralize and devastate a struggling U.S. industry.

TESTIMONY OF

JOSEPH R. AMORE
VICE PRESIDENT, SALES AND MARKETING
NYLON NET COMPANY

ON BEHALF OF

THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

IN OPPOSITION TO S.1565

JULY 22, 1982

INTRODUCTION

The 12 member companies that comprise the American Netting Manufacturers Organization (ANMO) produce approximately 90 percent of all fish netting manufactured in the United States. ANMO members are located throughout the United States (See Sppendix A).

S.1565 would immediately reduce the tariff on imported fish netting and nets of man-made fibers (virtually the only type of commercial fish netting used today), from 36% *ad valorem* equivalent to 17% *ad valorem*. This 55% reduction in tariff protection was negotiated in the recent "Tokyo Round" of Multilateral Trade Negotiations. As is true for virtually all negotiated tariff reductions, the fish netting tariff reduction is staged over eight years; for textiles the staging started in January 1, 1982, with the final reduction to 17% *ad valorem* scheduled to go into effect in 1989. Thus, one of the staged reductions has already occurred.

The purpose of staging tariff reductions over a period of years is to allow the U.S. industry affected by the consequent loss of tariff protection the opportunity to adjust gradually to the expected increase in foreign competition. Reductions in textile tariffs generally were scheduled to commence later than other tariff reductions, in recognition of the fact that the U.S. textile industry has been particularly import-sensitive.

The U.S. fish netting industry is no exception; it has been particularly hard hit by import competition - mainly from the Far East - and in a variety of ways, as detailed below. For this reason, ANMO opposes the early and immediate reduction called for in S.1565.

Import Competition

Imports of fish netting and nets of man-made fiber have consistently amounted to between one-quarter and one-third of consumption. Appendix B shows such imports by source for the most recent five years. Appendix C compares imports with domestic production and consumption. The U.S. netting industry currently suffers from close to a 30 percent import penetration, at a time when demand is extremely low.

Three Far East countries - Japan, South Korea and China (T)- have consistently accounted for the great bulk of the imports, more than three quarters in the years 1977 - 1981. Japan is the dominant supplier, accounting for 55 to 70 percent of the total imports.

Dumped Imports

Import competition, substantial as it is, has not always been fair. In 1972, ANMO was successful in proving that Japanese fish netting was being dumped in this country. However, due to lax enforcement of the antidumping finding, until recently Japanese imports have been largely unaffected by the imposition of dumping duties. With the stiffening in enforcement of the finding, significnat dumping duties are about to be imposed (see Appendix D). Since the majority of Japanese netting is of a type called double-knot salmon gill netting, there was a recent attempt to overturn the dumping finding as to this type of netting. The attempt was unsuccessful at the administrative stage since the U.S. International Trade Commission determined that the U.S. industry would be materially injured if the finding were modified. However, the determination is being appealed to the U.S. Court of International Trade.

Off-shore Purchasing

Other developments have contributed to a reduction in the market for U.S. fish netting.

For many years a tariff loophole permitted the U.S. tuna fleet to purchase nets and netting in the Panama Canal Zone without paying duty when they returned to home (U.S.) port. This market - estimated at about $3 million annually - was entirely lost to foreign netting. Although that loophole was closed when the Zone became part of the Republic of Panama, a significant (and growing) segment of the U.S. tuna fleet is now operating in the western Pacific, where it can continue to purchase duty-free netting.

In addition, there are an increasing number of joint ventures between U.S. and foreign fishermen, where the catches are delivered to foreign-owned processing vessels on the high seas, and often partly paid for in foreign-made nets and netting, without payment of U.S. duty.

Efforts To Compete With Imports

In the face of severe import competition, the U.S. industry is struggling to improve its competitive position. Two examples will demonstrate their efforts.

For many years the domestic industry was excluded from the lucrative salmon gill netting market because the special yarn required to produce competitive gill netting was not available from U.S. synthetic yarn manufacturers, and the Japanese yarn producers would only sell the yarn to U.S. netting producers when demand for gill netting was weak. Recently, however, the Nylon Net Co. of Memphis, Tennessee, has persuaded the Firestone Fibers and Textiles Division to produce a yarn jointly developed by Nylon Net and Firestone specifically for salmon gill netting. Firestone has the capacity and the commitment to provide a continuous and dependable supply of this yarn in commercial quantities to the U.S. fish netting industry. In reliance, Nylon Net Co. has made substantial capital investment in machinery, equipment and technology to make use of the new yarn.

The example of the salmon gill netting yarn development follows by not more than a year another joint development project undertaken by Firestone and Nylon Net Co. When the tariff loophole for tuna netting was closed, the U.S. netting industry and the U.S. tuna fishing industry, in a unique instance of cooperation between U.S. suppliers and their potential customers, agreed that the tuna fleet would be allowed to continue purchasing duty-free foreign netting for a period of time during which the U.S. netting industry would develop and produce acceptable tuna netting. At the end of the period, the tuna fleet would start to buy from U.S. netting producers. This agreement was embodied in special legislation, passed by Congress in 1979. In response to the challenge to develop and produce acceptable tuna netting, Nylon Net and Firestone first developed a special yarn for use in making tuna netting. The venture was successful, and the resulting netting has been tested on U.S. tuna vessels and found to be acceptable, or even preferable to foreign netting.

These are the kinds of efforts that the staged reduction in tariff allow; if the tariff were to be cut in one step, as S.1565 would dictate, the resulting import surge would so devestate and demoralize this struggling industry that many of its members would not survive.

<u>No Advantage to U.S. Fishermen</u>

If S.1565 were to be enacted, the resulting sudden reduction in tariff would be of no benefit to U.S. fishing interests, the intended beneficiaries of the measure. The fishermen would see no lowering of prices to them for foreign netting. The foreign manufacturer or exporter, or the U.S. importer or distributor would reap the windfall profit that would result from such a reduction. We need only look north of the border to Canada for proof of this phenomenon. Canada bound the tariff on fish netting imports at zero years ago. Since then, and currently, there has been no significant production of fish netting in Canada. As a result, Canadian fishermen pay the same price for Far Eastern netting that their U.S. counterparts on this side of the border pay.

The Canadian example has another lesson for the U.S. fishermen. Without tariff protection, the Canadian netting industry has been unable to survive competition from the Far East. The same thing could easily happen here. U.S. netting manufacturers are typically small, closely-held concerns. There are few conglomerates with the resources or desire to make the kind of capital investment necessary to compete against the monolithic Far Eastern textile industries who benefit greatly from vertical integration. The Japanese netting industry, for example, has 10 times the U.S. production capacity - a Goliath compared with our David. Without adequate tariff protection, the U.S. industry cannot survive. If there is no viable U.S. netting industry, the

U.S fishermen would then be entirely at the mercy of foreign netting manufacturers, who can then raise prices at will, unrestricted by either domestic competition or the U.S. antitrust laws.

The demise of the U.S. netting industry would also have serious implications for the nation's defense. Several of ANMO's members manufacture netting to be used for camoulflage purposes. This netting would have to be supplied from foreign sources, which in time of war could well be difficult or impossible.

Conclusion

The U.S. fish netting industry opposes S.1565 because the bill would immediately telescope staged reductions in the tariff on imported fish netting and nets of man-made fiber, and thus deprive the industry from needed protection while it attempts to adjust to already severe import penetration.

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APPENDIX A - PAGE 1

4/82

American Netting Manufacturers Organization Members

Bayside Net and Twine Company, Inc.
P.O. Box 3160
Brownsville, TX 78520

Blue Mountain Industries
Blue Mountain, AL 36201

Brownell and Co., Inc.
Moodus, CT 06469

Carron Net Company, Inc.
1623 Seventeen Street
Two Rivers, WI 54241

FNT Industries
927 First Street
Menominee, MI 49858

Hagin Frith & Sons Company
Wyandotte Road
Willow Grove, PA 19090

Harbor Net and Twine Company, Inc.
1010 J Street
Hoquiam, WA 98550

Koring Brothers, Inc.
2050 West 16th Street
Long Beach, CA 90813

Mid Lakes Mnaufacturing Co.
P.O. Box 5320
Knoxville, TN 37918

American Netting Manufacturers Organization Members (cont'd)

Nylon Net Company
7 Vance Avenue
Memphis, TN 38101

Northwest Net & Twines, Inc.
1064 East Pole Road
Everson, WA 98247

First Washington Net Factory, Inc.
P.O. Box 310
Blaine, WA 98230

APPENDIX B

U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING OF MANMADE FIBER, BY COUNTRY

1977 - 1981

(Quantity in Pounds)

Country	1977	1978	1979	1980	1981
Australia	0	0	0	0	0
Belgium	375	2,107	2,392	10,055	7,705
Canada	45,065	92,733	129,712	126,547	140,424
China (M)	0	0	0	0	13,673
China (T)	115,079	130,914	79,566	122,401	276,644
Denmark	7,896	20,709	21,857	28,749	23,821
Finland	0	0	22	381	0
Germany	0	0	2,740	13,040	0
Hong Kong	0	1,479	1,132	1,168	265
Iceland	0	772	2,776	752	824
Ireland	0	0	0	2,128	0
Italy	0	0	176	4	0
Japan	955,061	1,198,004	1,611,403	1,127,358	813,897
Korean Rep.	235,431	202,627	179,127	297,842	98,458
Mexico	28,003	44,552	37,530	16,396	0
Netherlands	894	1,360	430	6,953	1,411
Norway	2,000	175	440	18,182	529
Panama	26,356	14,517	0	800	5,546
Peru	0	0	36,290	0	582
Philippine Rep.	0	8,000	26,283	9,750	18,733
Portugal	20,524	52,801	96,976	99,885	27,067
Romania	0	0	0	0	0
Spain	0	0	7,330	36,009	30,260
Sri Lanka	1,119	0	0	0	0
Sweden	0	882	40	0	669
Thailand	1,857	12,283	25,684	22,232	1,461
Trinidad	0	0	0	0	0
United Kingdom	13,526	37,989	48,179	106,104	39,135
Total	1,453,186	1,821,984	2,315,127 1/	2,046,737	1,501,104

1/ Includes 4,452 pounds imported from France and 590 pounds imported from Indonesia.

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

Williams & Ince
July, 1982

APPENDIX C

Fish Netting and Fish Nets of Man-made Fiber: U.S. Shipments, Imports for Consumption, Total U.S. Exports, Apparent Consumption, and Ratio of Imports to Apparent Consumption, 1977-1981.

Year	U.S. Shipments	Imports for Consumption	U.S. 1/ Exports	Apparent Consumption	Ratio Imports to Apparent Consumption
			Quantity (1,000 lbs.)		(Percent)
1977	4,393	1,453	2/	5,846	24.9
1978	4,950	1,822	227	6,545	27.8
1979	5,567	2,315	199	7,683	30.1
1980	4,419	2,047	271	6,195	33.0
1981	4,365	1,501	359	5,507	27.3
			Value ($1,000)		
1977	11,598	4,483	2/	16,081	27.9
1978	13,582	6,302	405	19,479	32.4
1979	16,690	9,225	476	25,439	36.3
1980	14,301	7,237	774	20,764	34.9
1981	14,541	5,771	843	20,312	28.4

1/ Export Classificaiton includes fish netting and fish nets of textile materials.

2/ Not separately reported.

Source: U.S. shipments are estimated total shipments based on compiled data furnished by ANMO members, imports and exports compiled from official statistics of U.S. Department of Commerce.

Williams & Ince
1620 Eye Street, N.W.
Washington, D.C.

DEPARTMENT OF COMMERCE

International Trade Administration

Ferrochrome From the Republic of South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to Notice of Countervailing Duty Order.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending the "Notice of countervailing duty order" on ferrochrome from the Republic of South Africa to include ferrochrome currently classifiable under item number 923.18 of the Tariff Schedules of the United States (TSUS).*

EFFECTIVE DATE: March 11, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Compliance, Room 1126, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1774)

SUPPLEMENTARY INFORMATION: The Department of Commerce published a notice of countervailing duty order in the Federal Register2 on April 9, 1981 (46 FR 21155). Although the order covered all ferrochrome exported from the Republic of South Africa the notice only cited ferrochrome currently classifiable under item number 606.22 and 606.24 of the Tariff Schedules of the United States (TSUS). Ferrochrome currently classifiable under item number 923.18 of the TSUS was inadvertently omitted. Accordingly, we hereby amend our notice by adding 923.18 to the list of TSUS item numbers under which ferrochrome is currently classificable.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-13611 Filed 5-4-81; 8:45 am]

BILLING CODE 3510-25-M

Fish Netting of Manmade Fibers From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on fish netting of manmade fibers from Japan. The scope of the review covers 21 manufacturers and 25 other exporters of this merchandise to the United States. The review covers varying time periods for manufacturers and exporters through May 31, 1980. This review indicates the existence of dumping margins in particular periods for certain manufacturers and exporters.

As a result of this review, for the one exporter with sales activity that provided adequate information, the Department has preliminarily determined to assess dumping duties equal to the calculated difference between United States price and foreign market value on each of its shipments occurring during the covered periods. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 5, 1981.

FOR FURTHER INFORMATION CONTACT: Harry A. Patrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3813).

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 9, 1972, a dumping finding with respect to fish netting of manmade fibers from Japan was published in the Federal Register as Treasury Decision 72-156 (37 FR 11560). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of March 28, 1980 (45 FR 20611-20612) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on fish netting of manmade fibers from Japan. The substantive provisions of the 1921 Act and the appropriate Customs Service Regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of fish netting of manmade fibers, currently classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 65 Japanese firms engaged in the manufacture and exportation of fish netting of manmade fibers to the United States. This review covers 46 of them (21 manufacturers and 25 non-manufacturing exporters) for all time periods through May 31, 1980, during which shipments of fish netting of manmade fibers may have been made to the United States, and for which appraisement instructions ("master lists") have not been issued. Therefore, different time periods are involved for different firms. The remaining firms were discovered late in the review and will be covered in a subsequent review.

The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued master lists, is under review. Liquidation has been suspended pending disposition of the issue.

Seven exporters stated that they did not export fish netting of manmade fibers to the U.S. during the periods of review. Three non-manufacturing exporters, whose suppliers failed to respond, sold only to the United States during the latest period. The estimated deposit rate for these firms shall be based on the most recent information for each firm, or the highest current rate for responding firms. One firm with sales activity furnished an adequate response.

Thirty-five firms refused to respond or provided inadequate responses to our questionnaire. For these non-responsive exporters we proceeded to use the best information available. The best information available is the current rate for the one responding firm, which is 23.3 percent, except for Hakodate, for which we used its most recent master list rate of 38.27%.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the CIF, packed price to unrelated purchasers in the United States. Where applicable, deductions were made for ocean freight, marine insurance and shipping charges. No other adjustments were claimed or made.

Foreign Market Value

In calculating foreign market value, since there were no sales by the firm in the home market of such or similar merchandise, the Department used the price to purchasers in a third country (Canada), as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate. Foreign market value was based on the CIF, packed price with deductions, where applicable, for ocean freight, marine insurance and shipping charges.

Although adjustments were claimed for interest expenses and a commission, no supporting documentation was furnished and they were disallowed. No other adjustments were claimed or made.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value we preliminarily determine that the following margins exist:

Mfr/exporter	Time period	Margin (percent)
Ambun Fishing Net Mfg. Co., Ltd	12/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Amaho Kabushiki Kaisha, Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Amita Company, Ltd	4/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.2
Ara Gomi K.K.	8/1/71-5/31/80	[1]23.3
Fukuda Shoten	8/1/71-5/31/80	[1]23.3
Fukui Fishing Net Co., Ltd	4/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hakodate Seimo Sengu Co., Ltd	10/1/78-5/31/80	38.27
Hakodate Seimo Sengu Co., Ltd/Mitsui & Co., Ltd	9/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirage Fishing Net Mfg. Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirage Fishing Net Mfg. Co., Ltd/Sanyo Enterprises Co., Ltd	8/1/71-12/31/74	11.00
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.2
Hirage Fishing Net Mfg. Co., Ltd/Yamada Trading Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirata Spinning Co., Ltd	4/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hirata Spinning Co., Ltd/Nichimen Co., Ltd	4/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-3/31/80	23.3
Hirose Tentaichi Shoten	8/1/71-5/31/80	[1]23.3
Ikeson K.K.	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.2
Inagaki Fishing Net Mfg. Co., Ltd	9/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Inagaki Fishing Net Mfg. Co., Ltd/Nichimen Co., Ltd	8/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Itoh-Sen Mfg. Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Itoh-Sen Mfg. Co., Ltd/Yamada Trading Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kasumi Fishing Net Mfg. Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kasumi Fishing Net Mfg. Co., Ltd/Sanyo Enterprises Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd	9/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd/Haruhiko Seimo Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kataoka Seimo Co., Ltd/K.Y. Corp	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kinoshita Fishing Net Mfg. Co., Ltd	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Kinoshita Fishing Net Mfg. Co., Ltd/Nissho Iwai Corp.	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Miye Seimo Co., Ltd	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Miye Seimo Co., Ltd/Nichimen Co., Ltd	7/1/73-5/31/80	[1]23.3
Momoi Fishing Net Mfg. Co., Ltd	8/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Moriburi Shoten	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Momin Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Morishita Fishing Net Mfg. Co., Ltd	6/1/73-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Morishita Fishing Net Mfg. Co., Ltd/Mitsui & Co., Ltd	8/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nagaura Seimosho Co., Ltd	8/1/71-12/31/74	11.0
	1/1/75-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nichimo Co., Ltd	8/1/78-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nippon Kenmo Co., Ltd	1/1/77-3/31/79	38.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Nuo Seimo Co., Ltd	4/1/78-5/31/80	[1]0

Mfr./exporter	Time period	Margin (percent)
Ogura Trading Co., Ltd	8/1/76-5/31/80	[1]23.3
Ohmi Netting Co., Ltd	8/1/76-3/31/79	23.3
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Ohmi Netting Co., Ltd./Mitsui & Co., Ltd	8/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Osada Fishing Net Co., Ltd	8/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Osada Fishing Net Co., Ltd / Nichimen Co., Ltd	8/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Taito Seiko Co., Ltd	8/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Tacnets Co	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Toyama Fishing Net Mfg. Co., Ltd	4/1/78-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Toyonen Co., Ltd	4/1/78-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Watanabe Chozen Shoten	8/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Yagi Fishing Net Co., Ltd	6/1/71-5/31/80	[1]23.3
Yamaji Fishing Net Co., Ltd	2/1/76-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Wako Boeki K.K	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Hashimoto	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Matsuno	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3
Yamagami	6/1/71-12/31/74	11.0
	1/1/75-3/31/79	30.27
	4/1/79-9/30/79	16.4
	10/1/79-5/31/80	23.3

[1] No shipments during period.

Interested parties may submit written comments on these preliminary results on or before June 4, 1981 and may request disclosure and/or a hearing on or before May 20, 1981. Any request for an administrative protective order must be made no later than May 11, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of fish netting of manmade fibers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 30, 1981.

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Senator MITCHELL. Mr. Amore, I have one question for you.

In your prepared statement you indicated that if this bill were enacted, if the tariff were cut, I quote your statement now, "The resulting import surge would so devastate and demoralize this struggling industry, and many of its members would not survive." A few sentences later you say, "There would be no lowering of prices to the fishermen of foreign netting."

How could an import surge occur if there were no lowering of prices?

Mr. AMORE. Well, you are looking at a twofold problem. The imports currently represent about a third of the consumption today, even with the duty rate as it is today. It is mainly in nettings that we have been unable, to the present time, or have not chosen to produce in this country. Those nettings, which are the nettings that most of the fishermen seem to be most concerned about—with no domestic competition there is not going to be any lowering of the price. In Canada this has been proven out.

Senator MITCHELL. Well, if there is only one source, what difference does the price make? The point is, we are lowering the tariff.

Mr. AMORE. Well, it will enable my company as well as other companies in this country to get into this market. As I said, we have just recently been able to procure the yarn necessary to make salmon gill netting, which probably represents 50 to 60 percent of the import netting coming into the United States.

Senator MITCHELL. Did you know the tariff is going to be down in a few years, anyway?

Mr. AMORE. Yes. We are fully aware of that, and we are fully making our plans and arrangements to be in a competitive position at that point.

Senator MITCHELL. But this is not a new proposal. I didn't dream up this bill. The first bill, identical to mine, was introduced in 1973—almost 10 years ago.

Mr. AMORE. Well, yes. It does take time to adjust to these things. Of course, this is the first time that it has been etched in granite that it is going to be reduced over the next 8 years.

Senator MITCHELL. But it has taken you 10 years to get to the point where you are planning to enter the market, and you know the tariff is going to be down at this level in less than 10 years. It just seems to be wholly inconsistent

Mr. AMORE. Well, I don't think so, again, because of the type of products that have been brought in. For example, we won a case several years ago that is still a valid case—a dumping case against the Japanese, where they were dumping netting into the United States.

My point, I think, that needs to be realized is that there are about as many different types of netting as there are tennis rackets or golf clubs. And because a manufacturer does not make a specific color or size or shape I don't think should say that he is not committed to that marketplace.

Senator MITCHELL. How many manufacturers do you represent?

Mr. AMORE. There are 12 members.

Senator MITCHELL. How many total employees are involved in the domestic net industry?

Mr. AMORE. Mr. Mitchell, I don't have those numbers at my hand, although we can certainly get those numbers to you.

Senator MITCHELL. You will supply them to me?

Mr. AMORE. Yes.

[The information follows:]

Senator MITCHELL. Would 1,500 seem like a reasonable estimate? That is the information that has been provided to me.

Mr. AMORE. I would say that is probably right. Yes.

Senator MITCHELL. And do the net manufacturers produce other types of nets other than fishing nets, such as athletic nets?

Mr. AMORE. Some do, but to most of them this is a sideline to their business; in other words, they were in fish netting first, and as an offshoot of being in fish netting they may be in things like tennis nets.

Senator MITCHELL. Can you provide me with an estimate of the percentage of production represented by those 1,500 employees that is dedicated to fish nets?

Mr. AMORE. Yes; I'm sure we can.

Senator MITCHELL. So we can see what we are dealing with here in terms of when you say the industry was "devastated," the magnitude of this. Obviously, to each individual this is an important matter. I don't dispute that in each company. But we have to see what we are dealing with in the aggregate. We are dealing with 12 companies and 1,500 employees, and only a portion of their production is devoted to fish netting. I would ask you to verify that.

Mr. AMORE. Yes. I think the 1,500 that been supplied to you is already qualified as dedicated to the fish netting production, but we will clarify that.

I would appreciate it.

[The information follows:]

Senator MITCHELL. Mr. Fritschie, could you give me some indication of the magnitude of the fishing industry?

Mr. FRITSCHIE. The most recent figures are in the 1981 statistical book prepared by the National Marine Fisheries Service. The number of fishermen certainly exceed 100,000. I can supply the exact figure for the record. I don't recall the figure offhand.

[The information follows:]

Mr. FRITSCHIE. My organization represents approximately 1,300, almost now, shoreside facilities which also do fishing; but those also employ processing workers who are dependent on a viable fishing industry. Of course, if we don't get fish from the fishermen, obviously the processing industry is in difficulty.

If I could, Mr. Mitchell, there are a few points that were made by the other witness that I would like to comment on: (1) one-third of the netting is imported. That one-third figure has been constant for many years. For those same number of years the tariff rate has also been as high as 42 percent ad valorem and is currently only approximately 2 percent lower than that.

I think there has to be a clear presumption that fishermen would not be paying 40 percent extra for a certain amount of netting if there was not (1) an absolute lack of that product in the United States, and (2) a quality differential which encouraged the fishermen, even at that immense additional cost, to pay the additional 40-percent tariff.

Second, the industry has had many years to react to this. Senator Packwood introduced a bill many years ago, other bills have been introduced in the other body. In response to the Eastland resolution by former Senator Eastland more than a decade ago, the fishing made it clear that a prime issue for the industry was the reduction in the tariff on netting; yet the domestic net industry has not really responded to those concerns. They haven't taken advantage of the immense tariff protection to get into other areas of netting.

Third, they indicate that there would be a surge of imports. I'm not sure whether that will occur. There is a certain amount of netting that people are buying. They are buying it for the gill net fisheries but also for the midwater and bottom trawl fisheries in your section of the country, and I'm not sure that there would be a significant increase. All we are talking about is reducing the exhorbitant amount of extra moneys that have to be paid of the nets.

Fourth, I would have to believe, since the foreign net manufacturers are not the parties benefiting from the tariff, they are selling the nets at a certain price and a tariff is being added on and paid, in reality, by the domestic purchaser; therefore, I can't accept the contention that there will be a massive increase in the cost of foreign nets and that the fishermen will not benefit. We would not be supporting this bill if we did not believe the fishermen would benefit significantly from the reduction in the tariff.

Senator MITCHELL. Thank you, Mr. Fritschie, and thank Mr. Amore for your testimony today.

Senator DANFORTH. Gentlemen, thank you very much for being with us.

Senator MITCHELL. Mr. Chairman, I have a brief closing statement regarding these bills which I ask to be inserted in the record.

Senator DANFORTH. Of course. Thank you very much, Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

[Senator Mitchell's prepared statement follows:]

STATEMENT BY SENATOR MITCHELL, FINANCE COMMITTEE HEARING ON TARIFF BILLS

Today, two issues of great importance to key sectors of Maine's economy are before the Finance Committee. I hope that today's hearing will highlight the merits of my bills and that the Committee will act favorably on them in the near future.

The first issue is the repackaging of imported seed potatoes as tablestock potatoes. This problem is related to the surge in Canadian potato imports that has occurred in the last few years. Canadian potatoes sold in the U.S. have experienced a five fold increase in the last 5 years. Since most of these imports are destined for Maine's traditional markets, Maine's potato growers have disproportionately borne the price-depressing effects of these imports. Behind the rising import levels is strong Canadian government support for its domestic potato growers.

While the U.S. industry may seek statutory relief from Canada's unfair trade practices, there is action that Congress can take now to relieve part of this problem. The diversion of imported Canadian seed potatoes into supermarkets gives tariff and grading advantages to importers of the Canadian product. Under the agreement negotiated during the Multilateral Trade Negotiations, there is a tariff of 36.5 cents per 100 pounds on potato imports. At specified levels, the tariff rises to 60 cents. This level is 114 million pounds for seed potatoes and only 45 million pounds for table stock. Once the lower table stock quota is reached, there is an incentive for importers who want to sell potatoes for human consumption to purchase seed potatoes and repackage them as table stock.

This practice is allowed because, in the opinion of the U.S. Customs Service, our tariff schedule requires only that potatoes be certified for use as seed, rather than actually intended for use as seed. This is clearly an oversight, because without an end-use requirement the distinction between seed and table stock potatoes is meaningless.

Since entering the Senate, I have sought to enforce an end-use requirement. In 1980, the Senate passed legislation that would have required the President to assure that no imported seed were diverted for human consumption. Since that legislation was not enacted, I introduced a similar bill, S. 11, at the beginning of this Congress. Based on technical comments by the International Trade Commission, I introduced S.2560, which directly introduces an end-use requirement in the tariff schedule.

The current practice of selling imported seed potatoes as table stock is unfair to U.S. growers who market table stock potatoes and unfair to consumers who are unknowingly purchasing seed potatoes. S. 2560 would stop this practice and help the Federal government recoup revenues it now loses because seed potatoes have a lower tariff.

I recommend that the Committee pay close attention to the testimony of Dorothy Kelley, Executive Vice President of the Maine Potato Council, who has witnessed first-hand the impact of Canadian imports on Maine's potato industry.

The second issue before the Subcommittee of importance to the State of Maine relates to the existing high duty on imported fishing nets. Today this Subcommittee will receive testimony on S. 1565, legislation introduced by me a year ago which would greatly benefit commercial fishermen who use synthetic nets in their operations. A Subcommittee of the Ways and Means Committee of the House of Representatives has favorably reported a companion bill (H.R. 4002), which the full Committee is expected to approve shortly. Both measures would reduce substantially the high import unity which our Government now levies on imported synthetic nets.

Between 1963 and Janaury 1 of this year the tariff was 32.5 percent ad valorem plus 25 cents per pound of netting. The rate of duty for 1982 is only slightly lower than the 1981 rate. This rate results in extremely high netting prices for U.S. fishermen who cannot obtain in this country synthetic nets of certain shapes and sizes, or nets made of synthetic fibers other than nylon.

A large Maine fishing vessel, for instance, may purchase over $15,000 in netting over a 12-month period. Because of the steep duty now required under the tariff schedules of the United States (TSUS), almost $5,000 of this $15,000 amount goes to Treasury in the form of import duties. On a U.S. tuna fishing vessel, the figures are even more dramatic. For the large and very expensive purse seine nets used by tuna fishermen, the duty alone can increase the selling price of the net by more than $70,000.

My bill would reduce this overly protective duty from its present level of 30.6 percent ad valorem plus 21 cents per pound to 17 percent ad valorem. This would place the duty rate in line with the 17.5 percent protective duty which currently applies to imported nets made of cotton. A 17 percent duty would continue to provide a moderate level of protection for domestic makers of fish netting, but would not have the same adverse effect on fishing vessel owners and operators which today results from the established duty.

The United States agreed, at the multilateral trade negotiations (MTN) concluded three years ago, to reduce gradually its duty on synthetic nets from the existing rate to a 17 percent ad valorem rate by 1989.

Specifically, the current policy of our Government is to collect 30.6 percent ad valorem, plus 21 cents per pound of net in 1982; 28.6 percent, plus 18 cents per pound of net in 1983; 26.7 percent ad valorem, plus 15 cents per pound in net in 1984; 24.8 percent ad valorem, plus 12 cents per pound of net in 1985; 22.8 percent ad valorem, plus 9 cents per pound of net in 1986; 20.9 percent ad valorem, plus 6 cents per pound of net in 1987; 18.9 percent ad valorem, plus 3 cents per pound of net in 1988; 17 percent ad valorem in 1989 and thereafter.

My bill would set the duty level at 17 percent ad valorem immediately. This acceleration of the duty reduction is warranted at this time because of the numerous financial pressures which now weigh on the U.S. domestic fishing industry.

Chief among these pressures is the price of fuel. U.S. fishermen must now compete in the U.S. marketplace with foreign fishermen who pay artificially low prices for their fuel. These same foreign fishermen are permitted to import their product into the United States with little or no duty imposed. U.S. fishermen have difficulty prospering in this market environment and, as a result, are hard put to pay the high prices for nets which the present duty level necessitates.

Mr. Chairman, Senators Packwood, Cohen, Tsongas, and Kennedy joined me in sponsoring S. 1565. We thank you for including this measure in this set of hearings, and we urge the Committee to act favorably on this measure which will greatly benefit domestic fishermen.

Mr. Chairman, I would like to make one final comment. The bills that we have covered today address issues that are part of larger trade-related problems of Maine's potato and fishing industries. Each industry is suffering from a large influx of Canadian imports that are apparently heavily subsidized by the Canadian federal and provincial governments.

The potato growers will, after the completion of a fact-finding investigation on the effect of imports on their industry, determine the most appropriate means to remedy the unfair trade practices of the Canadians. This action has been delayed by the cost and complexity of filing petitions under the antidumping and countervailing duty statutes.

The fishermen have actually filed three countervailing duty petitions in the past. In each case, a subsidy was found, but the final duty was waived. They are now weighing the potential benefits of filing another petition against the considerable cost of doing so.

Neither of these industries is seeking preferential treatment to deal with Canadian imports. Rather, each is trying to use existing remedies, but they are finding this approach to the cumbersome and costly. These, of course, are not the only industries confronted with this problem. I have introduced legislation, S. 2193, that would make our existing unfair trade practice remedies more accessible to small businesses. I hope that this subcommittee would be able to explore this issue in a hearing in the near future.

Senator DANFORTH. The next bill is S. 1717, and the witness is Edward Woolley.

STATEMENT OF CARL V. LYON, VICE PRESIDENT—GOVERNMENT AFFAIRS, ITEL CORP.

Mr. LYON. Mr. Chairman, Mr. Woolley is attending a concurrently held hearing on the House side and will not be here, but I am authorized to speak in his behalf.

Basically, the comments I am about to make will be presented and are supported by five large container leasing companies: the Container Transportation International, Transamerica ICS, Flexi-Van, Itel Container Corp., and Trans-Ocean Leasing Corp. In addition, we are supported in this regard by Sea Land Services and United States Lines, two of the larger shipping company users and owners of containers.

We support the provisions of S. 1717 and urge its enactment. It is preferable to the bill passed by the House, H.R. 4566, in that the House bill is limited to containers 5 years of age or older.

This legislation will eliminate regulation that really is of no benefit to anyone. The duty in our case doesn't apply to a product but applies generally to instrumentalities of international traffic, which is what containers really are. Occasionally one of those containers gets into a status where a duty is assessed upon it, but most of the containers that are used by our companies seldom have a duty assessed and seldom have to pay it.

The huge problem for us is not so much the duty, which is quite small, but is the administration of the regulations and the tracking and the personnel that is necessary to maintain track of the use of those containers to be assured that they don't get a simple use in domestic service and thereby do get accorded some duty.

In fact, the Federal Government doesn't really benefit from this. They receive a very, very insignificant amount of duty from the administration of it. At the same time, they are fairly well frustrated with the administration of it because it costs them personnel and expense money to administer the duty.

I would like to refer the committee, Mr. Chairman, specifically to the position of the administration, stated by the Department of Commerce, in which they support the provisions of S. 1717 and pretty much recognize that this customs duty serves very little useful purpose.

Aside from that, the level of the duty is so small and insignificant that it provides no significant protection to any American domestic industry.

The reason that containers that we used are purchased abroad is not at all because of the duty, it is because that is where the traffic originates. If you acquired the container in the United States you would have to pay to move it all the way to the Far East, or to Germany, or to England, and it is not an economical practice. That is the reason that the containers are largely purchased elsewhere, and the duty has absolutely no impact on that economic decision.

Another point related to the American industry and the impact on it is that the container-building capacity in the United States is very small, and in fact they specialize in specialized types of containers which are not the type that we use in the international trade.

The big problem, as I have mentioned, for the owners and for the lessors of these containers is the cost of administering the regulations.

In closing, I would like to recommend that the committee, in approving and reporting S. 1717, as we urge, amend it to permanently repeal the duty instead of simply suspending it until it expires under the provisions of the GATT. It is so clearly a useless Federal regulation that we think that is a much more appropriate action.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, sir. I appreciate your testimony.

[The prepared statements of Mr. Woolley and Mr. Lyon follow:]

EDWARD A. WOOLLEY

July 22, 1982

TO: SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
THE UNITED STATES SENATE

STATEMENT IN SUPPORT OF S. 1717
TO SUSPEND CUSTOMS DUTY ON CERTAIN
FREIGHT CONTAINERS

This statement is submitted by the undersigned, as special counsel for the United States container leasing and shipping companies listed below, in support of S. 1717, a bill to provide for temporary suspension of customs duty on marine cargo freight containers.* We understand that the Administration has submitted a letter stating that it has no objection to the bill.

* The tariff is to be temporarily suspended until it is permanently eliminated on January 1, 1987 as a result of the Geneva agreements of 1979 under the General Agreement on Tariffs and Trade ("GATT"). See p. 3 below.

The container leasing companies on whose behalf this statement is submitted are:

CTI- Container Transport International, Inc.

Flexi-Van Leasing, Inc.

Itel Corporation

Transamerica ICS, Inc.

Trans Ocean Leasing Corporation

Sea Land Service and United States Lines also associate themselves with this statement.

The tariff on marine cargo containers ("containers") serves no proper function. It has always been a nuisance tariff because container owners are not required to, and do not, pay duty on containers maintained as Instruments of International Traffic (ITT's) under 19 CFR §10.41a of the Customs Regulations and the Customs Conventions on Containers; and almost all containers are maintained as IIT's.

The companies referred to above own more than 33 1/3% of the world's containers. They support S. 1717 not in order to eliminate the duty -- they pay substantially no duty now* -- but to eliminate the costs and problems of tracking and policing containers in order to maintain their duty-free status as IIT's.

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* A duty is paid when containers are sold at the end of their useful life, but their value at this point is perhaps 10% of original value, and the duties paid on such depreciated value are in the neighborhood of $7.50 to $15.00 per container.

Containers maintained as IIT's follow routes to or from destinations of import or export cargo that are "reasonably direct" and incidental to international traffic. The Customs Service and users police compliance by checking to make sure that containers do not deviate from these "reasonably direct" routes. A deviation subjects a container to duty and penalty. Elimination of the tariff would eliminate these redundant enforcement efforts and their costs. We believe that the tariff costs the Customs Service far more to enforce than the minor revenue it brings in. We estimate that the Customs Service could save between 13,000 and 14,500 hours of personnel time annually by eliminating the tariff and related procedures.

The nuisance nature of the tariff is demonstrated by the fact that in five years it will be removed completely and that even now it does not apply to over 100 developing countries. Under the 1979 GATT agreements, the duty is currently at 3.1% and will reach 0% on January 1, 1987, under an eight year staging period. Moreover, under the Generalized System of Preferences authorized by the Trade Act of 1974, 19 U.S.C. §§2461-2465, the President has designated over 100 "Beneficiary Developing Countries", from which many products manufactured in those countries, including containers, can be imported duty-free. These 100 Beneficiary Developing Countries include important container manufacturing countries. The applicability of the tariff is thus arbitrary

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in scope, and it is of very little utility generally. It continues, however, to be costly to enforce.

S. 1717 would result in elimination of the tariff completely and would eliminate all the nuisance problems of tracking and policing. We therefore endorse it fully. H.R. 4566 and the component House Bill incorporated in it, H.R. 2454, would eliminate the tariff only in regard to containers five years old or older. While it would give some relief to private industry, particularly on sale of containers at the end of their useful life, the problems of tracking and policing would continue. Users do not generally distinguish between containers less than five years old and those more than five years old. Moreover, the government's enforcement problems would continue almost without relief. A great deal of the purpose of eliminating the tariff would be lost.

Removal of the tariff completely should not injure domestic industry. Sales of domestic containers have been 4% or less of world production for several years and probably closer to 2% or 3%. Moreover, we understand that many are specialized units that do not compete with the simple dry cargo containers purchased by most U.S. owners. Nor does the fear that containers will compete seriously with tractor trailer units appear to be well founded. Containers not subject to the tariff (by reason of U.S. manufacture, manufacture in Beneficiary Developing Countries or payment of duty) do not so compete today.

The United States container leasing and United States shipping industries would be greatly benefited by the full elimination of the duty. The United States container leasing industry has annual revenues in the neighborhood of $500 million; the United States liner shipping industry has annual revenues in the neighborhood of $3.5 billion. These important industries and their employees deserve strong support.

Edward A. Woolley

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STATEMENT OF CARL V. LYON
VICE PRESIDENT - GOVERNMENT AFFAIRS
ITEL CORPORATION

IN SUPPORT OF S.1717, TO SUSPEND THE CUSTOMS
DUTY ON CERTAIN FREIGHT CONTAINERS

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE
SENATE COMMITTEE ON FINANCE

July 22, 1982

My name is Carl V. Lyon and I am Vice President - Government Affairs of Itel Corporation, One Embarcadero Center, San Francisco, California 94111. I am appearing before the Subcommittee to support enactment of S.1717, to suspend the customs duty on certain freight containers.

Itel Corporation is a leasing company based in San Francisco primarily engaged in financing and leasing transportation equipment. Its Container Division leases cargo containers worldwide, principally to steamship companies, and to various leasing programs and provides related operating services and computerized equipment control and billing.

As of December 31, 1981, Itel Container owned or held the capital leases of 170,000 TEU's of container equipment which cost approximately $335 million. The company also rents from others and manages under operating leases an additional 13,000 TEU's of equipment which cost approximately $36 million. This investment represents approximately 10 percent of the world's leasing company fleet of containers (excluding chassis).

The vast majority of Itel's containers are used in worldwide international container service and are not used in domestic service within the United States except to the extent allowed by the regulations for repositioning for an export shipment. Itel Container had revenues of over $103 million in 1981.

So far as we can determine the import duty on containers is of no real benefit to anyone. The Federal Government receives very little in duties from it but spends a significant amount in administering and policing the regulations. The total amount of duty collected has no significant impact on the decision of where and from whom new equipment is to be purchased and thus is not effective as a protective tariff.

The duty is harmful, however, to businesses such as ours. While the direct cost of the import duty we pay is not great, it does add to our cost of doing business. Much more important is the indirect cost we entail in complying with the applicable customs regulations (19 C.F.R. S10.41a).

Under those regulations, a foreign built container may enter the United States as an instrument of commerce, proceed to its destination for unloading, and be repositioned by a reasonably direct route for loading to a foreign destination. When used in this fashion no duty is imposed. This requires us to continuously supervise, monitor and record each movement of our many containers when they are in the United States to be certain that in repositioning for loading they do not get used in domestic service in violation of customs regulations.

This burdensome, costly and unproductive regulatory requirement is the type of regulation that needs to be discarded.

Virtually all of Itel's containers are purchased abroad. The primary reason is that much more of our traffic originates at foreign points than in the United States and that is where they can be loaded when acquired without involving a costly empty move. Management is continuously challenged to relocate empties to primary loading points at overseas locations. Most of our new equipment in recent years has been purchased in the Far East where demand is high and loadings are very heavy. Although the initial cost of the container itself is very reasonable in the Far East, this is not the primary reason for purchasing there.

Another reason for our utilizing foreign suppliers for container equipment is that United States producers have very limited capacity and tend to concentrate in building specialized equipment. Itel Container deals primarily with standard 20 ft. and 40 ft. dry freight containers.

There are two bills before the Committee. One is S.1717 which would temporarily suspend the duty on foreign built containers until the duty would be suspended under the current provisions of the GATT agreement. The other is H.R.4566 which would eliminate the duty on foreign built containers of over five years of age. If the suspension is limited to containers over five years of age, the administrative and regulatory burden upon container owners and users would not be removed and a major benefit of the suspension would not accrue.

The only weakness we perceive in the provisions of S.1717, on the other hand, is that a change in the provisions of the GATT agreements in the future could continue the tariff or re-institute it at some later date. Since the duty serves no useful purpose and imposes a costly administrative burden upon the container industry, it would be more appropriate for the duty to be eliminated permanently by statute.

In summary, we support S.1717 and urge the Committee to improve it by repealing the duty instead of simply suspending it, thus effecting economies both for the United States Government and for the United States container leasing industry.

Senator DANFORTH. I am going to put S. 1723 down to the bottom of the list because Senator Matsunaga wants to be here for that.

Next we have S. 1979. Mr. Galloway and Mr. Mooney, with Mr. Tweedie and Mr. Kaplan.

Is there a Mr. Kaplan?

Mr. PELLEGRINI. Mr. Pellegrini. I am his partner.

Senator DANFORTH. My understanding was there was going to be a Mr. Galloway and Mr. Mooney.

Mr. MOONEY. Here, Senator.

Senator DANFORTH. And you are——

Mr. PELLEGRINI. Mr. Pellegrini.

Senator DANFORTH. Mr. Pellegrini and Mr. Kaplan. So Mr. Galloway is not with us. All right.

Mr. Mooney, would you like to proceed?

Mr. MOONEY. Thank you.

STATEMENT OF ROBERT MOONEY, PRODUCT GROUP MANAGER, AMERICAN CYANAMID CO., WASHINGTON, D.C.

Mr. MOONEY. Mr. Chairman, good morning.

My name is Robert P. Mooney. I am the product group manager for American Cyanamid's agricultural division. I am here to present testimony in opposition to Senate bill 1979 on behalf of Cyanamid. I should mention, however, that other U.S. companies are also in opposition to this legislation and will be submitting written testimony to the committee.

One of these companies, Pharmacia, Inc., also of New Jersey, has asked that we comment that they have invested heavily in production facilities for sulfasalazine in the U.S. Virgin Islands. Sulfapyridine, one of the sulfa drugs mentioned in S. 1979, is used as an intermediate in the manufacture of sulfasalazine.

Mr. Chairman, S. 1979 proposes the elimination of tariffs for sulfapyridine, sulfaguanadine, and sulfathiazole. We object to the bill for three specific reasons.

The first reason is the bill is based on a faulty premise, that premise being that there are no U.S. produced competitive products. American Cyanamid produces sulfaguanadine in the United States as a precursor to sulfamethazine. American Cyanamid then produces and sells this sulfamethazine in the United States in direct competition with sulfathiazole, as does Rachelle Laboratories in Long Beach, Calif. Pharmacia, as mentioned, also produces sulfasalazine in the U.S. Virgin Islands. Elanco, a division of Eli Lilly, also sells sulfamethazine in competition with sulfathiazole.

The basic premise of this bill, that there are no U.S. produced competitive products is therefore obviously faulty.

The second reason for our objection is that the stated purpose of the bill is to reduce the cost of sulfa drugs to the U.S. farmer, when in fact the exact opposite will occur as the result of passage of this legislation.

If this bill is passed, American Cyanamid will have to consider closing its Bound Brook, N.J., production facility and purchase our total sulfa drug requirements overseas since we will be no longer able to compete with the cheaper imports. If this occurs the price of these sulfa drugs will double, and this has been demonstrated from historical data.

In 1979 when Cyanamid was forced to purchase only a portion of its requirements for sulfamethazine overseas, the price of imported sulfathiazole increased to 187 percent of the prior year's price. Sulfamethazine increased to 182 percent of the prior year's price. These data from the U.S. Census Bureau are presented in the full text of our statement.

The stated purpose of the bill, then, is to reduce the cost of sulfa drugs to the farmer. Historically it has been shown that this will not occur. In this regard we believe the proponents of the bill are shortsighted.

The third reason for our objection to S. 1979 is that this bill and all bills should be passed in response to a need. Since imported sulfa drugs are currently selling at prices below U.S. produced sulfa drugs, the need for tariff relief does not appear to exist.

In addition, tariffs for these products are already being reduced to approximately one-half their current level as a result of the last round of multinational trade negotiations.

In summary, Mr. Chairman, we do not believe it is in the best interests of the American farmer or the American consumer to turn over the supply control of these basic U.S. animal and human drugs entirely to Eastern Bloc countries. We believe the Senate subcommittee should refrain from moving S. 1979 to markup in the same manner as did the House Ways and Means Subcommittee on Trade refrain from moving H.R. 4890, the House companion bill.

Mr. Chairman, this concludes my statement. I would be prepared to answer questions.

Senator DANFORTH. Thank you very much, sir.

[The prepared statement of Robert Mooney follows:]

STATEMENT OF

ROBERT MOONEY
PRODUCT GROUP MANAGER

AMERICAN CYANAMID COMPANY

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL
TRADE FINANCE COMMITTEE
UNITED STATES SENATE

July 21 & 22, 1982
on
S. 1979 to suspend the duty on sulfaguanadine,

sulfapyridine and sulfathiazole.

Mr. Chairman and Members of the Subcommittee:

Good morning. My name is Robert Mooney. I am Product Group Manager for American Cyanamid Company's Agricultural Division, Wayne, New Jersey. With me here today is Mr. St. Clair J. Tweedie, Cyanamid's Director of Government Relations. In my position I am very much involved in my company's marketing activities as they relate to the sale of a range of animal health products and feed additives.

We want to thank you for giving us the opportunity to appear before you today to present our views and discuss our reservations as to certain aspects of the proposed tariff suspensions contained in S. 1979.

Before doing so, let me briefly describe Cyanamid and its operations. Cyanamid is a diversified company that manufactures and markets 2,500 agricultural, medical, specialty chemicals, consumer and Formica-brand products. In 1981 our sales were $3.6 billion. We employ some 42,000 people at more than 100 plants, research laboratories and offices in the United States and abroad.

Mr. Chairman, as a multinational company, Cyanamid is strongly committed to the principles and practices of free and fair trade. We are fully supportive of the objectives of our government, already well along the way to reducing and eliminating tariffs as barriers to trade. Our remarks today, Mr. Chairman, should not be construed as in any way opposed to this course of action.

S. 1979 calls for unilateral elimination of three sulfa tariffs. The bill is based on the premise that there is no U.S. production of those drugs. Cyanamid has a serious concern with the potential elimination of tariffs on two of these drugs, sulfaguanadine and sulfathiazole:

(1) sulfaguanadine. Contrary to the premise of the bill, there is U.S. production of sulfaguanadine. Cyanamid produces this drug in Bound Brook, New Jersey. It is not sold directly to the livestock producer but is a chemical intermediate used in the production of sulfamethazine, a more effective sulfa drug. If the tariff on sulfaguanadine is eliminated, Cyanamid as a result of competitive pressure would be forced to purchase our total requirements of sulfamethazine abroad. This course of action would mean closing that part of the Bound Brook facility devoted to sulfamethazine production. Closing this operation would represent a $5 million annual continuing cost which would have to be added to the cost of other products manufactured there. The greater demand for sulfa drugs produced abroad due to the closing of our facility would, in turn, likely raise the price of these drug products to importing companies and livestock producers alike. The exact opposite of what this Subcommittee would like to achieve.

(2) sulfathiazole. It is true that there isn't any U.S. production of sulfathiazole. However, Cyanamid's sulfamethazine is directly competitive with sulfathiazole. They are interchangeable products in animal disease therapy and prophylaxis. Eliminating the duty on sulfathiazole would put U.S. produced sulfamethazine at a competitive disadvantage with the imported product. The effect on Cyanamid employees will be the loss of about 100 jobs which are associated with the production of sulfamethazine. In addition, the continual erosion of the Bound Brook facility, which until a few weeks ago employed close to 1,200 people, jeopardizes the employment of members of the surrounding community. Cyanamid has recently discontinued its rubber and pigments manufacturing at Bound Brook, New Jersey reducing employees by 500.

Mr. Chairman, tariffs on these sulfa drug products are already being significantly reduced as a result of the last round of multilateral trade negotiations. By 1987 U.S. tariffs on these sulfa drugs wll be reduced to approximately 50% of their current level. These phased reductions allow us adequate time to adjust and improve our domestic manufacturing processes so that we can remain a viable and competitive U.S. producer of sulfa drugs.

American Cyanamid Company is one of only two remaining U.S. producers of sulfaguanadine and sulfamethazine. As such we have a substantial investment in the production plant and technology. We also have many costs which our foreign competitors do not have. Our costs to produce these sulfa drugs are slightly less than twice the purchase price of these drugs from the several non-market Eastern European countries currently exporting to the U.S. Our higher cost structure is not the result of economic inefficiency on our part. Rather it is the result of a number of elements, many of which are required by law:

- The cost of supporting research for U.S. registration of the products with FDA.
- The cost of environmental capital investments in our Bound Brook, New Jersey facilities.
- The cost of capital and personnel expenditures to meet the new FDA Good Manufacturing Regulations.
- The cost of past tariff actions that contributed to a reduction of the output of products from that facility.
- Higher U.S. salaries, wages and benefits.

We do not believe it is in the best interest of the American Farmer to turn over the supply control of these basic U.S. animal drugs entirely to Easten Bloc countries.

One of the arguments advanced by supporters of these tariff suspensions is that they will lower the prices of medicated feed to farmers. Mr. Chairman, the fact is that any savings will be short-term and relatively small. For example, if the total value of the eliminated duty on sulfathiazole were passed directly to the farmer, it would only amount to $0.31 per ton of medicated feed purchased. This represents 0.2% of the cost of that feed. On the other hand, if we are forced to close our production facility the longer-term effect will be increased costs and higher prices. The price of these drugs to the farmer could very well double.

In substantiation of this statement we present, as Figure I attached to our prepared statement, a graph of purchase prices of imported sulfathiazole and sulfamethazine for the years 1977 through 1981. These data are from the U.S. Census Bureau and are available to the Subcommittee. These data provide the answer to the question, "What will happen to prices if we become wholly dependent on East Bloc imports for our supply?" In 1979 Cyanamid, as a result of high manufacturing capacity utilization purchased substantial additional quantities overseas. In that year imported sulfamethazine prices shot up 82% over the previous year. At the same time prices of sulfathiazole, the entire U.S. consumption of which is imported, rose by an even greater 37%. The economic realities suggested by these data are quite obvious. If S. 1979 is enacted it is expected that Cyanamid would close its New Jersey facility and source all of our requirements from overseas. The response to this added pressure from East Bloc suppliers will be increased prices for the foreseeable future. At a minimum, we can expect a doubling of the cost of these sulfa drugs not only to the proponents of the Bill but also to the U.S. farmer.

It is also argued that the impact of a relatively small change in the price of sulfa drugs resulting from duty suspension can represent significant savings to the farmer because of the succession of markups and markdowns by various components of the distribution chain. That is also a rather hollow argument given the relatively limited number of intermediate components between the drug manufacturer and the farmer. Let me explain: We sell two types of products containing sulfa drugs -- health products (tablets, solutions and injectibles) and feed premixes. The health products are sold to distributors who, in turn, sell to dealers, who then sell to farmers. Feed products are sold to distributors, blenders and large feed companies. The distributor may market the feed product the same way he sells the health product. In any case, the opportunity for amplification of the duty suspension through the distribution chain is relatively limited. So, too, is any price reduction to the final consumer. In the final analysis, the price charged for the drug and the feed sold to the farmer depend on the <u>market situation</u> for either product without much regard to the cost of the duty.

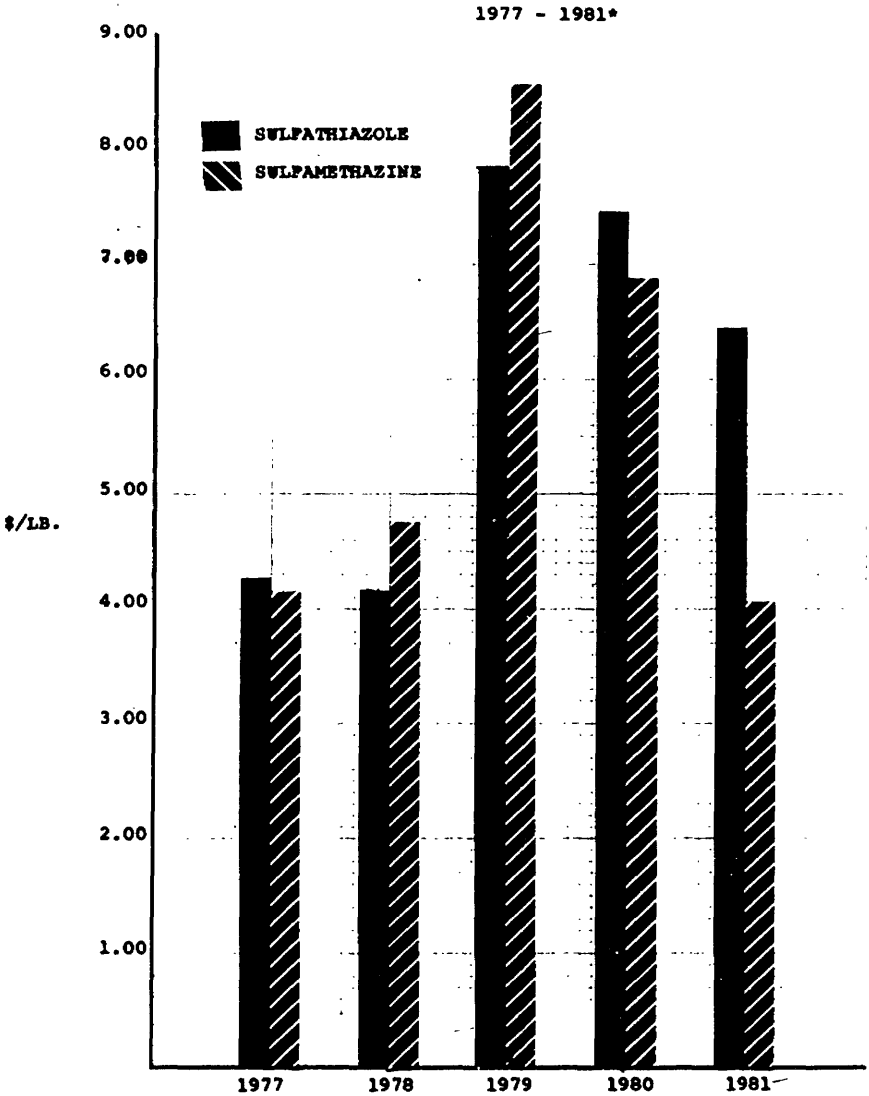
In summary, S. 1979 proposes elimination of tariffs for sulfapyridine, sulfaguanadine and sulfathiazole. We object to the Bill for three reasons:

1. The Bill is based on a faulty premise - that premise being that there are no U.S. produced competitive products. This premise is obviously in error.
2. The purpose of the Bill is to reduce the cost of sulfa drugs to the farmer. In fact, the exact opposite will occur and this has been demonstrated during 1979. In this regard the proponents of the bill are very short-sighted.
3. This Bill, and all Bills, should be passed in response to a need. Since imported sulfa drug products are already selling at prices below U.S. produced sulfa drugs, the need for tariff relief obviously does <u>not</u> exist.

We believe the Senate Subcommittee should refrain from moving S. 1979 to markup as did the House Ways and Means Subcommittee on Trade on H.R. 4890, the House companion bill.

Mr. Chairman, this concludes my prepared statement.

FIGURE I
PRICE OF IMPORTED SULFONAMIDE DRUGS
1977 - 1981*



*U.S. BUREAU OF CENSUS DATA

Senator DANFORTH. Next, we have Mr. Pellegrini.

STATEMENT OF JOHN PELLEGRINI, COUNSEL TO RACHELLE LABORATORIES, NEW YORK, N.Y.

Mr. PELLEGRINI. Thank you, Mr. Chairman.

My name is John Pellegrini. I am a partner in the law firm of Kaplan & Pellegrini and appear today as counsel to Rachelle Laboratories, Inc., a subsidiary of International Rectifier Corp. Rachelle Laboratories is located in Long Beach, Calif., and manufactures medicinal products for livestock.

Our testimony today is directed at S. 1979, a bill to eliminate the customs duties on sulfathiazole, sulfaguanadine, and sulfapyridine. Rachelle opposes the bill as it pertains to sulfathiazole but would support the bill with respect to sulfaguanadine.

Rachelle's interest in the proposed legislation flows from the fact that it produces sulfamethazine, a product which competes directly with imported sulfathiazole. Sulfamethazine is a veterinary medicinal end product which is combined with other medicinal products to produce what is known as a medicinal "premix." Rachelle markets its premix as Chlorachel 250, a product which competes with those manufactured by various firms, both domestic and foreign.

Sulfathiazole, while chemically different from sulfamethazine, is used in the same type of premixes and each provides similar medicinal benefits. Sulfathiazole is not produced domestically. Premixed formulations containing imported sulfathiazole are marketed by Salsbury Laboratories and Diamond-Shamrock Corp., both of whom compete directly with Rachelle.

Until several years ago, Rachelle imported sulfamethazine to produce its Chlorachel 250. At that time there was domestic production of sulfamethazine. It was subject to valuation under the now-defunct American Selling Price method of valuation, and the protection levels were very high. Because of those high levels of protection, Rachelle decided to produce sulfamethazine domestically. Rachelle invested substantial capital to build a production facility for its sulfamethazine, a facility whose current replacement value exceeds $2.5 million. It is this business and this facility where Rachelle produces sulfamethazine which we feel is jeopardized by the passage of S. 1979.

To emphasize: Imported sulfathiazole, one of the products which would be accorded duty-free treatment under the proposed legislation, competes directly with sulfamethazine produced in California by Rachelle. Approximately 20 of Rachelle's employees are engaged directly in the production of sulfamethazine, and passage of the legislation as proposed would jeopardize these jobs.

Rachelle does not manufacture either sulfapyridine or sulfaguanadine. Rachelle is, however, a consumer of sulfaguanadine, which is used to make sulfamethazine. Rachelle is aware of but a single domestic source of sulfaguanadine, American Cyanamid. American Cyanamid is one of Rachelle's competitors for sales of sulfamethazine and sulfamethazine products. At present, the greatest portion of the sulfaguanadine used by Rachelle is imported. Therefore, Rachelle would support the elimination of duty on sulfaguanadine, for obvious reasons.

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To conclude: Rachelle Laboratories opposes the removal of duties on sulfathiazole since it competes with sulfamethazine manufactured in the United States by Rachelle. Low cost, duty-free imports of sulfathiazole would tend to weaken or destroy Rachelle's position in the marketplace.

For these reasons, Rachelle respectfully requests that the subcommittee recommend to the full committee that sulfathiazole continue to remain subject to duties as presently provided in the tariff schedules. To emphasize again, we would, however, support the elimination of duty on sulfaguanadine since it is a product we use to manufacture sulfamethazine.

This concludes our testimony. We would like to express our thanks and the thanks of Rachelle to the committee for the opportunity to appear this morning.

If you have any questions——

Senator DANFORTH. Gentlemen, thank you very much.

[The prepared statement of John Pellegrini follows:]

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TESTIMONY

OF

RACHELLE LABORATORIES, INC.

ON S. 1979

TO THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

SENATE COMMITTEE ON FINANCE

Mr. Chairman and Members of the Subcommittee:

We are counsel to Rachelle Laboratories Inc, a subsidiary of International Rectifier Corporation, located in Long Beach, California. Rachelle is a pharmaceutical manufacturer devoted to the production of medicinal products for livestock.

These comments are directed to S. 1979, a bill to eliminate customs duties on sulfathiazole, sulfaguanadine and sulfapyridine. Rachelle is interested in the bill because it produces sulfamethazine, a product which competes directly with imported sulfathiazole, at its Long Beach, California facility. Sulfamethazine is a veterinary medicinal end product which is combined with other medicinal products, usually penicillin and chloratetracycline, to produce a medicinal "pre-mix". As formulated by Rachelle, the pre-mix is known as "Chlorachel 250". Rachelle sells this product in competition with a virtually identical product produced by American Cyanamid Corporation and others.

Sulfamethazine in its pre-mix formulation also competes directly with pre-mixes containing sulfathiazole. Sulfathiazole is chemically different from sulfamethazine, but the pre-mixes in which each is used provide similar medicinal benefits and are devoted to the same uses. Unlike sulfamethazine, sulfathiazole is not produced domestically. The resulting pre-mix formulation in which it is utilized is marketed by Rachelle's direct competitors, Salsbury Laboratories and Diamond-Shamrock Corporation.

Several years ago, Rachelle imported sulfamethazine for use in Chlorachel 250. Since there was domestic production of sulfamethazine, it was appraised on the American selling price basis of valuation. Without dwelling too much on past history, it is useful for this Committee to know that the quoted price for domestic sulfamethazine, and hence the American selling price on which duty was based, became so high that it made sense to Rachelle to commence its own production of sulfamethazine. Rachelle invested large sums of money to build a facility, the replacement value of which is over $2,500,000 and for the last several years has produced sulfamethazine for its own use and, at times, for sale to customers in competition with imported sulfamethazine.

Rachelle's sulfamethazine business is what is primarily threatened by the passage of S. 1979 in its present form. As we have said, sulfathiazole competes directly with Rachelle's sulfamethazine.

To our knowledge, the only sources for sulfathiazole are located in controlled economy countries. Such non-market economy countries are known to be willing to permit the prices for export goods to be set at levels which will ensure market penetration and growth. Rachelle fears that the elimination of customs duties from sulfathiazole will enable non-market economy producers to realize a windfall of dimensions sufficient to drive domestic sulfamethazine from the marketplace. The assertion that duty suspension will result in reduced feed costs to farmers is unsupportable and indeed incredible when one contemplates the enjoyment of a monopoly position by non-market economy producers. Moreover, the elimination of sulfa-drug production in the United States could have adverse national security implications in light of the importance of sulfa drugs for battlefield use as an infection inhibitor.

Rachelle employs about 20 people directly in the production of sulfamethazine. These jobs are in jeopardy. In preparing Chlorachel 250, Rachelle utilizes equal parts of sulfamethazine and chlortetracycline, and one-half part of penicillin. Lost sales of Chlorachel 250 will consequently impact on chlortetracycline production. In addition, sales of chlortetracycline as an independent product will be lost because customers tend to satisfy their needs from a single source rather than split trade. Thus, passage of S. 1979 threatens Rachelle's ability to produce and sell chlortetracycline profitably. The latter product is produced in a facility, recently expanded and having a replacement value of about $50,000,000.

This facility is highly efficient and designed to satisfy Rachelle's needs. It will not be possible to reduce costs by laying off line workers as the same number are required whether the plant works at full or less than full capacity. The result of lost chlortetracycline sales, therefore, is increased costs and decreased profitability. Clearly, then, extension of duty free treatment to sulfathiazole must be seen to threaten Rachelle's continued existence.

Rachelle does not manufacture sulfapyridine or sulfaguanadine. It is a user of sulfaguanadine, which is not a sulfa drug but an intermediate material from which sulfamethazine is made. At present, the only domestic source of sulfaguanadine known to Rachelle is American Cyanamid. Since that company competes with Rachelle for sales of sulfamethazine and sulfamethazine products, it is important for Rachelle to have available adequate sources of sulfaguanadine at competitive prices. Frankly and obviously, this advantage is enhanced if Rachelle is able to obtain sulfaguanadine free of customs duties.

Conclusion

Rachelle Laboratories opposes the removal of duties from sulfathiazole since it competes directly with a product, sulfamethazine, manufactured in the United States by Rachelle and at least one other producer, American Cyanamid. Low cost, duty free imports of sulfathiazole would tend to weaken or destroy the domestic sulfamethazine industry without providing demonstrable benefits to United States consumers.

Sulfapyridine is not produced in the United States and sulfaguanadine is not offered for sale on a competitive basis.

For the reasons expressed, Rachelle respectfully requests that the Subcommittee recommend to the full Committee that sulfathiazole continue to be subjected to customs duties as presently provided in the Tariff Schedules of the United States and Annex XX of the United States Protocol of Accession to the GATT. Rachelle has no objection to the suspension of duty on sulfaguanadine and sulfapyridine.

Respectfully submitted,

KAPLAN and PELLEGRINI
Counsel to Rachelle
Laboratories, Inc.

Joseph S. Kaplan, Esq.

Senator DANFORTH. Senator Matsunaga?

Senator MATSUNAGA. No questions.

Senator DANFORTH. Thank you, gentlemen.

Mr. PELLEGRINI. Thank you.

Mr. MOONEY. Thank you.

[Pause.]

Senator DANFORTH. The next bill is S. 2247, and the witnesses are Mitchell Cooper and David Smith.

Senator PACKWOOD. Let me thank the chairman for accommodating my schedule. I am presiding in the Commerce Committee this morning, and when we finish this I have to go back. Jack has very kindly arranged for me to be here during this presentation.

Senator DANFORTH. All right. Mr. Cooper?

STATEMENT OF MITCHELL COOPER, FOOTWEAR DIVISION, RUBBER MANUFACTURERS ASSOCIATION, WASHINGTON, D.C.

Mr. COOPER. Thank you, Mr. Chairman.

I am testifying in behalf of the Footwear Division of the Rubber Manufacturers Association who opposes the enactment of S. 2247. Seated to my right is Mr. Leonard Fisher, who is chairman of Hyde Athletic Industries, Hyde-Saucony-Spotbilt, a domestic manufacturer and donor of the kinds of footwear which are covered by this bill.

S. 2247 favors importers as against domestic manufacturers of athletic footwear donated to the Special Olympics. Indeed, it is only of value to one company, Nike, Inc., a distinguished importer of such footwear, which has a written agreement with Special Olympics to supply its needs. It is, therefore, the narrowest kind of special interest legislation.

The bill provides a substantial savings to Nike but no additional footwear to Special Olympics, since the domestic industry has stated and repeats that it will meet the needs of Special Olympics on the same terms as those provided in a Special Olympics, agreement with Nike. Indeed, Converse, a Massachusetts company with plants in Maine and North Carolina, offered to meet the footwear needs of the 1983 Special Olympic Games, but its offer was understandably rejected by special Olympics in view of special Olympics' arrangement with Nike.

Converse and Hyde Athletic Industries, the chairman of which is seated to my right, as I indicated—Hyde with plants in Pennsylvania, Maine, and Massachusetts—Converse and Hyde have already made substantial contributions to Special Olympics which would in no way benefit from S. 2247.

The domestic athletic footwear industry, which has a long record of giving to worthy causes, feels that the 46 percent charitable deduction is incentive enough for such giving. If this committee feels otherwise, I suggest that it would be appropriate to amend S. 2247 so as to do equity as between domestic manufacturers and importers, and this could be done in the form of an increase in the 46 percent charitable deduction for donations to Special Olympics by domestic manufacturers.

I would, if I might, Mr. Chairman, call attention to the part of the record of giving of but one domestic manufacturer, Converse

Rubber Co., headquartered in Massachusetts. Converse is the largest of the domestic manufacturers of rubber footwear and of athletic footwear but is considerably smaller than its distinguished and able competitor, Nike.

Converse, although its offer to supply footwear for the 1983 Special Olympics was rejected, has agreed to provide all of the athletic bags, socks, and T-shirts required by participants and staff of the 1983 games.

Senator PACKWOOD. How many people, roughly, is that? Are you talking about the final games?

Mr. COOPER. I am talking about the 1983 Special Olympics. I don't know the answer to the number of people.

Senator PACKWOOD. I would assume a relatively small amount in comparison to the numbers that initially start the competition all over the country.

Mr. COOPER. I have no idea of the figures, Senator. I do know that Converse and other domestic companies have contributed to local chapters of Special Olympics over a period of time.

Senator PACKWOOD. Well, let me ask you this, then. In your offer for the Special Olympics games in 1983, when you made the offer what was your assumption of how many pairs of shoes?

Mr. COOPER. I didn't make the offer, sir. Converse Rubber Co. made the offer. I have no idea. I can only tell you that the president of Converse Rubber Co. and my good friend David Smith and I have met with General Montague, the chairman of Special Olympics, and at that time the president of Converse, speaking in behalf of the domestic industry, made it clear to General Montague that Special Olympics would not suffer as a result of the defeat of this bill, because the domestic industry would be prepared to do what Nike is prepared to do under its agreement with Special Olympics.

And, if I may, sir, let me point out to you that Converse in 1977 and 1978 donated 300,000 pairs of athletic footwear and 100,000 units of T-shirts and warmup suits to the Catholic Relief Service. And in 1979 that company donated over 450,000 pairs of athletic footwear to Care. None of such donations would benefit from S. 2247, nor would the fact that Converse meets all the athletic footwear needs of the Hawthorne League for Retarded Children in Massachusetts and gives annually 8,000 pairs of athletic shoes to the Martin Luther King Boys Club in Chicago as well as financial support and footwear to the Police Athletic League Basketball Club in New York City.

This does not mean to say that Special Olympics should in any way be slighted. All I am suggesting to you, sir, is that there are many, many worthy and needy charities in this country with needs similar to those of Special Olympics which would not benefit, nor would the domestic contributors to those needs benefit, from the bill that is now before us.

Senator PACKWOOD. What would be your position on the bill if the category of recipients was broadened beyond the Special Olympics?

Mr. COOPER. It wouldn't do any good if it were limited to importers, sir. If there were some provision so that domestic producers——

Senator PACKWOOD. No, that wasn't my question. You said there is no reason in singling out the Special Olympics; so I said what would you do if the bill was broadened to include a great variety of other eleemosynary activities in addition to the Special Olympics? Would it change the position of your Association?

Mr. COOPER. It would change the position of the association, sir, only if provision were made so that there would be equity done as between gifts from domestic plants and gifts from abroad.

My clients are essentially domestic manufacturers. Nike is also a member of this association; you appreciate that, I'm sure.

The bill in its present form encourages the gifts of footwear from Korea and the Peoples Republic of China rather than of footwear manufactured by underemployed American workers in underutilized American plants.

I would like to call the committee's attention to the fact that the administration has opposed the companion bill to S. 2247 which is pending in the Ways and Means Committee, and I am advised that the administration has sent a similar letter of opposition to this committee.

Senator PACKWOOD. That bill in the House was a much broader bill than this one, wasn't it?

Mr. COOPER. Not a much broader bill, Senator. It included all handicapped organizations. There is an umbrella group of which General Montague is the chairman. I am advised that Special Olympics is, by all odds, the largest of those groups, and it is perhaps larger than all of the other groups put together.

The nature of the opposition that the administration expressed I would suggest to you would be equally applicable to either bill.

I am also advised, Senator, that this committee, or members of the committee, that various members have heard from several chapters of Special Olympics in support of S. 2247. Certainly I have no objection to that, and certainly we in no sense want to denigrate Special Olympics which we regard as an extraordinarily worthy cause. But I do think that this record should reflect the fact that the director of the Oregon Chapter of the Special Olympics solicited letters from other chapters in a memorandum dated June 1, which begins, and I'm quoting, "Nike needs your help"—not "Special Olympics needs your help" but "Nike needs your help." After pointing out the splendid things that Nike has indeed done for Special Olympics, it points out—and, again, this is according to the Oregon Chapter of Special Olympics, not according to Nike; but am now quoting from that memorandum—"Nike has designated Special Olympics as basically its only charity."

I should tell you that this memo came to my attention through a chapter of Special Olympics which is given its footwear by a domestic manufacturer.

Thank you very much, sir.

[The prepared statement of Mitchell Cooper follows:]

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1001 CONNECTICUT AVENUE, N.W.
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331-1858

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE

SUMMARY OF TESTIMONY OF THE FOOTWEAR DIVISION RUBBER MANUFACTURERS ASSOCIATION IN OPPOSITION TO S 2247

S 2247 is special interest legislation. It provides favored treatment to importers, as against domestic manufacturers, of athletic footwear donated to Special Olympics. It is of particular value to one company, NIKE, Inc., which has a written agreement with Special Olympics.

The savings to importers resulting from this bill will not be passed on to Special Olympics, since the shoes in question are gifts.

The bill is unnecessary since the domestic industry stands ready to meet the athletic footwear needs of Special Olympics on the same terms as those provided by Special Olympics' agreement with NIKE.

If this Committee considers S 2247 as desirable or necessary, it should amend the bill so as to provide a comparable benefit to domestic manufacturers. This could be in the form of an increase in the 46% deduction for donations to Special Olympics by domestic companies.

One effect of this bill would be to encourage the manufacture in Korea and the People's Republic of China of athletic footwear to be given to Special Olympics, rather than having such footwear manufactured by underemployed American workers in underutilized American plants.

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BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE
ON FINANCE OF THE UNITED STATES SENATE

TESTIMONY OF THE FOOTWEAR DIVISION,
RUBBER MANUFACTURERS ASSOCIATION
IN OPPOSITION TO S 2247

My name is Mitchell Cooper and I am testifying as counsel for the Footwear Division of the Rubber Manufacturers Association. The Footwear Division, with the exception of NIKE, Inc., opposes the enactment of S 2247. This Division, whose membership is attached to my statement, includes manufacturers of most of the athletic footwear made in this country. S 2247 provides an added inducement for charitable giving to one worthy cause. This inducement, however, would be available only to importers of certain types of footwear and would be of no value to the domestic producers of such footwear. Its most notable beneficiary will be NIKE, Inc., which has an arrangement with Special Olympics to meet its needs for athletic footwear.

The domestic athletic footwear industry is proud of its record of giving to worthy causes. Converse Rubber Company, as one example, has contributed to the North Carolina Special Olympics some 2,000 pairs of athletic footwear, 5,000 T-shirts, and over 200 man hours of volunteer time. Recently Hyde Athletic Industries contributed 5,000 pairs of bowling shoes to Special Olympics. Since both Converse and Hyde are domestic companies, the Special Olympics contributions by them would in no way be affected by S 2247. Moreover, Converse offered to provide all of the athletic footwear requirements of the Special Olympics Games to be held at Louisiana State University in 1983, but that offer was rejected because of a previous arrangement Special Olympics had made with NIKE. Nonetheless, Converse has agreed to provide all of the athletic bags, socks and T-shirts required by participants and staff of the 1983 Games. None of these donations benefit from S 2247. In 1977 and 1978 Converse donated 300,000 pairs of athletic footwear and 100,000 units of such accessories as T-shirts and warm-up suits to the Catholic Relief Service, and in 1979 this company donated over 450,000 pairs of athletic footwear to Care, Inc. None of these donations would benefit from S 2247. Converse meets all of the athletic footwear needs of the Hawthorne League for Retarded Children in Massachusetts, and it gives 8,000 pairs of athletic shoes each year to the Martin Luther King Boys Club in Chicago as well as financial support and footwear to the Police Athletic League Basketball Club in New York City. None of these donations would benefit from S 2247 The fact is that the Tax Code already permits the domestic industry and its import competition a charitable deduction for the kinds of contributions I have enumerated, and the industry has not thought it necessary to ask for any greater inducement.

The principal proponents and beneficiaries of S 2247 are our friends and colleagues at NIKE. NIKE is a distinguished manufacturer and importer of athletic footwear. It has had a program of gifts to Special Olympics which is highly creditable. That program is comparable to gifts to other worthy causes by domestic companies in this industry.

The accounting firm of Price Waterhouse has made an analysis of the savings an importer would realize if the duty relief provided by S 2247 were enacted. This analysis demonstrates, for example, that an imported basketball shoe whose invoice value is $4.05 will carry a duty of $2.42 and will, if given to an organization for the handicapped, result in a net cost of $2.81. The same shoe if relieved of duty would produce a net cost to the importer of 97¢. This difference of $1.84 per pair between net cost with duty and without duty will of course not be passed on, since the shoes in either case are a gift. Although this bill does not give a saving comparable to relief from duty to a domestic manufacturer with a similar gift program, I want to assure this Committee that if NIKE finds that, abrent this bill, its net costs are excessive as a result of its gifts to Special Olympics, the domestic industry stands ready to meet Special Olympics' needs on the same basis as NIKE is meeting them.

In short, S 2247 provides a significant benefit to importers not available to their domestic competitors, and provides such a benefit in the absence of any need for inducement over and above the existing Tax Code provision for charitable deductions.

We ask nothing more than that import and domestic production be placed on an equal footing insofar as gifts to Special Olympics, or any other worthy cause, are concerned. If in the judgment of this Committee S 2247 is a necessary inducement for gifts to Special Olympics, we would urge that the bill be amended to provide for an increase in the present ceiling for charitable deductions by domestic companies, so that equity will be served as between importers and domestic producers of comparable products, particularly with respect to contributions both segments of the industry make to the same charitable cause.

You may ask why an importer should be burdened with duties for footwear destined solely for charitable purposes. The answer is that the way to avoid duties is to give footwear made by under-employed American workers at American wages. S 2247 will serve only to encourage the manufacture of such footwear in Korea or the People's Republic of China rather than in the United States.

The bill before you will do no more than add additional sums to NIKE's profitable status for charitable deeds no different in quality than those of its domestic competitors, and smaller in value than those of some of its domestic competitors. Failure to pass this bill will not have an adverse effect on Special Olympics since, as I have already pointed out, if NIKE falls short in its program the domestic industry is pledged to meet Special Olympics' needs on the same terms as NIKE has agreed to meet them.

July 21, 1982

Attachment No. 1

MEMBERS OF FOOTWEAR DIVISION OF THE RUBBER MANUFACTURERS ASSOCIATION

Bata Shoe Company	Belcamp, Maryland
Converse Rubber Company	Wilmington, Massachusetts
Etonic, Inc.	Brockton, Massachusetts
Gold Seal Rubber Company	Boston, Massachusetts
Hyde-Spotbilt Athletic Footwear - Saucony	Cambridge, Massachusetts
Kaysam Corporation of America	Paterson, New Jersey
LaCrosse Rubber Mills Company	LaCrosse, Wisconsin
New Balance Athletic Shoes USA	Boston, Massachusetts
NIKE, Inc.	Beaverton, Oregon
Prevue Products Company	Manchester, New Hampshire
Tingley Rubber Corporation	S. Plainfield, New Jersey

Senator PACKWOOD. What, roughly, are the footwear needs of all of the participants in the Special Olympics? How many people are we talking about? I don't mean just the games; I mean all of them throughout the country that participate.

Mr. COOPER. I yield to my friend David Smith on that. He has been dealing more directly with Special Olympics. I gather we are talking in the range of some 700,000.

Senator PACKWOOD. And is that being met by donations now—domestic, imported, or otherwise?

Mr. COOPER. I can only say to you that General Montague, the head of Special Olympics, and the various local chapters of Special Olympics understand that if they call upon companies with an appropriate statement of need, and if indeed these gifts could be on terms similar to Nike's—I don't know whether you appreciate the fact that Nike's agreement, for example, does entail a certain public relations advantage to Nike as the supplier of Special Olympics, perfectly appropriate—domestic companies, I suggest, would, out of a sense of business survival, expect like treatment from Special Olympics. But it has made known its willingness to meet these needs.

Senator PACKWOOD. Now, Nike gives, far and away, I assume, the bulk of the shoes to the Special Olympics now.

Mr. COOPER. Absolutely.

Senator PACKWOOD. Are you saying it is solely because of this special agreement, and if that didn't exist the domestic manufacturers would be happy to meet the need?

Mr. COOPER. I am not saying it is solely because of that agreement, Senator. I am saying that that agreement does exist. I have no reason to believe that absent this legislation Nike will stop its program. Indeed, in its very fine testimony before the House Ways and Means Committee, I think Nike made it clear that, bill or no bill, it intended to continue support to Special Olympics. It is an honorable company. It does get the same advantages that domestic companies now get under the Tax Code, and I assume it would continue to honor its commitments.

Senator PACKWOOD. Sparky, questions?

Senator MATSUNAGA. No questions.

Senator PACKWOOD. Mr. Smith, why don't you go ahead, and then we may have questions of both of you.

Mr. SMITH. Thank you.

STATEMENT OF DAVID H. SMITH, EAST COAST COUNSEL, NIKE, INC., WASHINGTON, D.C.

Mr. SMITH. Senator Packwood, Mr. Chairman, and other distinguished members of the committee, I am David H. Smith, the East Coast Counsel for Nike, Inc.

Nike is an American corporation headquartered in Beaverton, Oreg. Nike manufactures and distributes high quality athletic footwear in many nations around the world including the United States.

In the fall of 1981 we determined to donate sizable quantities of imported athletic footwear to Special Olympics, Inc., for it to distribute among its 1 million mentally handicapped participants, 700,000 of whom come from economically deprived backgrounds——

Senator Packwood. Now, let's get that figure. A million participants?

Mr. SMITH. Currently in the United States alone, Senator Packwood, there are a million participants.

Senator PACKWOOD. Of whom 700,000 come from what?

Mr. SMITH. Economically deprived backgrounds.

Senator PACKWOOD. Thank you.

Mr. SMITH. I might also point out to the committee that that figure, in the broader context of the total population of the United States that suffers from mental retardation, is perhaps put in relative context as follows: 3 percent of the general population of this country is mentally retarded. That comes to approximately 6 million American citizens who suffer from this disability. Currently Special Olympics, with even a million participants, is reaching only approximately 16 percent of that population. This program is growing. It has experienced major growth in the past 5 years, and it will continue to grow. We expect, therefore, that 1-million figure will be increasing proportionate to its history of growth in the future. And we hope in fact that it does.

Since last fall 241,000 pairs of imported Nike shoes and 9,000 pairs of domestically made Nike shoes, in round numbers, have been distributed among all but a handful of the 50 State chapters of Special Olympics.

Nike's donation program was inspired in large measure by the obvious impact that Special Olympics activities have on the lives of the very special athletes who participate in them. But our donation program was inspired as well by President Reagan's mandate to the private sector to shoulder more responsibility for assisting the disadvantaged in light of spending cuts necessitated in Federal welfare programs.

Our experience with Special Olympics over the past 9 months has taught us two things. First, the footwear needs of Special Olympians have historically gone unmet. Perhaps even more than the average athlete, Special Olympians need high quality athletic footwear to improve their performance and, more importantly, to reduce the risk of injury.

Senator PACKWOOD. Let me stop you there a minute. Nike started donating shoes when?

Mr. SMITH. The major national donation program, Senator Packwood, was commenced in September of 1981. Prior to that we had had relationships with several State chapters on a less extensive basis.

Senator PACKWOOD. Now, Mr. Cooper, let me ask you a question. Here I am reading from a letter from Mr. Campbell, who is the executive director of the Special Olympics.

Mr. COOPER. I'm sorry, Senator.

Senator PACKWOOD. Mr. Montague.

Mr. COOPER. General Montague is—you are not getting him confused with William Campbell of the Rubber Manufacturers Association?

Senator PACKWOOD. No, this is a letter to Mr. Campbell.

Mr. COOPER. To Mr. Campbell. I'm sorry.

Senator PACKWOOD. From Mr. Montague, in which he indicates that prior to Nike getting involved in this, and I'm quoting, "No other manufacturer of athletic shoes have ever offered any support on the national or international level." Is that true?

Mr. COOPER. No, it is not true, Senator, and I'm sorry that General Montague's good name has been brought into this hearing in this fashion. I think if you would ask your staff to check with General Montague he would tell your staff that he had been unaware of contributions to local chapters. When Mr. Smith and I met with General Montague, General Montague apologized for letters that he had written to the Ways and Means Committee and Finance Committee making certain statements about the domestic industry which he has since come to recognize are not altogether accurate.

Senator PACKWOOD. Go ahead. I didn't mean to interrupt you.

Mr. SMITH. Our information, and I believe that this currently is the information that Mr. Cooper has referred to, known now by General Montague, is that the contributions made by the domestic industry are comprised in its largest measure by a donation of some 2,200 pairs of shoes by Converse, a domestic manufacturer, to various local chapters in the State of North Carolina over a period of some years.

We don't want to denigrate those contributions, but the fact remains that no other company, domestic or importer, had ever made large-scale donations to the Special Olympics on a national basis. Yet, hundreds of thousands of Special Olympians in the past have competed in their events wearing street shoes, boots, and other inappropriate footwear, and sometimes even barefoot. The reason for this is that high quality athletic footwear is beyond the means of a majority of Special Olympians, 70 percent of whom come from low-income families. Donations are the only way these kids will come to own this important equipment, but donations have never historically been made by any segment of the footwear industry in significant numbers.

Indeed, the second fact we learned from our experience with Special Olympics is that, even after donation of a quarter million pair of Nike shoes, we have only made a dent in the total need. Hundreds of thousands of deserving kids still have no sport shoes, and those who did receive them will wear them out and need more.

By eliminating the tax currently imposed in the form of customs duties on athletic footwear imported for donation to Special Olympics, S. 2247 would be an immense help to Nike, and hopefully in the future other manufacturers as well in addressing this continuing need.

We do not believe that the Tariff Schedules were enacted with the intention of collecting a tax on charitable contributions to the handicapped. Further, if that tax is eliminated, Nike can and will reinvest the saved duties into our contribution program. This will not result in a windfall profit for Nike; we don't intend to be a dollar richer for it; rather, it will enable us to donate more footwear to these handicapped athletes. This is the kind of economic incentive we believe benefits the disadvantaged to the disadvantage of no one.

Senator PACKWOOD. Now, let's get the record clear on that. If this bill is passed, Nike realizes no financial advantage?

Mr. SMITH. That is correct, Senator Packwood.

Senator PACKWOOD. Do you agree with that, Mr. Cooper?

Mr. COOPER. I have no way of knowing. There is nothing in the bill which requires Nike to give this footwear. Nike has given the footwear, has given by its own testimony some 250,000 pairs of this footwear without the bill. I accept what David Smith says because he is an honorable man, but I can't tell you if——

Senator PACKWOOD. How could Nike get any financial advantage out of it, personally, if they don't have to pay the tariff on the shoes donated to the Special Olympics?

Mr. COOPER. By their own testimony, Senator, they indicate savings to Nike would be something in excess, by their estimate, something in excess of $100,000 a year. It is a question of what happens to that $100,000 a year. If it is passed on in footwear to the Special Olympics, all well and good. I am telling you, you don't need to deprive the U.S. Government of that amount of revenue because the domestic manufacturers are willing to make those contributions.

Senator PACKWOOD. I want to ask you this question now. You say "they are willing to." Did they make those contributions in the quantity necessary for the Special Olympics prior to Nike getting into this program?

Mr. COOPER. Senator, certainly not. And the fact of the matter is that we commend Nike for devoting its assets, its talents, its concerns to Special Olympics, just as we hope you will commend Converse and Hyde for its charitable contributions. Nike gives 250,000 pair to Special Olympics, Converse, a much smaller company, gives 450,000 to CARE, 300,000 pair to Catholic Relief, for which it seeks no additional revenue savings.

Senator PACKWOOD. Now, calm down, Mr. Cooper. All I am saying is that prior to Nike giving these shoes to the Special Olympics apparently the need was not being met by private donations.

Mr. COOPER. The need was not being met, Senator; that is accurate. And it is also accurate to say that if Special Olympics had come to the domestic industry and set forth the need, I don't have any doubt—I cannot testify to this on the basis of my own knowledge, but on the basis of what I know these companies have done in terms of their own giving programs I have no doubt that if the need had been stated they would have done their share.

Senator PACKWOOD. Interesting. You had no idea of the need, and no one ever asked?

Mr. COOPER. There is a lot of need.

Senator PACKWOOD. Then, did the Special Olympics never ask? Never mentioned you?

Mr. COOPER. Not true. That's not quite what I said. If it is, I'm sorry, it's not quite what I intended to say.

To the best of my knowledge, Special Olympics has not come to this industry and been turned down. That's what I should have said. If they have been, I am confident that it is only because the domestic industry had already been overcommitted in other directions.

Senator PACKWOOD. Go ahead.

Mr. SMITH. Thank you, Senator Packwood.

Following that very point, it does not make sense to us, Nike, that the domestic industry would object to this bill on the grounds that, rather than see an incentive given for a donation of imported shoes in the very limited circumstances provided by S. 2247, they will make their own commitment at this late date to support the Special Olympics.

It is important to note that this commitment, whatever it means, is a new one. This is not to say that domestic manufacturers have not made laudable and in some instances significant contributions in the past to charities not specifically dealing with the handicapped in sports. I assume that each of these fine companies has a dōnation program in which they give as much as they feel they can, but why should they now withdraw their support from any of these other worthy charities in order to, for the first time, support Special Olympics on a major basis? This is robbing Peter to pay Paul. There are more charitable organizations with footwear needs than can be met with the combined resources of the entire industry.

If the domestic industry is concerned, in fact, that Nike's program with Special Olympics has a promotional value to their competitive disadvantage, then I will make on behalf of Nike the following commitment to them and to this committee: Nike will not spend one dime to advertise in any fashion its relationship with the Special Olympics.

Our colleagues in the domestic rubber footwear industry have also suggested that the only appropriate way to avoid duties is to donate footwear made by underemployed American workers, and that enactment of this bill would serve only to encourage the manufacturer of this footwear offshore. Our response to this is twofold:

First, no manufacturer would displace a single American job in order to go offshore and produce cosmetically blemished shoes for the purpose of giving them away.

We employ over 2,500 American footwear workers in the direct manufacture of footwear, and I can assure this committee that not a single one of them is employed to make these shoes that we give away. Our only economic incentive for either offshore or domestic production is to make shoes to sell them, and indeed we could sell virtually every shoe that to date we have given to the Special Olympics.

If there is a duty owed by the domestic manufacturers to underemployed American footwear workers, that duty is to increase sales, not giveaways, thereby increasing profits and enabling more workers to be hired.

In closing, Senator Packwood and Mr. Chairman, we know that there is a need for this bill. One million Special Olympians and the more than 400,000 volunteers who work with them across this country know there is a need for this bill. Support for this bill and its House counterpart, H.R. 5786, has been expressed in many telegrams to the members of the Finance Committee from Special Olympics State chapter directors across the Nation. I have copies with me of similar letters to the House Ways and Means Committee which, Mr. Chairman, I would ask your permission to make part of the record.

[The letters follow:]

SAMPLE OF LETTER

California Special Olympics, Inc.

1424 4th Street, Suite 700 • Santa Monica, [illegible]

June 9, 1982

Ways and Means Committee
U.S. House of Representatives
1102 Longworth
House Office Building
Washington, D.C. 20006

We need and want your support of legislation currently before the House that would waive a $1.00 tax on shoes imported to the United States and donated to the Special Olympics by the good people at Nike.

California Special Olympics, along with countless other State programs around the country, has benefited tremendously from the generosity of the Nike Corporation. Thus far, they have donated 250,000 pairs of shoes, hired a track and field coach for our National Office in Washington, D.C. and are currently producing a track and field training film.

Nike has designated Special Olympics as basically its only charity which could mean ultimate savings in the millions of dollars to local programs. The impact of this kind of involvement on over one million mentally retarded athletes in America is unmistakeable.

By recommending a tax exemption for Nike, the House would be helping to insure the continued support of this public spirited Corporation for what has traditionally been one of the most neglected segments of our society. We urge you to do everything in your power to influence that outcome.

Sincerely,

JERRY L. POE,
Executive Director

JLP:s

Hawaii Special Olympics
[illegible]
[illegible] Hawaii 96801

Let me win. But if I cannot win
let me be brave in the attempt.
The Special Olympics Oath

June 4, 1982

The Honorable Cecil Heftel
Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20006

Dear Congressman Heftel:

Hawaii Special Olympics requests your support of the legislation to waive the tax on imported shoes that Nike Shoe Company donates to Special Olympics.

We have just received from Nike 1200 pairs of running shoes for the mentally handicapped persons who participate in our Special Olympics activities. Next year, and in subsequent years, we hope to continue to receive Nike shoes. Nationwide, Nike has already contributed 250,000 pairs of shoes to the Special Olympics.

The shoes have been a real boon to so many of our participants, especially to those ~~who were running~~ barefoot.

Respectfully,

Kiyoshi Minami,
State/Chapter Director

Olympics Inc.
Incorporated

June 9, 1982

RECEIVED
JUN 21 1982
KENIN and MENELL

The Honorable Bill Frenzel
Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20006

Dear Congressman Frenzel:

The problem of mental retardation is immense. About 3% of our population is mentally retarded. That is more than 122,000 people in Minnesota. Mental retardation affects more children than all other diseases by far. Eight times more than cerebral palsy. Ten times more than severe hearing losses. Sixty times more than muscular dystrophy.

Minnesota Special Olympics approaches mental retardation in a positive manner, focusing on ability, not disability. Through training and athletic competition in a variety of well-coached, Olympic-type sports, mentally retarded children and adults are able to develop physical fitness, express courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, their peers and the community. Through success in the field of sports, these special athletes then become successes in the "field of life."

NIKE recently donated over 13,000 pairs of shoes to Minnesota's special citizens. This generous contribution provided these members of our society, who perhaps have been forgotten in the past, with the best possible equipment and therefore enabled them to perform at their very best. None of these special athletes could have afforded such high quality footwear. NIKE recognized this and rose to the challenge by donating, to date, a total of 250,000 pairs of shoes to mentally handicapped athletes throughout the country. As state and federal programs benefitting mentally handicapped people begin to dwindle, NIKE accepted the challenge to the private sector by giving to our courageous athletes.

NIKE has proven to be a true friend of Special Olympics. Please help them help the one million Special Olympians worldwide, as well as those who still await our services, by voting YES on Bill HR5786.

Thank you for your consideration of this request. Our athletes depend on it.

Sincerely,

Deborah Z. Kushnir
Chapter Director

DZK/bj

MISSOURI SPECIAL OLYMPICS, INC.
116½ West 4th, Suite 17, Joplin, Mo. 64801
(417) 782-0939

CHARLES J. SMITH
Executive Director

GARY BURTON, Chairman
Board of Directors

June 4, 1982

The Honorable Sam Gibbons
Ways and Means Committee
U.S. House of Representatives
1102 Longworth, House Office Building
Washington, D. C. 20006

Dear Congressman Gibbons,

I am writing in reference to legislation whith is now before Congress that would waive the $1.00 import tax for each pair of shoes NIKE presently donates to Special Olympics.

Missouri Special Olympics has recently distributed 3,000 pairs of running shoes to Special Olympians throughout the State. Many of our Olympians in Missouri come from a low socio-economic background and would not have the opportunity to participate in appropriate footwear without the generous offer from NIKE. Many of our Olympians have been seen at games and events in street shoes, stocking feet and sometimes even boots.

We have not been offered shoes on a donated basis by any other manufacturer. Since the shoes are all being donated to individuals who have an obvious need, it appears very appropriate for NIKE not to have to pay for the "privilege" of donating the shoes.

Most of the 2,400 Special Olympians who attended our 1982 Summer Games were wearing NIKE running shoes. It was a pleasure to see the smiles on all their faces and have the athletes come up and show you their new running shoes.

Many more Special Olympians in Missouri are anticipating being able to wear NIKE shoes during future training sessions and events. Passing of the legislation would afford more of our Olympians the opportunity to participate in appropriate footwear.

Thank you in advance for your time and consideration and I hope you will support this legislation.

Sincerely,

Chuck Smith

Chuck Smith
Chapter Director

Special Olympics
Created and sponsored by The Joseph P. Kennedy Jr. Foundation

NEW MEXICO SPECIAL OLYMPICS

6001 Marble NE, Suite #6
Albuquerque, New Mexico 87110
(505) 266-8893

June 22, 1982

The Honorable Don Bailey
Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20006

Dear Sir,

I have just been made aware of the fact that NIKE IS being charged a tax on their donation of shoes to Special Olympics. There is presently a proposal before you to waive this tax on shoes ($1.00 per pair) that they donate to Special Olympics. The 4,000 Special Olympians in the State of New Mexico that have received these shoes free of charge, and their parents, coaches and Special Olympics volunteers would like.you to grant this tax waiver to NIKE.

If you have never seen a mentally retarded athlete from the Navahoe Reservation, or from rural New Mexico or from an institution, who has been training for Special Olympics competition in run-down second (or third).hand shoes, (hard shoes, not athletic shoes) receive his/her very own pair of running shoes, you have not seen joy. For many of our athletes, these shoes were the first shoes that they have ever received new! At our Chapter Summer Games this year, those athletes were very proud of their shoes.

Although 4,000 Special Athletes in New Mexico have received shoes from NIKE, there are still 3,000 that have not. Please do not force NIKE to abandon this project because of some pressure from other shoe manufacturers. The NIKE shoes that are being donated are not being sold. And, at least in New Mexico, they are not being given to individuals who could afford to buy other maker's shoes.

Please help Special Olympics by helping NIKE in this cause.

Thank you,

Penny J. Zannes

Penny J. Zannes
Executive Director
New Mexico Special Olympics

1224 Stanford N.E.
Albuquerque, N.M. 87106
June 5, 1982

Dear Congressman Archer,

This letter is in support of the legislation waiving the $1.00 tax on each pair of imported shoes NIKE gives to Special Olympics. I coach Special Olympics and I see a great need for these shoes. Many of my athletes would not otherwise have a decent pair of shoes for our activities. I urge you to support this important piece of legislation. Thank you.

Sincerely,

Kay Osborn

OKLAHOMA SPECIAL OLYMPICS, INC.
6320 So. Peoria Tulsa, Oklahoma 74136-2599 (918) 747-9535 Toll Free 1-800-722-9004

June 28, 1982

The Honorable Sam Gibbons
Ways and Means Committee
U. S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20006

Dear Representative Gibbons:

It has recently come to our attention that NIKE shoe company must pay a tax of $1.00 on every pair of shoes they import into this country. NIKE has donated 250,000 pair of shoes to Special Olympics who is NIKE's only charity. Special Olympics is a non-profit organization that provides sports training and athletic competition for the mentally retarded. We want you to know that NIKE's generous donation has allowed a great many of our 15,000 Special Olympians here in Oklahoma to have a good pair of shoes to wear while participating in the many events our program offered this year. It may be hard for you to believe, but many of these athletes did not have athletic type shoes to wear. They have no one to buy them a pair. We are asking that you seriously consider the tremendous value of the donation that NIKE is making to our program and to pass the legislation that is now before Congress that would waive this tax on shoes that NIKE donates to Special Olympics.

I thank you for your time and consideration of this matter.

Sincerely,

Terry Kerr
Executive Director

TK/mt

ACCREDITED BY:

Special Olympics, Inc.
The Joseph P. Kennedy, Jr. Foundation
Washington, D.C.

MAJOR SPONSORS:

Elks Major Projects
Tulsa Roughnecks
Concerned Individuals and Organizations

Wyoming Special Olympics, Inc.

3110 Allendale Boulevard
Casper, Wyoming 82601
June 21, 1982

The Honorable W. Henson Moore
Ways and Means Committee
U. S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20006

Sir:

Wyoming Special Olympics would like to encourage you to waive the tax on imported shoes which are given as donations.

This is of great benefit to Special Olympians, many who could not afford even an inexpensive pair with their own resources.

Please vote in favor of this tax exemption.

Sincerely yours,

Pamela J. Jackson
Chapter Director

PJJ:bp

Sponsored by the Joseph P. Kennedy, Jr. Foundation

Mr. SMITH. Mr. E. Charles Wessinger, Mr. William Knox, Jr., and Mr. Mike Sanford, members of the board of directors and chapter director, respectively, of the Oregon chapter of the Special Olympics, all of whom are seated in this hearing room, flew here all last night to Washington, D.C., simply in order to be present and observe these proceedings.

Senator Packwood and Mr. Chairman, they and I thank you for this opportunity to appear before this honorable committee in support of this bill.

[The prepared statement of David Smith follows:]

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
SENATE FINANCE COMMITTEE

TESTIMONY OF DAVID H. SMITH
EAST COAST COUNSEL
NIKE, INC.

Introduction of NIKE, Inc.

Mr. Chairman and other distinguished members of the Committee, my name is David H. Smith and I am East Coast Counsel for NIKE, Inc. NIKE, Inc., of Beaverton, Oregon, is an American corporation engaged in the manufacture and distribution of high quality athletic footwear, active sports apparel and related accessories. The company began marketing athletic footwear under the NIKE brand name in 1971. Since then, NIKE has experienced rapid growth and believes that now it is the largest distributor of athletic footwear in the United States and the third largest in the world. Approximately 90% of NIKE footwear is manufactured to the company's specifications overseas, primarily in Korea and Taiwan. The balance is manufactured in five company-owned factories located in New Hampshire and Maine. NIKE also maintains major distribution facilities in Portland, Oregon, Greenland, New Hampshire, and Memphis, Tennessee.

NIKE's Relationship with Special Olympics

Almost everyone is familiar to some extent with the Special Olympics. It is the world's largest sports program for handicapped individuals. Each year 1,000,000 mentally retarded athletes participate in Special Olympics activities. There are 19,000 local programs taking place in every Congressional district and state in the country. 70% of all the Special Olympians who participate in these activities come from low income families. At the national, state and local levels, Special Olympics is highly dependent on the support of its more than 400,000 individual volunteers who give generously of their time, expertise and mostly love to reach these very special children. Nor would it be possible for the Special Olympics program to carry out its good work without significant cash and in-kind contributions from the corporate sector. NIKE has been honored to assist in providing high quality athletic footwear without cost to hundreds of thousands of Special Olympians in 44 of the 50 states. These are for the most part handicapped athletes who have never owned a pair of athletic shoes. Enabling these children to participate in their events wearing footwear specifically designed to improve their performance and minimize risk of injury is important. Just as important, however, is the simple message brought by a gift of shoes to a retarded child that someone cares.

NIKE's formal relationship with Special Olympics has evolved over a number of years. For somewhile, NIKE has worked closely with the Special Olympics primarily through its Oregon, Maine, New Hampshire, and Rhode Island state chapters. Our activities within these state chapters have included shoe donations, fundraising events, and sponsorship of annual state and local Special Olympics competition. Many NIKE employees have participated in these activities as volunteers. From this somewhat informal relationship, NIKE has acquired a deep respect and appreciation for the integrity of the Special Olympics organization and the astounding impact which its programs make on the lives of the very special athletes who participate in them.

Consequently, NIKE decided to expand its support of Special Olympics to major proportions on a national level. With the kind encouragement and assistance of Mrs. Eunice Kennedy Shriver and General Robert M. Montague, Jr., President and Executive Director respectively of Special Olympics, this expanded program was initiated last fall with the signing of an agreement between NIKE and Special Olympics defining the terms upon which NIKE footwear would be donated for distribution by Special Olympics among all of its state chapters. While NIKE is also engaged in other projects with Special Olympics, Inc., such as the production of a track and field training film, the shoe donation program is the most important element of this relationship.

It should be noted that NIKE's formal agreement with Special Olympics does not provide for the donation of a specified number of shoes on an annual basis, but rather leaves this to be determined periodically by NIKE and Special Olympics, according to availability of supply and corresponding needs. The central purpose of this agreement is rather to restrict in clear terms the use to which donated footwear shall be put. Specifically, the agreement assures that donated shoes will be given to and used only by the handicapped athletes who actually compete in Special Olympics events. The shoes may not be given to staff or volunteers, and under no circumstances may they be resold, traded, leased or disposed of in any other fashion after donation. Another important aspect of this agreement concerns the distribution of the shoes. Logistically, all shoes imported for donation enter the United States at the Port of Portland, Oregon. After entry, NIKE implements the donation by shipment of the shoes to the Oregon Chapter of Special Olympics. Thereafter, allocation of the shoes among and shipment to all participating state chapters is carried out by the Oregon Chapter in accordance with guidelines and instructions issued by the Special Olympics National Headquarters. In this fashion, the needs of each state chapter can be most equitably met.

Since the execution of this agreement last fall, NIKE has donated approximately 250,000 pairs of athletic footwear to Special Olympics. Of this total, approximately 241,000 were imported for donation, with the balance made up of shoes domestically manufactured in our New England facilities. The donated footwear is composed of a wide variety of styles and models of primarily running and basketball shoes with nylon, canvas or leather uppers. The donated shoes are known in the industry as "B-Grades" or, in other words, structurally sound but in some fashion cosmetically blemished shoes.

NIKE's current intentions are to donate an additional minimum of 100,000 pairs of athletic shoes each fiscal year to Special Olympics and/or other similarly situated charitable organizations. The relief from the payment of Customs duties on footwear imported for donations provided by S. 2247 would enable NIKE to expand this program and thereby reach the thousands of handicapped athletes who as yet do not have access to high quality athletic footwear.

Revenue Impact of S. 2247

Based on the product mix of its current manufactures and upon an analysis of the approximately 241,000 pairs of imported shoes already donated since October, 1981, NIKE is able to estimate that under current law the average duty which would be paid on its shoes imported for donation is \$1.59 per pair. If NIKE were to import 100,000 pairs of athletic shoes for donation per fiscal year, lost revenue to the Customs Service by virtue of the enactment of S. 2247 would be \$159,000 per year. In the last year, NIKE paid total Customs duties on all of its importations of approximately \$60,000,000.

Under current law, NIKE is permitted to claim a charitable contribution deduction against corporate income for most footwear donated to Special Olympics. If S. 2247 is enacted, this deduction would be decreased by virtue of the elimination of duty as a factor in determining the cost basis of the contributed property. NIKE estimates that 22% of the Customs duty lost on those shoes which qualify for charitable contribution deduction would be recaptured by the IRS by virtue of the decreased charitable contribution deduction. It should be also noted that approximately 17% of the imported shoes previously donated by NIKE were not eligible for the charitable contribution deduction at all by virtue of the fact that for accounting purposes their cost basis had been reduced to $0 on the corporation's books.

Customs Service Enforcement of S. 2247

In the context of NIKE's donation program, shoes designated for donation are placed in specially-marked boxes to provide easy identification with the Special Olympics program. The shoes are transported in volumes of approximately 100,000 pairs per shipment, all of which are entered at the Port of Portland, Oregon at one time. The 241,000 pairs of shoes previously donated to Special Olympics were transported by only two ships and comprised only two separate entries for Customs purposes. In this fashion, expenditure of manpower by the Customs Service is kept to a minimum.

NIKE is also in total sympathy with the concern expressed by the Administration that a means be established to insure that any footwear donated pursuant to S. 2247 be in fact used for the specific purpose stated therein. We feel that our own formal agreement with Special Olympics reflects that concern. For its own part, NIKE is willing and anxious to cooperate with the Customs Service in establishing procedures by which charitable organizations receiving donated footwear pursuant to S. 2247 certify that the donated shoes are put to the uses contemplated by the legislation. We are certain that Special Olympics shares that commitment.

Impact on Trade Policy

NIKE believes that the enactment of S. 2247 would not create a precedent with far-reaching trade policy consequences. The provisions of S. 2247 are sufficiently restricted so as to make it easily distinguishable from proposals for similar treatment of apparel, accessories or other products which might in some fashion be used by charitable organizations working with handicapped athletes.

Perhaps precisely because of the ease with which this legislation can be distinguished from more open-ended, far-reaching trade proposals, the Administration has expressed its concern that this proposal represents "special interest" legislation. Without addressing the philosophical question of whether all legislation does not perhaps fall within this nebulous category, NIKE is willing to concede that this bill does indeed serve certain interests. We feel, however, that it is important to distinguish and identify those special interests which would be served by this legislation, lest that term emerge as a red herring to the disadvantage of all concerned.

The benefits that would flow from this bill's enactment are indeed limited in terms of product coverage, qualifying donees and qualifying donors. The covered product, athletic footwear, was not, of course, chosen in some semi-vacuum, void of any intention other than to meet some self-serving interests of athletic shoe manufacturers. Rather, athletic footwear is a natural selection because even though it is integral to the activities sponsored by the qualifying charities, it is sadly unavailable to a vast number of handicapped athletes. Perhaps even more so than the healthy athlete, mentally and physically disabled athletes deserve and need high quality sports shoes. This is essential not just to improve performance, but more importantly, to reduce risk of injury. Yet hundreds of thousands of Special Olympians, for example, compete in their track and field competitions wearing street shoes, boots or other inappropriate footwear, or sometimes even barefoot. The reason for this is that high quality athletic footwear is beyond the financial means of a majority of America's handicapped athletes. As an example, fully 70% of the 1,000,000 athletes involved in the Special Olympics program come from low income families. This, therefore, is the "special interest" served by the choice of athletic footwear in the provisions of S. 2247. If it can be demonstrated that this same compelling need exists for another type of essential athletic equipment among handicapped athletes, then NIKE would wholeheartedly support broadening the category of articles eligible for duty-free treatment.

The donee group is also limited to a "special interest" in the sense that this legislation would not afford duty-free treatment to shoes donated to the general public. Nor is the qualified donee group open to all charitable organizations assisting in general terms the needy and/or the handicapped. We hope that the Senate will see fit to include in this group Special Olympics and any other charitable organization sponsoring athletic training for the physically and mentally handicapped. This is a limited universe of donees to be sure, but even so the total number of potential direct recipients is surprisingly large. We are all I think familiar in very general terms with the plight of our physically disabled children and adults. Several organizations sponsoring athletic competition for these deserving individuals have been mentioned earlier. One of them, the National Association of Sports for Cerebral Palsy, serves the needs of 25,000 athletes. Many other organizations conduct similar worthy programs at the state and local levels. But our general awareness of the sometimess less visible problem of mental retardation needs frequent enforcement. About 3% of our total population is mentally retarded. Mental retardation affects more children than all other diseases by far. Eight times more than Cerebral Palsy. Ten times more than severe hearing loss. Sixty times more than Muscular Dystrophy. Currently, 1,000,000 of these retarded athletes participate in Special Olympics programs and Special Olympics is reaching more and more of these children each year. All of these many programs approach the handicaps of their athletes in a positive manner, focusing on ability, not disability. Through training and competition, children and adults are able to develop physical fitness, express courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, their peers and the community. Through competition in the field of sports, these special athletes, perhaps for the first time, can experience the sensation of success. If, in encouraging the support of these efforts, S. 2247 is "special interest" legislation then so be it. We do not believe that American citizens will be in the least bit offended by this prospect.

Finally, I wish to address the concern which we have heard expressed that this bill in terms of qualified donors is special interest legislation which benefits only importers, or more specifically, only NIKE. This concern is especially irksome because it not only tends to polarize artificially the athletic shoe manufacturing industry, but also misses the principle objective of the legislation. Because NIKE is currently the sole proponent of this measure with a major ongoing program of donations of imported footwear to Special Olympics, it may be easy to assume that the legislation would only benefit NIKE. We, on the other hand, look around our industry and wonder why none of our competitors are engaged in similar programs with their imported footwear. Obviously, we cannot speak for our foreign competitors, but we would hope that they too would respond to the incentive created by S. 2247 and begin donating to these worthy causes some of the footwear which they have been otherwise selling in the marketplace. I think it should be noted as well that among our colleagues in the Rubber Manufacturers Association almost if not all of the primarily domestic manufacturers of athletic footwear also maintain some importation progam. Clearly, none of them import to the extent NIKE does. Nonetheless, S. 2247, if enacted, would be available to their imports in exactly the same fashion as to NIKE.

But even addressing this argument detracts from the real issue in this context. This is not a NIKE relief bill. It is not an importer's relief bill. It is not a bill which would injure the domestic injury at the expense of American jobs. Only shoes that are given away will be affected by this legislation. Every shoe which we might in the future donate to Special Olympics or any other charitable organization will create a dollar loss to the company whether or not a tariff is paid thereon. Let me assure the Committee that virtually all of the shoes which we have previously donated and in the future will donate to Special Olympics could be sold at a profit either here or abroad. We willingly give up this profit and absorb the expense after tax of manufacturing the footwear when we make these donations. Of course, this does not make NIKE a special case. Every other corporate donor with a contribution program is similarly affected. We do this willingly, though, because we see an urgent need within a very worthy and deserving special interest group that is going largely unmet. NIKE cannot meet that need by itself. Our colleagues in the Rubber Manufacturers Association cannot fill the need themselves. We do not know, in fact, if the total need can be continuously met by donations from the combined resources of the private sector. What we do know is that every additional pair of shoes that is donated is very important to at least one deserving child. We cannot speak for others, but if S. 2247 is enacted, NIKE's intention is to reinvest such tariff savings as are afforded thereby into expansion of our donation program. NIKE is not looking for a windfall from this legislation. We do not expect to be $1.00 richer for it. We are not asking for help so that we might help ourselves. We are asking for help in the form of S. 2247 so that we and others can help America's handicapped athletes.

Concerns of the Domestic Footwear Industry

In expressing its opposition to S. 2247, the domestic footwear industry has stated that this measure and its counterpart in the House provides a substantial benefit to importers in the absence of any demonstrated need that any additional incentives are needed in order to meet the requirements of organizations which aid the handicapped. In assessing this position it is important to understand the historical and prospective needs of the recipient organization which would benefit directly from contributions encouraged by this legislation. Historically, the footwear needs of organizations formed for the purpose of sponsoring athletic training for the mentally and physically disabled have never been met by donations of either imported or domestically made shoes. The Committee staff has, I believe, received a copy of a letter dated April 27, 1982, from General Robert M. Montague, Jr., Executive Director of Special Olympics, Inc., indicating that prior to NIKE's donation program no other manufacturer of athletic shoes has ever offered any support on the national or international level. Some individual domestic manufacturers have apparently donated small volumes of shoes on a sporadic basis to local chapters of Special Olympics. We are not aware of any such donations which total over 5,000 pair. This is in the face of a demonstrated need for high quality athletic footwear on the part of 700,000 Special Olympians alone. And this does not measure in terms of numbers the equally compelling need of the underprivileged physically handicapped served by organizations other than Special Olympics. We are not aware of any ongoing footwear donation program to the latter organizations.

This is not to say that domestic footwear manufacturers have not undertaken any charitable donation programs at all. To the contrary, one manufacturer, Converse, Inc., has in the past made significant contributions of footwear to charities providing disaster relief or other general relief to the needy. NIKE, too, makes regular contributions of footwear to charities of this nature. The point is not that one type of charitable organization is more deserving than another. Rather the point is that the handicapped in sports have historically been neglected.

Notwithstanding this historical propensity, the domestic industry now expresses its willingness to support Special Olympics. We hope that this Committee will determine specifically what this commitment means in terms of donations. Is the domestic industry willing to give to Special Olympics only if NIKE does not? Is the domestic industry willing to give to Special Olympics only the number of additional shoes that NIKE would be able to give if S. 2247 is enacted? In any event, is the domestic industry willing to ensure that 700,000 underprivileged Special Olympians will be able to compete in high quality athletic footwear. Additionally, is the domestic industry willing to support other organizations serving the needs of the physically handicapped in sports. And just as importantly, can the domestic industry undertake any or all of such commitments without detracting from or eliminating their support of other charitable organizations outside the group of all eligible donees under S. 2247. The total need for charitable contributions is immense. It makes no logical or civic sense to NIKE to rob Peter to pay Paul when neither one is likely to get his full share in any event.

The argument has also been presented by domestic manufacturers that relieving importers from the obligation to pay duty on footwear destined for charitable purposes will serve to encourage only the manufacture of such footwear in Korea or the People's Republic of China rather than in the United States. NIKE employs approximately 3,000 U.S. citizens worldwide. Over 2,700 of those are employed here in the U.S. Of those, over 2,400 are directly employed in the manufacture of the approximately 12,000 pair of athletic shoes NIKE produces daily in its factories in New England. I can assure this Committee that not one of our workers domestically or off-shore is employed by NIKE to make shoes which will be given away. Not a single American job would be lost by virtue of the enactment of S. 2247, because no manufacturer would start up or increase off-shore production for the purpose of making b-grade shoes for donation. Indeed, our true economic incentive is to sell these shoes. S. 2247 creates an incentive for us to give them away. If the domestic producers believe that American footwear workers are underemployed, then their commitment to that work force should be to increase sales, not giveaways.

Conclusion

When NIKE embarked on its national charitable contribution program with Special Olympics last year, we considered it an action undertaken in at least partial response to President Reagan's call for the private sector to shoulder more of the responsibility for assisting the disadvantaged necessitated by cut-backs in Federal spending. Indeed, this week Congress is engaged in the final stages of a budget process which will ultimately result in billions of dollars being cut from Federal welfare programs. We now see in S. 2247 and its House counterpart a vehicle by which Congress can give substance to the spirit of President Reagan's mandate, and by which Congress can send a clear message of support to America's physically and mentally handicapped athletes and to those footwear manufacturers who, like NIKE, desire to endorse athletic shoes for donation.

Currently, the Federal government imposes a tax in the form of Customs duties on footwear imported into the United States solely for charitable purposes. We do not believe that taxing charitable donations in this fashion is either equitable or in any sense serves the national welfare. Indeed, this tax is a disincentive to private contributions of meaningful gifts to an important and deserving sector of our population whose welfare should be of concern to us all. By enacting S. 2247, Congress can remove this disincentive with a loss of Federal revenue so small as to be almost undetectable and in a fashion which would neither occasion the loss of a single American job, nor deprive the domestic producers of a single percentage of a market share for the sale of their shoes.

Senator DANFORTH. Let me ask you, what is the average duty on a pair of shoes?

Mr. SMITH. The cost in terms of an average, based on the product mix that we have historically imported, Mr. Chairman, is $1.59.

Senator DANFORTH. $1.59 a pair?

Mr. SMITH. But that is an average. It varies from duties in excess of 60 percent of the f.o.b. value of the shoe down to 8 percent. That's an average.

Senator DANFORTH. And as I understand the bill, it would just remove the tariff on shoes that are given to the Special Olympics?

Mr. SMITH. It would remove the tariff on shoes that were imported and identified at the time of importation "Specifically for donation to Special Olympics." Yes, sir.

Senator DANFORTH. But not shoes that would be given to, say the Boys' Club or the Boy Scouts, or something like that?

Mr. SMITH. That is correct.

Senator DANFORTH. Just the Special Olympics?

Mr. SMITH. In its current form.

Senator DANFORTH. Let me say I think it's obviously laudable for anybody to give shoes or anything else to the Special Olympics or to other charities; they are for kids. But I am a little bit of a loss to know why what amounts to a subsidy of $1.59 should be provided for a particular manufacturer to make a gift to a particular charitable undertaking.

Mr. SMITH. Well, Senator Danforth, if in fact Nike viewed it as a subsidy for Nike, I don't believe that we would——

Senator DANFORTH. Well, I don't care how Nike views it; that's what it is. Why should we do that specially for one producer for one charity?

Mr. SMITH. Let me respond in two fashions. We have no objection if this committee, or as in fact is provided in the House bill—the range of eligible charitable donees is increased. We would have absolutely no objection to that at all.

We also feel, in fact, that this bill, even in its current posture, would potentially benefit manufacturers other than Nike.

Senator DANFORTH. But why shouldn't we just write a check for $1.59 per pair of shoes to anybody who wanted to give a pair of shoes for any purposes?

Mr. SMITH. Senator, the purpose for our seeking the assistance in the form of this incentive, from this Congress, is so that we can reduce the cost of giving away shoes, not so that we can get a rebate or a refund for shoes that we intend to give away. The difference is that we intend to use that savings for no other purpose than to import more shoes for donations to the direct benefit of Special Olympics.

Senator DANFORTH. I understand that. But what I am curious about, we already provide in the Internal Revenue Code a charitable deduction for making gifts for any purpose to anything. Why should we provide in effect a special tax break to encourage a special kind of gift of a special kind of product to a special donee—however laudable?

I am not being facetious. If a manufacturer of coffee cups said, "I think that every senior citizen center should have a supply of coffee cups, and we want to give them to them, and we will if you will not only allow us our charitable deduction but also give us $1.59 per cup."

Senator PACKWOOD. Let me ask a question, though, Jack.

Nike has no objection to opening up the classification of recipients. I don't think they are asking——

Senator DANFORTH. Why only shoes? Why not shirts, hats, pants, coffee cups, anything anybody wants to give to any charity? Why shouldn't we just write that?

Mr. SMITH. As a matter of philosophical approach, Mr. Chairman, Nike has no objection to that, either.

We are dealing with a practical situation in which it appeared incumbent upon us to demonstrate, in the context of this legislation, if it appears that only specially limited donees, donors, and product eligibility were to be considered, there are a number of points:

One is that in fact these particular recipients have very special needs that in the past have not been met by donations, and which in the future are only likely to be met by donations.

Senator PACKWOOD. Well, let me put something in perspective, Jack.

In talking with Nike, I am aware they have no desire to limit it to the Special Olympics. The bill was drawn as narrowly as possible, but without any malice aforethought. If you wanted to include every conceivable charity——

Senator DANFORTH. I know what this bill is.

Senator PACKWOOD. No, no. But when you say why a bill for a special—I think Nike would say, "Fine. Open it up to all of the possible donees," and Nike doesn't care if you want to open it up to shirts and hockey sticks, and anything else that is imported and given away.

The battle here, very frankly, is between the domestic manufacturers who don't want Nike or anybody else—it isn't limited to Nike—who makes shoes overseas to be able to give them away to the Special Olympics or the regular Olympics, or anybody else.

Mr. COOPER. On a more favorable basis, Senator, than is permitted the domestic industry. If the need is that great I would like to suggest that the domestic industry's proposal is: The way to meet the need is to amend the Tax Code so that instead of making it 46 percent for Special Olympics you bring it up to 48 percent.

Senator PACKWOOD. I want the record to show this—and we are all going to go vote, and I think we are about done with this hearing—that in my checking with the Special Olympic Committee, indeed they do have about 1 million participants—and they really could use more than 1 pair of shoes per participants Even Nike is not coming close to filling the needs—241,000 last year, right? Until Nike made this offer, the Special Olympics had tried to get donations of $50,000, $100,000, $500,000, and were unable to get them. And Nike filled for them a desperate need which they thought was one of the most extraordinary gifts they had ever received. But it was not being filled, Mr. Cooper, by domestic manufacturers.

Mr. COOPER. It was not being filled—you are accurate—any more than Nike was contributing to CARE or to Catholic Relief, or to the Martin Luther King Boys Club.

Senator PACKWOOD. I understand that. But I don't want the record to show that, had the Special Olympics simply asked, and I discovered they did ask, that their needs would have been met. They had not been met until Nike got in. I am not saying the Special Olympics are any better than CARE or Catholic charities, or any worse. But let the record show——

Senator DANFORTH. I think the question is whether we in the Finance Committee are going to specifically target on almost an ex post facto basis after we determine that there is a particular need in a particular charitable undertaking for a product, whether we are going to start specially targeting tax benefits to encourage the charitable contribution, I think.

Senator PACKWOOD. Well, the point is we do.

Senator DANFORTH. Well, it might be. I am the author of the Apple bill; maybe we should do it. [Laughter]

Senator PACKWOOD. Again I will say I think I can speak for Nike. They have no objection to broadening the classification of recipients so that it is not specially for the Special Olympics.

Senator DANFORTH. Is the Treasury for this or against it?

Mr. COOPER. Well, the administration is against it. The Office of Management and Budget is against it despite the administration's program for increased private giving.

Senator DANFORTH. I know they are against the Apple bill, because I have already had a hearing on that. It is a comparable kind of a situation where a computer company said "provide us and everybody else." And that's the difference, really; because it wasn't a foreign-domestic thing, it's anybody who wants to give a computer to a school. It had to do with what they are able to deduct—how much. But at least that was not an effort to have something that by its very nature distinguishes between imported and domestic products. But the Treasury has firmly opposed it. I'm still for it.

I can't imagine that the administration would be for this. And, frankly, I think because of the inherent differentiation between types of producers and potential donors, this is much more discriminatory. The Apple bill was not discriminatory; this really is. This is very targeted for its source of producer.

Mr. SMITH. May I respond to that very briefly, Mr. Chairman? While it is indeed the case, Nike being an American corporation, that our production is primarily done offshore, it is also the case that we are significant domestic producers. In addition to that, all of the other members of the Rubber Manufacturers Association, footwear division, who make athletic shoes and who primarily manufacture domestically, also have some offshore production and do have an importation program. And each one of them would be eligible to benefit by this provision.

Senator DANFORTH. That's even a stranger kind of a differentiation, between shoes that are produced by company N abroad and shoes that are produced by company N at home. It just seems to me to be kind of odd.

Do you have any questions, Senator Matsunaga?

Senator MATSUNAGA. Not really, but I would think, Mr. Chairman, that we ought to give the same kind of break for a contribution of domestically manufactured goods. How to do it is the question.

Senator PACKWOOD. Well, I might say, Mr. Chairman, it's not unique to this committee. You will recall the carillon bell situation where we waived the tariff to allow the church to import the carillon bells.

And you were on the committee the time we waived the tariff on those imported trinkets that are thrown off the trucks at the Mardi Gras? A tariff was imposed, and all those children were not going to get them if we didn't waive it.

Were you here then? [Laughter.]

Senator DANFORTH. Senator Packwood, I've heard cases make bad law. [Laughter.]

Gentlemen, thank you very much.

Mr. COOPER. Thank you.

[Letter from Mr. Cooper answering Senator Baucus' questions:]

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August 9, 1982

Mr. Ed Danielson
Senate Committee on Finance
Room 2227, Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Danielson:

The questions you forwarded to me from Senator Baucus on S. 2247 arrived this morning, and I hasten to reply.

1. What I said to the Ways and Means Committee was that if such organizations "have had difficulties in obtaining donations of athletic footwear, they have not communicated this difficulty to the domestic industry".

Special Olympics has said that approximately 1,000,000 participate in their programs; I have no reason to question that figure.

Members of the Rubber Manufacturers Association have a long history of giving to a variety of needy causes. NIKE, a member of this Association, has apparently chosen to concentrate its charitable program on the needs of Special Olympics. Toward that end, it entered into a written agreement with Special Olympics in September, 1981, a copy of which agreement was filed by NIKE as an exhibit with its testimony before the Ways and Means Committee. Indeed, according to a June 1, 1982, memo from the Director of the Oregon Special Olympics Chapter to other chapters, "NIKE has designated Special Olympics as, basically, its only charity".

Other members of the Rubber Manufacturers Association, however, have also contributed to Special Olympics. Converse Rubber Company's Lumberton, North Carolina, plant contributed to the local chapter approximately 2,000 pairs of athletic footwear, 5,000 t-shirts and over 200 man-hours of volunteer time. Also, Converse offered to meet all of the athletic footwear requirements of the 1983 Special Olympics Games, but this offer was turned down because of Special Olympics' agreement with NIKE; Converse will, however, be providing all the athletic bags, socks and t-shirts required by participants and staff. Hyde Athletic Industries recently donated 5,000 pairs of bowling and multi-purpose athletic shoes to Special Olympics. In thanking Hyde, Mrs. Eunice Shriver, President of Special Olympics, remarked: "Donations like this from Hyde prove that American industry can and does participate in the tremendous volunteer movement which makes it possible for a million mentally retarded athletes to engage in the activities of their families and communities".

In early July, 1982 spokesmen for the Rubber Manufacturers Association met with the Chairman of the Handicapped in Sports Committee to suggest a legislative approach to giving to the handicapped which would provide identical incentives to domestic manufacturers and importers. At the conclusion of that meeting, Chairman Montague wrote to thank the RMA spokesmen for "their most generous offer to all the handicapped in sports groups".

2. Neither Converse nor I knows the nationalities of the ultimate recipients of the 750,000 pairs of shoes given by Converse to Catholic Relief and to CARE. Of course the many thousands of pairs of shoes which Converse has given annually to the Martin Luther King Boys' Club in Chicago, the Police Athletic League basketball program in New York, and the Hawthorne League for Retarded Children in Massachusetts are distributed in the United States.

As a further example of domestic contributions, New Balance Athletic Shoes has contributed thousands of pairs of its footwear to the Departments of Youth Services and Social Services in Massachusetts, the Salvation Army in Seattle, the Delancey Street Foundation in San Francisco, the Wrentham State School, the Boston Boys Club, the Boston YMCA, the Kiwanis Club, and other worthy causes.

3. What I said in reply to Congressman Jenkins' question was that the domestic industry "will fulfill the commitment that NIKE has made to Special Olympics. They would do it on the same basis NIKE has done it."

Sincerely,

Mitchell J. Cooper

Mr. SMITH. Thank you.

Senator DANFORTH. We do have one more panel, and we have a vote on the Senate floor.

Someone will be back.

[Whereupon, at 11:14 a.m., the hearing was recessed.]

AFTER RECESS

Senator MOYNIHAN. Good morning, again, to our guests.

Senator Danforth has asked me to resume the hearing for him, as he is having difficulty getting back.

Senator Matsunaga has a statement which he will make if he is able to get back from the floor.

At the moment, however, we will simply proceed.

[Pause.]

Senator MOYNIHAN. I am told that Senator Matsunaga would like us to wait for him. That was not the information indicated to me on the floor a few moments ago.

Stay right where you are.

[Whereupon, at 11:27 a.m., the hearing was recessed.]

AFTER RECESS

Senator MATSUNAGA. The subcommittee will come to order.

The next item under consideration is S. 1723, and we have a panel consisting of Dr. Richard E. W. Adams, president of the Society for American Archaeology, from Texas; Clemency Coggins, of the Peabody Museum, Harvard University, Cambridge, Mass.; and Mr. Douglas Ewing, president of the American Association of Dealers in Ancient, Oriental, and Primitive Art.

Would the others sitting at the witness table identify yourselves?

Dr. KING. I am Dr. Mary Elizabeth King, accompanying Dr. Adams. I am director of the University Museum at New Mexico State University in Las Cruces, and vice president of the Association for Field Archaeology.

Senator MATSUNAGA. All right.

Mr. FITZPATRICK. My name is Jim Fitzpatrick. I am counsel to the Art Dealers Association, and I'm with Arnold & Porter, Washington, D.C.

Mr. MARKS. I am Peter Marks, a member of the Association, a colleague of Mr. Ewing.

Senator MATSUNAGA. All right. I have a very brief opening statement on S. 1723 which I will deliver at this time.

I am urging the committee to act expeditiously on S. 1723, a bill to implement articles 7(b) and 9 of the United Nations Convention, on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property.

The convention's chief purpose is to stop the illegal international trade in national art treasures. The parties to the convention undertake to prohibit importation of cultural property stolen from museums, public monuments, and simlar institutions, and undertake to recover and return such property to the rightful owners.

The United States played an active role in negotiating this convention, and it was adopted by the United Nations Educational, Science, and Cultural Organization [UNESCO], on November 14, 1970. The U.S. Senate approved the convention by a vote of 77 to 0 on August 11, 1972.

Despite the U.S. role in bringing about this convention, the U.S. Congress has still to enact the implementing legislation. In 1977, the House of Representatives passed implementing legislation, only to have the legislation killed by this committee's inaction. On February 5, 1981, Senator Baucus and I introduced S. 426 to implement the UNESCO convention. This committee again did nothing.

After introducing S. 426 I worked with various groups to address their potential concerns. On October 7, 1981, Senator Baucus and I introduced a revised bill, S. 1723, which is now before this committee.

Now, the revisions provide, among other things:

One. A requirement that other nations having a significant import trade implement comparable restrictions.

Two. The inclusion of archaeological or ethnological material of a native population or nonindustrial society.

Three. The limitation of the period for emergency import restrictions.

Four. The restructuring of the Cultural Property Advisory Committee.

Five. A revised documentation procedure.

Six. The return of certain forfeited material to the bona fide purchaser or holder of title.

Seven. A safeguard for museum acquisitions.

The revised bill, which is the subject of these hearings, should expedite consideration of the measure. The need for this legislation is pressing and I urge expeditious and favorable action by this subcommittee.

Do you have an opening statement, Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, just in the briefest terms, as I think you know my views on the matter. I know the panel does.

The United States has been very much in the advanced guard of those trying to stop the illegal trade in art. Museums, for example, have been meticulous about the subject of stolen loot and foreign artifacts.

The Smithsonian Institution has established guidelines which are strictly upheld. I know at one point when the Roman and Greek coins were stolen from the Fahhg Museum at Harvard University, and in a small gesture to try to do something about this—this occurred in India where I was then Ambassador—I offered a not insignificant collection of Alexandrine tetradroms which I had in my possession to the museum. And the museum, to my eternal gratitude, turned them down because I could not explain their providence. As a consequence, it is the only piece of negotiable property I have left to bury myself and my wife. Absent that, it would be a pauper's grave or Arlington Cemetery.

I didn't say then but I say now, that they wanted to know where I got them. I bought them from an Armenian coin dealer in Istanbul. And where did he get them? He got them, probably six or seven removes, from a group of people who had dug them up in Syria. There were three people; they split the hoard three ways, two of them have ended up in Geneva, the other is here. They were historically important, because there are about 15 different mints of the same coin. And the museum couldn't take them for a reason that seemed to me odd, because if the museum didn't get them somebody else would—will eventually. And they were bought in an open market in an open way.

When workmen discover hoards, which is frequently the case, they take them to the market. The largest gold collection of pre-Christian Ireland was discovered by men digging a railway tunnel in the 1850's. They melted half of it down and sold it as bullion before somebody noticed these fellows had an awful lot of money they ordinarily didn't have.

We don't want to discourage things coming to the market, because they end up with people who care about them very much. Our dealers are immensely responsible. They don't deal in stolen goods; they deal in goods that come on the market.

On the subject of this UNESCO legislation I will say simply: As in so many matters, the countries of UNESCO choose to ascribe their own shortcomings to the depredation of the West. And to consider UNESCO as the standard against which we must measure ourselves is a perilous enterprise. They have already decided that the free press is a capitalist, imperialist conspiracy, and that is just their beginning. The next thing, we will find that we have to follow a UNESCO convention that says abolish the first amendment because it gives the power of public opinion to rich and depraved people. That is the language they talk over there. They talk about our dealers who in fact have been superb preservers of a past that is all too easily lost. But let us hear it from them; you have heard enough from me.

Senator MATSUNAGA. We will first hear from Dr. Adams.

STATEMENT OF DR. RICHARD E. W. ADAMS, PRESIDENT, SOCIETY FOR AMERICAN ARCHAEOLOGY, SAN ANTONIO, TEX.

Dr. ADAMS. Thank you, Senator Matsunaga.

I am testifying in support of Senate bill 1723. My name is Richard Adams. I appear before you as the president of the Society for American Archaeology. I'm also a past member of the executive board of the American Anthropological Association and represent here today a broad coalition of interests ranging from archeologists to museum directors, from anthropologists to art historians, and including a large lay public. These are embodied in 16 separate organizations. I will not tax your patience with reading the entire list; they are in the written version of the testimony.

Senator MATSUNAGA. It will appear in the record.

Dr. ADAMS. Thank you, sir.

My formal position is that of professor of anthropology at the University of Texas at San Antonio, and I have been a field archeologist working with the ancient civilizations of Mexico and Central America for the past 25 years.

Past cultures and civilizations and ethnographic cultures are part of the universal heritage of mankind. The archeological and academic groups which I represent may number less than 100,000, but we are the professional expression of an interest which engages millions of people and which bridges cultural and political boundaries. That cultural heritage is in grave danger through pillaging of archeological sites on a worldwide basis for commercially valuable material to sell in the art markets of this country, among others.

The legislation you are considering, Senate bill 2734, is another of a series of efforts to implement a set of protective laws which will begin to cope with this problem. The legislation is nothing new, for it follows through on a unanimous advise and consent by the Senate in 1972 on the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

Archeological sites and cultural information destroyed for gain probably cause real anguish only among professional archeologists and a few officials of the countries concerned. The results and unnoticed impacts, however, are much broader. For many developing nations there is a problem of developing an identity, and part of that identity is involved in their native cultural past. If that past cannot be recovered because of damage to the archeological resources of a country, then something irretrievable and valuable has been lost. A parallel for us would be as if Williamsburg had been looted to serve a market in 17th and 18th century artifacts, and not enough had remained to permit the meticulous excavation and restoration that one sees there today. To fully understand the meaning of an artifact requires that you must know the context: whether it occurs in a tomb, a kitchen, or even more unlikely places.

The United States is one of the largest markets, probably the largest market, for illegally excavated and exported materials. That is lamentable in itself. However, much of the U.S. public does not realize that we have in this country significant archeological resources which themselves are being looted and exported illegally. We cannot expect other nations to aid in the control of such traffic if we do not offer them a quid pro quo.

The United States is probably the largest market in the world for antiquities, as I have said, and as such has an obligation to lead in the control of the illegal traffic in antiquities. We can exercise such leadership by implementing the UNESCO convention of 1970. Other signatories of the convention would be positively influenced to simliar action if the United States is willing to take this important step.

Parenthetically, here, I would observe that "concerted action," as is in the bill, is not equivalent to "simultaneous action." In other words, taking a leadership position does not mean we are not initiating a concerted effort.

This bill represents compromise among the various interests: scientific and cultural on the part of the archeologists, museum officials, and art historians, and commercial on the part of the art dealers.

The art dealers' interests are served by, among other things, requiring that the President essentially determine that there is a crisis in a certain country in the looting of its antiquities and that the country of origin has implemented its own laws controlling the export of antiquities, before placing U.S. import restrictions on those items.

In addition to the favorable benefits for foreign nations and for U.S. foreign relations, S. 1723 would have a significant scientific benefit as well. Archeologists do not benefit financially from archeological excavation, or from this legislation, except in the sense that we can raise research funds for sites that are still intact. Many sites have been looted in "my area" alone—my area in quotes—the Maya lowlands, since 1970, the date of passage of the UNESCO convention. The cave with murals in Guatemala, recently described in National Geographic magazine, is an example. Looters hit that site immediately that it was known. The lack of a market for such items and the existence of laws restricting the movement of those antiquities might have avoided this depradation.

Finally, the American public benefits from exhibits such as "The Search for Alexander" in which some of the magnificent material from the tomb of Phillip the Second was displayed. This legislation provides for the encouragement of such cultural interchanges. Again, had looters hit the site of Phillip's tomb, we might not have had the opportunity to see this material collected under a single roof. Indeed, had this material been distributed among private collections by looters, we would likely not even have known that it was in fact from Phillip's tomb. A ceramic from an archeologically recorded tomb can tell us a great deal about ancient cultures and about ourselves. An ancient pot sitting on an art dealer's shelf is just another pretty vase.

Thank you very much.

[The prepared statement of Dr. Richard E. W. Adams follows:]

TESTIMONY OF DR. RICHARD E. W. ADAMS IN SUPPORT OF S. 1723

July 22, 1982

GENTLEMEN:

My name is Richard E. W. Adams and I appear before you as the President of the Society for American Archaeology. I am also a past member of the Executive Board of the American Anthropological Association, and represent here today the following organizations:

American Anthropological Association
American Association of Museums
American Association of Museum Directors
American Society of Conservation Archeology
Archeological Institute of America
Association for Field Archeology
College Art Association
Coordinating Council of National Archeological Societies
National Association of State Archeologists
Society for American Archaeology
Society for Historical Archaeology
Society for the Preservation of Greek Heritage
Society of Professional Archeologists
US Committee of the International Committee on Monuments & Sites

My formal position is that of Professor of Anthropology at the University of Texas at San Antonio, and I have been a field archeologist working with the ancient civilizations of Mexico and Central America for some 25 years.

Past cultures and civilizations and ethnographic cultures are part of the universal heritage of mankind. The archeological and academic groups which I represent may number only 100,000 or so, but we are the professional expression of an interest which engages millions of people and which bridges cultural and political boundaries. That cultural heritage is in grave danger through pillaging of archeological sites on a worldwide basis for commercially valuable material to sell in the art markets of this country among others. The legislation you are considering, Senate bill 1723, is another of a series of efforts to implement a set of protective laws which will begin to cope with this problem. The legislation is nothing new, for it follows through on a unanimous advise and consent by the Senate in 1972 on the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

Archeological sites and cultural information destroyed for gain probably cause real anguish only among professional archeologists and a few officials of the governments concerned. The results and unnoticed impacts, however, are much broader. For many developing nations, there is a problem of building an identity, and part of that identity is involved in their native cultural past. If that past cannot be recovered because of the damage to the archeological resources of a country, then something irretrievable and valuable has been lost. A parallel for us would be if Williamsburg had been looted to serve a market in 17th and 18th century artifacts, and not enough had remained to permit the meticulous excavation and restoration that one sees there today. To fully understand the meaning of an artifact requires that you must know the context: whether it occurs in a tomb, a kitchen, or even more unlikely places.

The United States is one of the largest markets for illegally excavated and exported materials. That is lamentable in itself. However, much of the US public does not realize that we have in this country significant archeological resources which are being looted and exported. We cannot expect other nations to aid in the control of such traffic if we do not offer them a quid pro quo. The US is probably the largest market in the world for antiquities, and, as such, has an obligation to lead in the control of the legal traffic in artifacts. We can exercise such leadership by implementing the UNESCO Convention of 1970. Other signatories of the Convention would be positively influenced to similar action if the United States is willing to take this important step.

This bill represents compromise among the various interests, scientific and cultural on the part of the archeologists, museum officials, and art historians, and commercial on the part of the art dealers. The art dealers interests are served by, among other things, requiring that the President essentially determine that there is a crisis in a certain country in the looting of its antiquities and that the country of origin has implemented its own laws controlling the export of antiquities, before placing US import restrictions on those items. In addition to the favorable benefits for foreign nations and for US foreign relations, S. 1723 would have a significant scientific benefit as well. Archeologists do not benefit financially from archeological excavation, or from this legislation, except in the sense that we can raise research funds for sites that are still intact. Many sites have been looted in my area alone, the Maya lowlands, since 1970, the date of passage of the UNESCO Convention. The cave with murals in Guatemala, recently described in National Geographic magazine, is an example. Looters hit that site immediately after it was known; the lack of a market for such items and the existence of laws restricting the movement of these antiquities might have avoided this depradation.

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Senator MATSUNAGA. Thank you very much, Dr. Adams.

We will go to our next witness and question the witnesses after the panel members have all testified.

We will now hear from Mr. Douglas Ewing, president, American Association of Dealers in Ancient, Oriental, and Primitive Art.

STATEMENT OF DOUGLAS EWING, PRESIDENT, AMERICAN ASSOCIATION OF DEALERS IN ANCIENT, ORIENTAL, AND PRIMITIVE ART

Mr. EWING. This association comprises dealers in a wide range of art—classical Greek and Roman, ancient Near Eastern, the arts of China, Japan, India, and Southeast Asia, pre-Colombian art, and primitive art from Africa, the Pacific Basin, and North America.

The association has been involved for many years in commenting on this highly controversial legislation. This legislation has undergone a number of redrafts in an attempt to meet the many serious criticisms that have been advanced in those hearings.

The central concern of the association over the years has been the failure of the proposed legislation to provide that the United States would participate in a concerted international effort to respond to any problems in the trade and movement of cultural properties. We have emphatically stated that unilateral action on the part of the United States would not in any meaningful way respond to the problems of the concerned foreign countries; rather, the traffic in cultural properties would simply be deflected from the United States to other major art importing nations.

Thus, we were pleased that the recent draft of the legislation, S. 1723, has incorporated the requirement of a concerted international response as a touchstone for any U.S. participation in such plans.

Nevertheless, there are still severe shortcomings with the present draft of this bill which do not afford a fair and equitable response for our citizens to the problems of the movement of cultural goods in international commerce.

The view that it meets the approval of the affected groups overstates the degree of consensus and fails to reflect the deep concern of many affected parties.

In the appendix to my testimony I have set forth our specific concerns with the new bill, including specific suggestions for changes. The major points addressed in detail in the appendix include the following:

One. The "concerted international effort" principle as set forth in the bill requires greater clarity to be workable.

Two. A variety of provisions must be strengthened to assure that the requirement for a concerted international effort cannot be sidestepped.

Three. The emergency restrictions must be limited to avoid emasculation of the remainder of the bill.

Four. Documentation requirements must be made more rational to reduce potentially mischievous and unreviewable bureaucratic authority.

The key problem with section 7 relates to the undefined term "stolen." Current practices of the Department of State and the Customs Service indicate that section 7 is likely to be abused in its present form. The problem results from an ambiguous decision by the Court of Appeals for the Fifth Circuit in *United States* v. *McClain*. That case, interpreting the National Stolen Property Act, involved a most narrow factual circumstance where the evidence demonstrated that the parties involved had the clearest knowledge of foreign laws and a specific intent to traffic in properties in violation of those laws. Unfortunately, the decision is now being expanded to serve as a broad platform for invoking the civil and criminal process of the United States to bar and deter importation of cultural properties totally apart from the long-established principles of common law theft.

The decision in *McClain* permits an interpretation that one can be convicted of transporting and receiving stolen property under the National Stolen Property Act without proof that an object was actually "stolen" in any common law sense; rather, it may be considered to be "stolen" simply because a foreign law asserts that any goods of a particular category or source are the property of the government in question. This interpretation should not be engrafted into Senate bill 1723.

In order to reconcile the perverse notion of "stolen" permitted by McClain with that which has evolved over the years in common law, we have proposed an amendment to section 7 to clarify legislative intent.

Beyond the issues concerning the specific language and policies of S. 1723, there is a need for the Congress to consider most carefully the efforts of certain executive agencies and departments to develop policies in this area which are far beyond present statutory authority and in many instances inconsistent with the provisions of this bill. For example, the Customs Service has recently embarked on a systematic program of attempting to enforce foreign laws dealing with the ownership of cultural properties in circumstances where U.S. law poses no bar to their importation. This highly controversial initiative by the Customs Service, which has been admitted by Government officials to be a policy in which Customs is, as they put it, "winging it," has been strongly criticized editorially in the press.

Most critically, this action is totally inconsistent with the guiding principle of S. 1723. It is not part of a concerted international response; rather, it is unilateral, and even worse, it is not based on law. It exceeds Customs authority under its present statutes.

The Service states that the importation of art claimed to be owned by foreign countries is no different than the importation of a stolen bicycle. Such an analogy is unfair. The real issue, unmet by the analogy, is what force the United States should give to another country's announcement that antiquities found within its borders belong to it, no matter how long individuals within the country possessed or traded them and no matter that persons in the country are permitted to still own them. The Customs Service makes importation of such antiquities sound like ordinary theft from a common law possessor. That is exactly what the standard should be, but it is not the current enforcement policy of Customs.

Congress should look carefully into the Customs Service's actions which clearly exceed existing statutory authority and quite improperly anticipate and preempt the views that Congress might have on the proper national response to this issue.

This association will be delighted to continue to cooperate with the Congress in any way that it can to help assure that any legislation offered to implement the UNESCO Convention adequately balances all competing interests.

Thank you, sir.

Senator MATSUNAGA. Thank you very much, Mr. Ewing.

[The prepared statement of Douglas C. Ewing follows:]

TESTIMONY OF DOUGLAS C. EWING, PRESIDENT, AMERICAN ASSOCIATION OF DEALERS IN ANCIENT, ORIENTAL & PRIMITIVE ART, ON S. 1723 BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE, SENATE COMMITTEE ON FINANCE

I am Douglas C. Ewing. I represent and am President of the American Association of Dealers in Ancient, Oriental, and Primitive Art. The Association comprises dealers in a wide range of art -- classical Greek and Roman, ancient Near Eastern, the arts of China, Japan, India and Southeast Asia, pre-Colombian art, and primitive art from Africa, the Pacific Basin and North America. We are pleased to respond to your invitation to testify on S. 1723, a bill to implement the UNESCO treaty on international movement of cultural property.

The Association has been involved for many years in commenting upon this highly controversial legislation which was initially developed by the State Department to implement the 1972 UNESCO treaty. Hearings have been held on predecessor bills in the House in 1977 and 1979, and in the Senate in 1978. This legislation has undergone a number of redrafts in an attempt to meet the many serious criticisms that have been advanced in the hearings.

The central concern of the Association over the years has been the failure of the proposed legislation to provide that the United States would participate in a concerted international effort to respond to any problems in the trade and movement of cultural properties. We have emphatically stated that unilateral action on the part of the United States would not in any meaningful way respond to the problems of the concerned foreign countries; rather, the traffic in cultural properties would simply be deflected from the United States to other major art importing nations.

Thus, we were pleased that the most recent draft of the legislation, S. 1723, has incorporated the requirement of a concerted international response as a touchstone of any U.S. participation in such international plans.

Nevertheless, there are still severe shortcomings with the present draft of this bill which do not afford a fair and equitable response for our citizens to the problems of the movement of cultural goods in international commerce. Senate Bill 1723, while an improvement over previous bills, requires substantial changes to assure that it will be fairly and reasonably

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applied. The bill is virtually identical to Discussion Draft No. 1 of the House Committee on Ways and Means, printed February 27, 1980. Although the bill makes several desirable changes from earlier versions, it unfortunately does not take into account the constructive dialogue which the Discussion Draft elicited. Nor does it satisfactorily resolve some of the basic issues which had led to the severe and thoughtful criticism of predecessor bills by respected museum officials across the country, distinguished collectors, and responsible art dealers, listed in Exhibit A. Thus, the remarks of Senator Matsunaga introducing this new bill, suggesting that it meets "the approval of the affected groups," Cong. Rec. 11286, October 7, 1981, simply overstates the degree of consensus and fails to reflect the deep concern of many affected parties.

The salutory principle of S. 1723, to discourage illicit pillaging and destruction of the world's artistic patrimony, can be achieved without penalizing responsible art dealers and collectors by inadvertently blocking importation into the United States of broad classes of works of art which have not been "pillaged," "looted," or "stolen."

This testimony highlights significant matters of principle which remain unresolved and suggests a number of drafting changes to eliminate unnecessary ambiguities in the bill. Comprehensive hearings which can focus on these and related matters are essential to a reasoned analysis of this bill. The current two-day hearings, announced less than two weeks ago, and during which S. 1723 is being considered along with over twenty other bills, is in our view completely inadequate. Indeed, many interested persons and organizations in the art world, even those who have actively participated in the past, have not been apprised of these truncated hearings. Additional hearings are necessary.

A. <u>Key Provisions of S. 1723</u>

In the Appendix to this testimony, we set forth our specific concerns with the new bill, including concrete suggestions for changes. The major points addressed in detail in the Appendix include the following:

-- The "concerted international effort" principle as set forth in the bill requires greater clarity to be workable.

-- A variety of provisions must be strengthened to assure that the requirement for a concerted international effort cannot be sidestepped.

-- The emergency restrictions must be limited to avoid emasculation of the remainder of the bill.

-- Documentation requirements must be further rationalized to reduce potentially mischievous and unreviewable bureaucratic authority.

B. Stolen Cultural Property: Section 7

In addition to the concerns discussed in the Appendix, the Association is particularly troubled by S. 1723's treatment of "stolen" property. We have two principal concerns.

First, certain types of cultural property which are "stolen" may never be imported into the United States, whether or not there is a concerted international effort or the invocation of emergency restrictions. While there can be no reasonable objection to the principle underlying this provision, the actual language of the provision will result in unnecessary confusion and unintended harshness in its administration. First, the type of cultural property at issue need only be said to "appertain" to the inventory of a museum or similar institution. Under this bill, a more manageable standard is necessary for a provision with such extraordinary consequences. The standard should be modified to include only property which is "documented as appertaining" to the relevant institutions' inventory. This revised standard should be added to page 19, line 20, and a similar change must be made on page 24, line 1.

The second problem with Section 7 relates to the undefined term "stolen." Current practices of the Department of State and the Customs Service, as will be discussed toward the end of this testimony, indicate that Section 7 is likely to be abused in its present form. The problem results from an ambiguous decision by the Court of Appeals for the Fifth Circuit in United States v. McClain, 545 F.2d 988 (1977). That case, interpreting the National Stolen Property Act, involved a most narrow factual circumstance where the evidence demonstrated that the parties involved had the clearest knowledge of foreign laws and a specific intent to traffic in properties in violation of those laws. Unfortunately, the decision is now being expanded to serve as a broad platform for invoking the civil and criminal process of the United States to bar and deter importation of cultural properties totally apart from the long established principles of common law theft. The decision in McClain permits an interpretation that one can be convicted of transporting and receiving "stolen" property under the National Stolen Property Act without proof that an object was "stolen" in any common law sense; rather, it may be considered to be "stolen" simply because a foreign law asserts that any goods of a particular category or source are the property of the government in question. This mischievous interpretation should not be engrafted into Senate Bill 1723.

In order to reconcile the perverse notion of "stolen" permitted by McClain with that which has evolved over the years in common law, we propose an amendment to Section 7 to clarify legislative intent. The amendment should be added at page 20, line 2:

> "The provisions of the National Stolen Property Act, 18 U.S.C. §§ 2314 and 2315, shall apply to any cultural property stolen from such institutions and transported or sold or received in this country as prohibited by that Act, provided however, that no property shall be considered as stolen, converted or taken by fraud within the meaning of section 2314, or stolen, unlawfully converted or taken within the meaning of 18 U.S.C. § 2315, where the alleged act of stealing, conversion or taking is based upon a taking away of such property from a foreign government or country and the claim of ownership of

such property by the foreign government
or country is based solely upon a
declaration of national ownership, without
such property having been reduced to
possession by such foreign government
or country."

C. Abuse of Existing Executive Authority

Beyond the issues concerning the specific language and policies of S. 1723, there is a need for the Congress to consider most carefully the efforts of certain executive agencies and departments to develop policies in this area which are far beyond present statutory authority and, in many instances, inconsistent with the provisions of this bill. For example, the Customs Service has recently embarked on a systematic program of attempting to enforce foreign laws dealing with ownership of cultural properties in circumstances where U.S. law poses no bar to their importation. This highly controversial initiative by the Customs Service -- which has been admitted by government officials to be a policy in which Customs is "winging it" -- has been strongly criticized editorially in the Washington Post, a paper normally sympathetic to the concerns reflected in the legislation. A copy of the editorial is attached as Exhibit B.

Most critically, this action is totally inconsistent with the guiding principle of S. 1723. It is not part of a concerted international response. Rather, it is unilateral; and even worse, it is lawless, literally, because it exceeds Customs' authority under its organic statutes. Earlier this year Senator Moynihan sought informal comment from the Customs Service on this very issue. A copy of his letter, dated April 21, 1982 is attached as Exhibit C, along with the Customs Service response, dated June 10, 1982, as Exhibit D. The Service incredulously states that the importation of art claimed to be owned by foreign countries is no different than the importation of a stolen motorcycle. The analogy is completely unfair under the Customs Service current enforcement policies. The real issue, unmet by the analogy, is what force the United States should give to another country's announcement that antiquities found within its borders belong to it no matter how long individuals within the country possessed or traded them, and no matter that persons in the country can still own them. The Customs Service makes importation of such antiquities sound like ordinary theft from a common law possessor. That is exactly what the standard should be, but it is not the current enforcement policy of the Customs Service.

Any hearings convened on S. 1723 should look carefully into the Customs Service's actions which clearly, in our view, exceed existing statutory authority and quite improperly anticipate and preempt the views that Congress might have on the proper national response to this issue.

It is also important for the Committee to review recent actions of the State Department which seem to lend the authority of the United States to enforce foreign laws dealing with ownership of cultural properties, where, once again, there are no U.S. statutes prohibiting the importation of such goods.

*　　　*　　　*

The Association will, of course, be happy to continue to cooperate with the Congress in any way that it can to help assure that any legislation offered to implement the UNESCO Convention adequately balances all competing interests. We believe strongly that additional hearings are critical to explore the serious issues which continue to divide the art community in connection with this legislation. The new hearings should also explore the recent actions of the Customs Service in arrogating legislative authority to itself and in misapplying the McClain decision.

Thank you for this opportunity to present our comments.

APPENDIX

The specific concerns of the Association with the current version of S. 1723 and our suggested modifications are set forth below.

Section 2: Concerted International Effort

1. Senate Bill 1723 correctly embodies the understanding of the UNESCO Convention that bilateral or multilateral agreements under Section 2 should be entered only in the context of a concerted international effort. There remains, however, a fundamental ambiguity in determining whether a concerted international effort exists. Although American restrictions are not to be imposed under Section 2 unless comparable restrictions are (or will be) imposed by other nations "having significant import trade" in the material at issue, no guideline exists for determining what level of import trade will be deemed "significant." If, for example, only two or three countries are deemed to have "significant" import trade, a "concerted" international effort among just those two or three countries would completely emasculate the principle underlying the Convention. An unambiguous standard is necessary, desirable and available. Illustratively, a "concerted

international effort" could be deemed to exist when a substantial majority of the eight leading art importing nations implement the UNESCO Convention. Or, as Senator Moynihan has suggested, when "two-thirds of the members of the OECD" do the same. Hearings on H.R. 5643 Before Senate Subcommittee on International Trade, 95th Cong., 1st Sess. 34 (1978).

2. A concerted international effort will exist under the bill when the requisite number of countries have import restrictions "comparable" to those of the United States. Since the term "comparable" is so vague, meaning simply that something can be compared to something else, the phrase should be changed to "equivalent" or "parallel" for desirable clarity. Changes should be made at page 2, line 14, and page 4, lines 13 and 22.

3. A State Party which requests that the United States enter into a Section 2 agreement to restrict imports of its patrimony must also proffer a statement of facts bearing upon the issues to be considered by the executive branch in deciding whether to enter such an agreement. Page 3, line 16. It is unclear whether the statement by the requesting State Party must be in writing. Because of the extraordinary measures that might be taken based upon the statement, it definitely should be written.

4. Section 2 would permit the United States to invoke restrictions before a concerted international effort actually exists, so long as the requisite number of significant art importing countries have implementing legislation pending. Section 2(d) requires suspension of the U.S. restrictions if such countries fail in fact to implement their pending legislation. Section 2(d), however, does not indicate how long the United States should wait before suspending its restrictions. Such ambiguity is unwarranted and unjustified. It confers unreviewable power upon the executive to string out an agreement despite the absence of a concerted international effort. This potential mischief can easily be avoided by requiring that the agreement should be suspended if other countries' pending, unimplemented import restrictions are not implemented within a reasonable period of time, such as one year. This change can be made by adding the time period on page 2, line 14, and on page 4, line 21.

5. Section 2 agreements are sensibly limited to a five-year term, although extensions are permitted. Unfortunately an extension could be indefinite under the new bill, thereby abandoning the initial limitation. Extensions clearly should not be limitless; they should

be permitted for no more than a few years each. This would permit the Advisory Committee to reappraise the situation periodically and would assure that unnecessary or undesirable regulations are not perpetuated indefinitely. This change can be made by substituting an appropriate number of years for the word "time" on page 5, line 8.

6. The 120-day period allowed for committee consideration of proposed Section 2 agreements at page 6, line 5, is too short.

Section 3: Emergency Measures

1. Emergency restrictions could be invoked unilaterally by the United States under the bill without any concerted international effort to assure that the restrictions would have a beneficial international impact. Because emergency restrictions are so extraordinary, if they are to be permitted at all, they should last for no more than two years, with a single extension of one or two years. Section 3(c)(3), which would permit an "emergency" restriction to last for eight years -- nearly twice the length of an initial Section 2 agreement! -- should be changed accordingly. A three- or four-year overall period should be completely adequate

to determine whether a sufficiently serious condition exists to encourage a concerted international effort or to warrant special congressional involvement.

2. Section 3(a)(3) is hopelessly ambiguous and should be modified to read as follows:

> "a part of the remains of a particular culture or civilization the record of which is in critical danger of complete or substantial destruction from pillage, dismantling or fragmentation."

3. Section 3(c)(4), which did not appear in the Discussion Draft mentioned above or in predecessor bills, would permit a treatly to be entered at the end of the emergency period, apparently using the Cultural Property Act as the treaty's implementing legislation. This provision, designed to extend emergency measures indefinitely without any "concerted international effort," requires very careful analysis.

4. Section 3(c)(1) of the current bill would permit the President to imposed emergency restrictions whenever a State Party requests a <u>non-emergency</u> Section 2 agreement. Indeed the State Party need not even indicate that an emergency condition exists. The executive branch should not be permitted to invoke "emergency" powers to circumvent the requirements for a concerted

international effort in situations where the State Party is unwilling or unable to represent that an emergency condition actually exists. Invocation of emergency restrictions should be permitted only when a State Party declares the existence of an emergency and supplies facts to support its declaration.

5. The 60-day period for the Advisory Committee to consider and recommend emergency action at page 8, line 18, is too short.

6. The ambiguous term "dispersal" should be deleted from each of the three definitions of emergency conditions on page 7, at lines 10, 13 and 19.

Documentation Requirements: Section 6

1. The concluding phrase of paragraph 6(c)(2) on page 18, line 24 and page 19, lines 1-2, would give the Secretary unfettered discretion to devise additional, unstated import barriers. There is no justification for this potentially mischievous and unreviewable bureaucratic authority.

2. U.S. citizens living abroad should be exempt from the one-year period for acquiring interests in cultural property. See page 18, lines 6-10.

3. For a variety of reasons that should not concern the United States, a consignor will almost invariably refuse to make import-export declarations under oath. The first definition of "satisfactory evidence," Section 6(c)(1)(B) on pages 17-18, takes this fact into consideration. The second definition, Section 6(c)(2) on page 18, does not. The second definition should therefore be changed to be consistent in this regard with the first. This can be accomplished by deleting the words "under oath" from line 19 on page 18, and by substituting the phrase "one or more declarations under oath by the" for the last word of line 20 on page 18.

Stolen Cultural Property: Section 7

See text of testimony for an explanation of the Association's position concerning this provision.

Seizure and Forfeiture: Section 9

The applicable statute of limitations should be tolled during the time of government seizure of cultural property to permit an injured claimant to seek recovery from any person involved in the sale of the article to him.

Definitions: Section 15

1. The term "nonindustrial society" as used on page 28, lines 14-15, has no recognized definition and should be deleted or clarified.

2. An object of archaeological interest, as defined at page 28, should relate to objects older than 500 years, as it did in predecessor bills.

3. An object of ethnological interest, as defined at page 28, should also be characterized by some element of age, as it was in predecessor bills.

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SIGNIFICANT CRITICS OF PREDECESSOR BILLS

MUSEUM OFFICIALS

Saul S. Weinberg, director Emeritus, Museum of Art and Archaeology, University of Missouri

Norbert Schimmel, trustee, The Metropolitan Museum of Art; trustee, Archaeological Institute of America

Reilly P. Rhodes, museum director, Bowers Museum, Santa Ana

Ronald A. Kuchta, director, Everson Museum, Syracuse

Landon T. Clay, trustee, Museum of Fine Arts, Boston

Richard F. Brown, director, Kimbell Art Museum, Fort Worth

Henry Trubner, associate director, Seattle Art Museum

COLLECTORS

Sanford J. Durst, collector and attorney

John G. Ford Associates, Inc., collectors and dealers of Far Eastern Art, Baltimore

ART DEALERS

Gerald G. Stiebel, president, National Antique & Art Dealers Association of America

Harmer Rooke, Numismatists, Ltd.

William H. Wolff, art dealer

ART DEALERS (continued)

Harry A. Franklin Gallery, Beverly Hills

Lee Moore, art dealer

Andre Emmerich, art dealer and author

Alan Brandt, art dealer

Peter Marks, art dealer

Edward Merrin, art dealer

Douglas C. Ewing, president, American Association of Dealers in Ancient, Oriental and Primitive Art

ACADEMICIANS AND OTHERS

Robert V. Kovacic, art history instructor, San Francisco Community College

Friends of Ethnic Art, San Francisco

James M. Silberman, consulting museum curator, Washington, D.C.

Monroe Morgan, chairman, Ethnic Arts Council of Los Angeles

Exhibit B

THE WASHINGTON POST, FRIDAY, SEPTEMBER 4, 1981

Raiders of the Lost Art

IF THE FEARLESS fragment-finder, Indiana Jones, succeeded today in crating up and shipping to this country the mythical "lost ark of the covenant," whose pursuit has preoccupied moviegoers this summer, probably its arrival would occasion not further mayhem but only confiscation by the U.S. Customs Service. Custom's seizure early this year at Dulles Airport of valuable artifacts shipped from Peru reflected the government's prevailing approach to questionably imported merchandise. A grand jury in Alexandria has been investigating the matter, but our interest lies in the general problem of importing art works, not in any possible allegations of wrongdoing that might emerge in this instance.

Throughout history, the conquest of groups and nations—whether by force of superior arms or dominant culture—often has been accompanied by wholesale transfers of art and artifacts belonging to the vanquished to the control of the victors. In this connection, it is worth recalling that a number of countries (mainly in the Third World) that now protest the taking of their archaeological heritage over the last 150 years by the cultural "viceroys" of the imperial West had themselves engaged in such deliberate pillaging of their less-powerful neighbors in the past. The problem, in short, was not created in modern times or by Western countries, much less by the United States, and good remedies are not always easily found.

What should be done? Apparently a 1972 American law restrains those who try to traffic in a more massive artifact, one whose export had been proscribed by its home country. In the future, it may be more difficult to transport across the Atlantic (stone by stone) an edifice such as Manhattan's magnificent Cloisters, though "London Bridge" (a recent and legal "import") has flourished in its Arizona rebirth. As for smaller items—like the pre-Columbian objects now so popular in this country—no statute currently bans their illegal exchange authoritatively, despite a 1972 U.N. Treaty, which this country signed, that set criteria for international trading in these artifacts.

Up to now, Congress has avoided passing legislation putting the 1972 treaty into effect, so the Customs Service plunged ahead into this legal no-man's-land wielding the provisions of the National Stolen Property Act. Customs argues that, even if dealers purchased objects lawfully, the artifacts themselves can be considered "stolen" if they are imported into the United States in violation of foreign laws banning their removal.

So, thus far efforts by the Customs Service to regulate the booming business in art objects (at least, the smaller ones) has been based upon a law not designed originally to achieve that objective. This is not a good way to do business. And you have to ask: must every foreign claim to absolute statutory control of a national aesthetic heritage—no matter how bizarre, broadly defined or retroactive—be accepted at face value by American courts? Obviously not. Still, considering the past plundering engaged in by acquisitive archaeologists and collectors, Congress should act promptly to either ratify the 1972 U.N. treaty or otherwise clarify the conditions under which customs agents can confiscate foreign art works of clouded title.

ANIEL P. MOYNIHAN
NEW YORK

Exhibit C

United States Senate
WASHINGTON, D.C. 20510

April 21, 1982

Dear Mr. von Raab:

I have become concerned with reports that the Customs Service has initiated a new program of seizing and detaining imports of archeological and ethnological artifacts on the grounds that the country of origin has a law declaring their national ownership. This new initiative would appear to exceed the Service's present statutory authority. Indeed press reports indicate that lawyers at Customs acknowledge that this program is on questionable statutory grounds. Beyond that, this new program may have the effect of pre-empting Congressional efforts to establish policy in the area. I believe consideration should be given to abandoning the program pending definitive Congressional resolution of this matter.

A guiding principle of interest, at least in the Senate deliberations on this question of policy, has been the degree to which the United States unilaterally should bar or discourage the importation of the artistic patrimony of other countries. As you know, Congress has been directly involved in seeking to resolve this issue since the Senate gave its advice and consent to the UNESCO Convention on Cultural Property in 1972. We have had extensive hearings in the Senate on legislation to implement the Convention.

Until this session of Congress, the bills introduced to implement the Convention had rejected the Convention's underlying principle -- that a nation's import restrictions on cultural property should be made only as part of a "concerted international effort." Each of the past bills would have permitted the Executive Branch unilaterally to impose import restrictions. None was enacted into law. Senators Matsunaga and Baucus have now introduced implementing legislation that accepts the Convention's standard of a concerted international effort, and by doing so their bill, S. 1723, greatly improves the prior versions. This latest bill would also permit limited unilateral emergency import controls and would bar the importation of certain "stolen" cultural property. But the bill has not yet been passed; nor in fact have hearings yet been held.

It is especially troubling under these circumstances that the Customs Service has apparently exercised the authority which, until now, Congress chose not to confer.

I would appreciate learning whether you intend, pending a Congressional decision, on this matter to suspend this new program. I would also appreciate learning of the steps you have taken to establish and enforce the program and the specific statutory basis of this program.

Sincerely,

Daniel Patrick Moynihan

Mr. William von Raab
Commissioner
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, DC 20229

Exhibit D

THE COMMISSIONER OF CUSTOMS

JUN 10 1982

WASHINGTON, D.C.

RES-01 CC:SPS
EO-82-04-59

Dear Senator Moynihan:

This is in response to your letter dated April 21, 1982, expressing concern "with reports that the Customs Service has initiated a new program of seizing and detaining importations of archeological and ethnological artifacts on the grounds that the country of origin has a law declaring their national ownership." Your letter says that consideration should be given to abandoning the program pending definitive congressional resolution of this matter.

We believe that some of your concern may be based on misunderstanding. Perhaps it would be beneficial therefore, to outline our actual activities in this area and the statutory or other basis upon which they are based. We believe that this review will show that the Customs Service has not initiated a new program and that its existing programs are consistent with Customs laws and our international obligations.

It has, to my knowledge, always been the policy of the United States to assist foreign countries in recovering stolen property, particularly art objects. In this regard, the Customs Service, working with the State Department and other law enforcement agencies, has in the past assisted foreign governments in recovering religious statues stolen from ancient temples (India), Italian masters paintings (stolen from Italy and Germany), German postage stamps (stolen during World War II) and various Pre-Columbian artifacts (stolen from museums and archeological excavation in Central and South America).

Recently a great deal of attention has been given in the press to seizures and detentions by the Customs Service of Pre-Columbian art and artifacts from Peru. Some of the press stories involved interviews with importers and dealers or their attorneys who misstated Customs involvement or position, possibly because they were seeking to have criminal prosecutions discontinued. For example, a New York Times article (September 2, 1981) concerning the so called "Bernstein" seizure at Dulles Airport gave the impression that Customs was using the seizure to establish precedent. This article appeared on page 1. When it was brought to the attention of the paper that the case involved traditional undervaluation and misdescription of imported articles, and would have been vigorously pursued regardless of the commodity involved, the paper printed a correction (albeit in the second section) of the September 3, 1981, edition. Mr. Seidel, our Assistant Chief Counsel and one of the Customs officials "quoted" in the Times articles, assures me that Customs is not on "shaky legal grounds" in seizures such as Mr. Bernstein's. (In fact, Mr. Bernstein has been convicted and sentenced.)

Much of the Pre-Columbian art and artifacts being imported into the United States is being misdeclared and undervalued for Customs purposes. As you can imagine, it is difficult for Customs officers to determine the country of origin and the exact status of many of the articles. In an effort to determine the true description and value of the items, Customs frequently calls on the opinion of experts in the field. It is at that time that the Customs officers may learn of the specific nature of the articles and of the foreign ownership claims and the possible restrictions and prohibition on exporting and importing. These articles fall into several categories.

1. <u>Pre-Columbian Monumental or Architectural Sculpture or Murals.</u>

Under 19 U.S.C. 2091-2095 (P.L. 92-587) it is illegal to import into the United States articles covered by this statute without a certificate from the country of origin or proof that it was exported prior to the effective date of the regulations or that it is not subject to the Act. Customs may detain the item for 90 days or more pending the determination as to the article's admissibility into the United States. If the item falls within the act the seizure and forfeiture proceedings are commenced.

2. <u>Pre-Columbian objects not subject to 19 U.S.C. 2091-2095</u>

U.S. Courts have held that the National Stolen Property Act (18 U.S.C. 2314) is violated when objects are imported into the United States which are worth $5,000 or more and which have been knowingly removed from a country which has a statute declaring ownership plus a prohibition against exportation of the claimed object. See <u>U.S. v. McClain</u>, 593 F.2d 658 (5th Cir. 1979). While actual knowledge of the existence of such legislation is probably necessary for criminal prosecution, the object itself would nonetheless belong to the foreign country. The United States presently has a treaty with Mexico (22 UST 494) and an agreement with Peru (signed by the Assistant Secretary of State on September 15, 1981) providing for the recovery and return of stolen archeological, historical and cultural property. Thus, once the United States is aware of the claim of foreign ownership from these countries it would appear that ~~at a~~ minimum it has an obligation to assist the country in recovering the items. It has been the practice of the United States to institute a civil action in the nature of interpleader to allow the courts to determine ownership. In this respect, the importation of art and artifacts is no different than the importation of a stolen motorcycle or auto where a foreign country reports it stolen and it turns up at a port being imported by an innocent purchaser. To date, the Customs Service has only used the interpleader action in two cases involving artifacts. Both involve artifacts from Peru which has had a law since 1929 vesting title in unexcavated artifacts in the Government of Peru. Peru has been vigorously prosecuting artifact cases in recent years and sought United States assistance since the majority of buyers are in the United States.

In summary, the United States Customs Service has only been seizing artifacts where it is clear that it is prohibited under U.S. law, misdeclared or undervalued under U.S. law, or where knowledge on the part of the owner (the McClain situation) can be shown. When these situations are not present it has been the practice of the United States to only detain those items which may be covered by an international treaty or agreement and it appears that the item clearly falls within the purview of a foreign claim or ownership. During such detention, if it is determined that the item is not subject to treaty or agreement but claimed by a foreign country from which it was exported, it has been our practice not to release the item until ownership is established (by interpleader or other judicial action). In other cases, such as exports from a third country or where the law is not clear, Customs may notify the country claiming ownership so that it can pursue its claims in court. In such cases, Customs will not detain the shipment.

The Customs Service does not and will not enforce foreign export restrictions in the absence of a United States statute. However, where there is a claim of ownership and a treaty or agreement the Customs Service believes that it has an obligation to assist in returning the item to its rightful owner.

The Customs Service believes that the proposed UNESCO legislation would certainly clarify the law in certain cases. However, the UNESCO treaty would not supersede bilateral agreements. These agreements have fostered international cooperation, not only in the art arena, but also in other areas.

Thank you for giving us an opportunity to express our views in this matter.

Yours faithfully,

Alfred R. De Angelus

Acting Commissioner of Customs

The Honorable
Daniel P. Moynihan
United States Senate
Washington, D.C. 20510

Senator MATSUNAGA. I am informed that a representative of the Treasury Department is here and would like to be heard.

Do we have a spokesman from the Customs Service or the State Department?

Just pull up another chair.

Mr. ABBY. Thank you, Senator.

Senator MATSUNAGA. Will you state your name for the record?

STATEMENT OF RICHARD ABBY, CHIEF COUNSEL, U.S. CUSTOMS SERVICE, AND ELY MAURER, ASSISTANT LEGAL ADVISER, U.S. STATE DEPARTMENT

Mr. ABBY. I am Richard Abby. I am the chief counsel at the Customs Service. Although I have not prepared a statement, I am here and ready to answer any questions that either you or Senator Moynihan may have about the Customs policy.

I would say that while Mr. Ewing's statement is interesting as to what the Customs policy is, it was somewhat of a surprise to me, and his statement is not truly representative of what in fact the Customs policy has been with respect to the detention or seizure of art and artifacts coming into this country.

Senator MATSUNAGA. We will question you later.

And will you state your name and position for the record?

Mr. MAURER. Yes. My name is Ely Maurer. I am an assistant legal advisor in the State Department, and I deal with educational and cultural affairs. I have testified in the past on predecessor legislation, mainly in the House, and I have appeared before you at the time you considered a predecessor bill.

I am here to say that the administration supports S. 1723. We stated that in our letter of March 9, 1982, which received the approval of the Government agencies, notably Treasury, notably Justice, and also the USICA, whose representative unfortunately cannot be here.

S. 1723, as we state in our letter, is the lineal successor of a bill in 1975 which the Department of State submitted to implement the convention that we have under consideration here.

S. 1723 reflects the examinations and reexaminations of this subject matter and reflects also the accommodations made to the views of the archeological and ethnological community, the museum community, the art dealer community, and also reflects the increasing or the development of the Government's views on this matter.

The last time this matter was brought up and discussed was under the aegis of the Subcommittee on Trade of the House Ways and Means Committee. At that time we thought we had arrived at a consensus of views of all the interested parties. There was one particular matter which was left outstanding, dealing with evidence; and on that particular matter we have given an annex to our letter which indicates a compromise position.

Now, when I say that it represented a "consensus," that was our view; not that it represented something that the art dealers or the archeological and ethnological communities fully agreed to, but it was a basis on which we felt we could proceed.

This legislation is long overdue. And we do hope that this committee will give it expeditious and early favorable treatment.

Thank you.

Senator MATSUNAGA. Thank you very much, Mr. Maurer.

We will hear from Dr. Coggins.

Dr. COGGINS. I did not plan to give a statement.

Senator MATSUNAGA. You have no prepared statement?

Dr. COGGINS. I would be happy to answer any questions.

Senator MATSUNAGA. Fine. We will get to you during the questioning period.

Our next witness?

Dr. KING. Nor have I prepared a statement. I might say, however, that I was at the markup session which Mr. Maurer refers to, and I agree that we did feel that consensus had been reached at that session.

Senator MATSUNAGA. Do you have any questions of any of the witnesses, Senator Moynihan?

Senator MOYNIHAN. Well, yes. I would like to thank them all and say that I believe we have made very considerable progress in the last few years since this first came up.

I don't want to be constantly asserting my bona fides in this matter, but I think I share each of your concerns. I am chairman of the board of trustees of the Hirschhorn Museum. We have been dealing with this problem at some length. We adhere very strictly to the Smithsonian standard.

I must tell you that we have written at least one foreign government to say, "We have a large number of your artifacts that may have been stolen. Do you want them back?" And we have yet to hear from the foreign governments. In 2 years time we have not had an answer or a letter.

My wife is an archeologist, a member of the board of ASCOR, and as such shares in the concerns of the archeological community. If archeology is seen as a form of looting, certainly access to the sites will disappear. It has already diminished, as I'm sure Dr. Adams would agree.

I have three questions. First, who can tell me the degree of European and Oriental compliance with the U.N. 1972 treaty?

The gentleman from the State Department?

Mr. MAURER. I think the answer to your question is that, thus far, the countries that have subscribed to the treaties are not the major art markets of the world.

I guess it is true that it is only Canada and maybe Italy that fit into that particular description; but it has always been our hope that we would induce others to join, and we have had inquiries from West Germany time and time again asking how far we were progressing.

Now, it seems to me that——

Senator MOYNIHAN. Since our time is limited, and we are familiar with the argument, can I just ask: Has Switzerland signed the treaty?

Mr. MAURER. None of the major other art inducing countries have either signed or adhere to it.

Senator MOYNIHAN. Let me just go down the list.

Mr. MAURER. Do you mean by "signing" ratified?

Senator MOYNIHAN. Yes.

Mr. MAURER. The answer is "No."

Senator MOYNIHAN. Switzerland has not. West Germany has not?

Mr. MAURER. No.

Senator MOYNIHAN. France has not?

Mr. MAURER. No.

Senator MOYNIHAN. Britain has not?

Mr. MAURER. No.

Senator MOYNIHAN. Japan has not?

Mr. MAURER. No.

Senator MOYNIHAN. No. That is my point—they have not signed.

Mr. MAURER. But it is also true that in the present legislation we have put in that we would not make anything effective with respect to the importation of archeological and ethnological cultural objects unless there is a concerted international effort. That has been the success of the art dealer community.

Senator MOYNIHAN. Sir, with great respect, I know this. I have been involved on both sides. But Japan won't sign, and Switzerland won't sign, and Germany won't sign, and they want us to sign.

Can I ask Mr.—I'm sorry, sir, Mr. Counsel, I did not get your name.

Mr. ABBY. Abby—Customs.

Senator MOYNIHAN. I'm sorry. Would you please tell us whether or not the Customs Service is exceeding its authority by seizing and detaining art imports on the grounds that the country of origin has a law declaring national ownership? The Washington Post was pretty hard on you; so why don't you let us hear your side?

Mr. ABBY. Certainly.

Senator MOYNIHAN. We know you try to do your best, and we just want you to know what we think since in some sense we are supposed to make the law.

We have to be careful about countries that simply pass laws to say "anything that leaves this place is stolen."

Dr. ADAMS. Do those flaws really exist? Aren't they specifically tied to———

Senator MOYNIHAN. I think Mr. Ewing states that there are those that do exist.

Dr. ADAMS. They exist only, though, in regard to specific antiquities.

Senator MOYNIHAN. I was once Ambassador to India, and if I recall the rules it is that "anything Hindu that leaves this country is stolen; anything Islamic is well got rid of; and anything Christian is for the asking." It is not hard to follow laws of India if you get the basic principles down straight. On Buddhism they were also very protective.

I would like to ask Mr. Ewing two things.

We do understand that you feel S. 1723 is a considerable improvement over previous legislation but that there are some reservations. Could you tell us and particularly tell our distinguished chairman, because this is a matter of real concern to him?

Mr. EWING. May I ask Mr. Fitzpatrick, our attorney, to answer?

Senator MOYNIHAN. Well, please do.

Mr. FITZPATRICK. Let me say, Mr. Chairman and Senator Moynihan, that we have outlined in an appendix to our statement a series of concerns that we have that are largely tuneup and technical concerns. We do think, with acceptance of the principle of concerted international effort, that is a major step forward; but we have made a series of suggestions to insure that that effort really is concerted. This bill, as we see it, doesn't even require the other countries involved to adopt the legislation, and we want to make sure that there are specific standards in terms of what this multinational response would be.

Beyond that, the other major concern that we had related to the emergency powers that rested in the President. There was an opportunity for the sand to come out of a hole in the sock by the President simply imposing an emergency restriction for a period of 8 years. We think that there need to be some specific controls and standards imposed there.

We have a series of additional suggestions that we think are important that the committee consider, and in the past we have been anxious and it has been productive for us to meet with the other affected parties and the subcommittee counsel and try to work those things through. We would be happy to do that again.

Senator MATSUNAGA. I thought S. 1723 was the result of a compromise reached by those involved. Is this not so?

Mr. FITZPATRICK. It is not so. It was a compromise reached on the part of the people on that side of the table, and I must say it did reflect discussions that were important and significant in terms of the concerted international response.

We would not be here saying that we have concerns about these technical matters if those were not residual problems that we had. But we were not asked before the most recent bill, S. 1723, was introduced as to whether we had signed off on the bill.

I must say our concerns are not of the dimension in this area that they have been in the past. There has been significant movement. But there never has been any request to us or any assurances from our side of the table that we were signing off on the bill.

Senator MATSUNAGA. One of your prime concerns, as I understand it and as expressed by Senator Moynihan, is that requirement that other nations having significant import trade implement comparable restrictions under the existing law; but under S. 1723 we do provide that.

Mr. FITZPATRICK. Quite right, sir. And as you will see in our paper, the concerns that we have are more technicians questions, in terms of what is concerted and what is an international response. What does that mean? Does that mean Senator Moynihan at an earlier hearing had suggested a certain percent of the countries in OECD?

What we are asking for and want to discuss with you and the staff are simply specifics in terms of that implementation process, so that when the step is taken there will be certainty and clarity in the implementation.

Senator MOYNIHAN. It seems to me that's a good faith offer, to come in and sit down and point out to the staff what it is that they would like to see changed, and then see whether that is acceptable to the committee.

Senator MATSUNAGA. Yes. I have no objection to that. Do you have any objections, Dr. Adams?

Dr. ADAMS. We would certainly like to know what specifics would have cost, of course, and also have an opportunity to express our opinion on the matters.

Senator MATSUNAGA. Well, surely.

Dr. ADAMS. Otherwise, we have no objections whatsoever to that kind of a staff conference.

Senator MATSUNAGA. Dr. Coggins?

Dr. COGGINS. Yes.

In answer to the earlier question about what are the Northern European and Western European countries doing: I went to Europe last fall specifically to try to determine this question, and the first point I would make is that S. 1723 is not the UNESCO Convention as it is being considered in Europe. It is a vastly watered down, very precise instrument, which is probably better and much more realistic than the convention.

The convention, however, as it existed when it was first introduced into the Senate is what the European countries are considering signing at the moment. There is considerable interest in it, and they are at the moment thinking of arranging a time in which they can all sign simultaneously, which would undercut the difficulties which the art dealers have in relative advantage in the trade. That is in France, particularly, where that is being most actively considered.

In England recently there has been an important court decision which did recognize, in England, the right of other countries to declare ownership of their own cultural patrimony, and thus for England to enforce those laws as we have.

So we are not alone in these various initiatives.

Senator MATSUNAGA. Dr. Adams?

Dr. ADAMS. May I make one more point along this line? Even though there may not be specific laws that have been stimulated by the UNESCO Convention, there are bodies of laws—significant bodies of laws—of control of antiquities in places like Japan already.

Senator MOYNIHAN. Mr. Chairman, we have to go vote; but I would like to say, if I can take just a second, that we are all on the same side. But our interests are not entirely the same, and our Nation has the right to protect itself against other nations that would like to see us do what they won't do.

I would love to see a room full of the 24 members of the OECD, each with an ambassador, pen-in-hand, simultaneously signing the UNESCO Treaty. It's not a bad idea.

If you will excuse me, I have to go off and vote for or against liquor taxing.

Senator MATSUNAGA. Yes. We'll be right back, and the subcommittee stands in recess.

[Whereupon, at 12:12 p.m., the hearing was recessed.]

AFTER RECESS

Senator MATSUNAGA. The subcommittee will come to order.

Dr. Adams, you state in your testimony that S. 1723 is a compromise bill. What groups were involved in the compromise?

Dr. ADAMS. Between, essentially, people who are interested in the cultural aspects and the scientific aspects, which are two values that are attached to any artifact, and people who are interested, on the other hand, primarily in the commercial aspects and the esthetic aspects.

Senator MATSUNAGA. Were the dealers involved in the discussion and compromise?

Dr. ADAMS. Yes. Yes, they were. They would be dealers representing the commercial and the esthetic interests primarily, obviously.

Senator MATSUNAGA. There is a proposal of specific language made by Mr. Ewing on page 7 of his testimony. According to Mr. Ewing, it is a matter of clarifying the term "stolen." Have you had a chance to look at it?

Dr. ADAMS. Yes, sir, I have.

Senator MATSUNAGA. What is your view on this proposed language?

Dr. ADAMS. I think I disagree with the logic behind that. I mean, "stolen," in this case, if I understand what they are after, is a definition of "stolen" only in the sense of U.S. law, only a very narrow sense of law within the boundaries of the United States.

Well, first, that may not be good enough, because after all we are dealing with international matters here; and second, there is already a parallel; for example in Great Britain where they deal with cultural properties on the basis of other countries' laws dealing with regulating those matters. And they recognize the right of those countries to regulate that.

Furthermore, we have within our own country a very old law—I don't mean "very old," but back about 1907, isn't it? Back in the early 1900's—the Lacey Act, which regulates the importation of scientific materials from other countries and abides by their laws—in accordance with their laws. Once again, it's a precedent.

Senator MATSUNAGA. Mr. Abby, have you had a chance to study the proposed amendment?

Mr. ABBY. I was just looking at it now, Senator.

Senator MATSUNAGA. I think it is aimed primarily at your present practices.

Mr. ABBY. Well, I'm sure it is aimed at our present practice.

I think before this committee approves such an amendment, one should look beyond and see how such an amendment applies across the board to other items and other laws.

The interpretation of the National Stolen Properties Act came out of that *McClain* decision which said that the National Stolen Properties Act protects ownership derived from foreign legislative pronouncements, even though the owned objects have never been reduced to possession by the foreign government.

Now, I agree that this amendment would remedy the art dealers' problem; but I am not so sure that the Congress would want to make such a broad exception to the law without further consideration of its effects and ramifications. But it certainly does remedy their particular problem.

Senator MATSUNAGA. Does the State Department have anything to add?

Mr. MAURER. Mr. Chairman, we too are somewhat familiar with this issue, because we were involved in the *McClain* case. That was the case where Mexico declared that certain property was government property and also declared that it couldn't be moved out of the country without Mexico's permission.

Then a call to the United States, dealing with the Stolen Property Act, merely said, "Is this, then, stolen property?" And the court said yes; it was property of the Government of Mexico, and it was moved out of the country without the permission of the Government of Mexico—it was a theft; it was stolen property.

And the court adverted to some decisions which are also part of our common law. Florida had declared that alligators are State property, and when a person ran off with an alligator it was stolen in the meaning of the Stolen Properties Act.

Similarly, you could find that States of the United States who say that oil underground is State property; if somebody takes it, it is stealing it.

What I am trying to say here is that basically the art dealers have tried to use this particular committee as a forum for changing the application of the Stolen Property Act. It is true that it is in connection with art that they are concerned with, but basically it is a commonplace for governments to declare that certain property—art property, or treasure troves, or alligators, or oil—belongs to them. And when somebody takes it, it is stolen.

I don't believe it is proper for this committee to change the rules just for the purpose of permitting that art which is declared the property of a country can come in free and clear of the Stolen Property Act.

Now, I want to make this one other point, that our legislation doesn't purport to say what is stolen; that is for the law of the States, the law of the Federal jurisdiction to determine. But evidently the art dealers want to override the *McLain* decision by legislation of this committee.

Mr. FITZPATRICK. Senator? Could I speak very briefly to that point?

Senator MATSUNAGA. Yes, you may.

Mr. FITZPATRICK. Mr. Maurer said at the very end that "it causes us great concern." This bill as it stands now has two concepts of "stolen" and "stolenness" in it: First, a concept that we are familiar with in law school, where there is property of another that is taken. The second is the concept that something can be determined to be stolen simply on the basis of a foreign government's decree that this property is the property of the State and taking it out of the State constitutes it being stolen, even though it is in the hands of a person that found it, who might have had it in his family for generations, and shipped it out of the country.

It is that ambiguity where we see the two areas of the National Stolen Property Act and section 7 of this bill intersecting. So we simply respectfully disagree with the Government officials here and believe that in resolving this issue of stolenness there should be certainty and that the common law concepts should be the ones that are governing—the U.S. common law concepts.

Senator MATSUNAGA. Now, as I see it, one of the prime concerns here, expressed by the dealers, is that the antiquities will be diverted from the U.S. market to other art importing nations, thereby defeating the purpose of the legislation. What do you say to that, Dr. Adams?

Dr. ADAMS. Well, there are two answers to that—two parts to an answer to it. One is that the U.S. share of the market is so overwhelmingly great in terms of the world trade that the others combined are very small.

To be sure, there is considerable activity that goes on in Zurich and goes on in West Germany; but the second part of the answer to that is that the United States, by shutting down the largest segment of uncontrolled art market and these illegally exported items, would influence those other lesser markets, the countries that have the lesser markets, to go ahead and to implement similar legislation, similar controls.

Senator MATSUNAGA. Would you go along with the suggestion that unless the other art importing nations adopt similar restrictions that the restrictions called for in this legislation should not go into effect?

Dr. ADAMS. Personally, and as a field archeologist, I would prefer that we be able to act on our own. But the legislation as we see it now is adequate. It is a minimum bill as far as we are concerned. We can live with it. It is watered down from what we would prefer, but it is an acceptable piece of legislation.

There are ways in which it could be improved in terms of that aspect as well as some other aspects.

I don't know whether that is an adequate answer to your question.

Senator MATSUNAGA. Well, I am seeking answers for the record so that I might be able to present them to other members of the committee. And time is really running out.

I will go to the next question. Would the passage of S. 1723 deny to the American public the opportunity to see these artistic treasures, as the opponents have indicated?

Dr. ADAMS. No; not in the least. There are adequate protections for cultural exchanges, and in fact the bill itself encourages the President, and of course his agents, to develop those and to develop those at the same time as the bilateral agreements are reached. So, indeed, passage of the bill may encourage more exhibits such as The Search for Alexander, and the Tutankhamen Exhibit, and so forth.

Senator MATSUNAGA. Another criticism of the pending bill, S. 1723, as presented to me, is that it grants broad discretionary powers to the President to implement import restrictions on cultural property. This, they say, will lead to the imposition of restrictions intended primarily to promote foreign political relations and disadvantage the art and antiquities dealers. What do you say to that?

Dr. ADAMS. Well, there certainly are political overtones to all of this. I guess practically nothing is free of them.

The aspect that I mentioned in my main testimony of identity, which is so important, which is much less important to us here in this country. But a national identity tied up with a cultural heritage, it's extremely important in Mexico, for example, or in Middle Eastern countries in some cases.

All right, yes, that can influence the President's actions on these kinds of things, but I don't think it is undue influence. I don't believe that is an undesirable influence. After all, we are talking about a general cultural heritage, not just the cultural heritage of those specific countries.

Senator MATSUNAGA. Mr. Maurer, can you state the administration's views on this?

Mr. MAURER. I am not sure I understand. Could you repeat your question, Senator?

Senator MATSUNAGA. Well, one of the concerns of opponents of S. 1723 is that it grants such broad powers to the President of the United States that he could use such powers for political purposes, that is, for foreign policy purposes, which would unfairly disadvantage the arts and antiquities dealers.

Mr. MAURER. Well, I will say that that was an argument that was made 6 years or so ago, and it was before we had worked out the complicated provisions of the present legislation.

In terms of trying to meet this point, the argument led us to enumerate the particular findings that the President had to make before he could engage in any activity of trying to bar a particular object from coming in. And those particular provisions are all set down in section 2, and they are findings that have to be made. Frankly, they are findings which are preceded by a request of a country that is victimized, have to be preceded by a committee which gives its views; and we think we have eliminated or sanitized this particular process so that I find it extremely difficult to believe that that is still a real problem in the minds of the art dealers.

Mr. FITZPATRICK. Senator, as our paper points out, there have been improvements in that area. The one area of concern that persists is that the President has an 8-year period in which, essentially, unilaterally to invoke emergency powers. This complex of procedural controls that were imposed on the process can be bypassed, essentially, in those circumstances.

We have been worried from the very outset that there would be a legitimate pressure on the State Department to trade off, for example, a deal with a South American country, that they would put a limitation on art antiquities going out of "Country-X" in exchange for stepped up control over cocaine or over heroin in the south. We wanted to box that problem in, that in this area if they were dealing with art they were dealing only with art considerations. And there has been great progress made in your bill in that regard.

Senator MATSUNAGA. Does anyone wish to add anything?

Dr. ADAMS. Yes. Just one more comment.

Senator MATSUNAGA. Yes; please proceed.

Dr. ADAMS. I agree with the representative from the State Department that the committee structure has been so strengthened in the reporting requirements to this committee and also to Congress in general are strong enough that I would contend that is probably not a problem.

Senator MATSUNAGA. Now, Senator Moynihan has suggested that all parties involved get together with the staff of the committee and work out some compromise-compromise, and we may be able to come forth with an acceptable bill.

Does anyone have any objection to that suggestion?

[No response.]

Senator MATSUNAGA. If not, then we will have the committee staff contact you and call upon you for suggestions.

So, with that, I will declare the subcommittee in recess subject to the call of the Chair.

[Whereupon, at 12:47 p.m., the hearing was recessed.]

[By direction of the chairman the following communications were made a part of the hearing record:]

AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL-CIO

MURRAY H. FINLEY, PRESIDENT
JACOB SHEINKMAN, SECRETARY-TREASURER

AND THE

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, AFL-CIO

WILLIAM H. WYNN, INTERNATIONAL PRESIDENT

TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
UNITED STATES SENATE

WASHINGTON, D.C.

In Opposition to
S.231

August 4, 1982

This statement is being submitted jointly by the Amalgamated Clothing and Textile Workers Union, AFL-CIO (ACTWU) and the United Food & Commerical Workers International Union, AFL-CIO (UFCW) in opposition to S.231, a bill to amend the Tariff Act of 1930 by increasing, from $250 to $600, the value of goods eligible for informal entry.

The UFCW is a labor union with 1.3 million members organized in some 700 local unions throughout the United States in Canada. The UFCW and its local unions have collective bargaining agreements with employers throughout the food processing, retail sales, leather, health, commercial, fur and other industries. The ACTWU has some 500,000 members throughout the textile and apparel industries, the shoe industry, and the leather wearing apparel industry. The two Unions together represent the majority of workers in the U.S. shoe industry.

Each of these industries -- shoes, textile, apparel, and leather wearing apparel -- share the common characteristics of labor-intensity and import-sensitivity. Each has been faced with rising levels of imports, lost market share and lost jobs over the last several years. Workers in these industries face a difficult struggle to maintain jobs in domestic markets which continue to be innundated by imports.

The shoe industry, which has suffered severe injury as a result of imports, is confronted with a situation aggravated by the termination of import relief by President Reagan in June 1981. In the first five months of 1982, imports of nonrubber footwear increased 27 percent above the same period in 1981 and there is no immediate end in sight for import growth. Domestic production has fallen by 14 percent in the first four months of 1982. The industry has suffered from import penetration in the neighborhood of 50 percent in recent years. Now import penetration has risen to 60 percent in the first four months of 1982. Moreover, in addition to the thousands upon thousands of jobs which have been lost in this industry in the past decade, there were 16,000 fewer shoe workers employed in May 1982 than a year earlier.

With respect to textiles and apparel, imports increased 18 percent in 1981 from 1980 levels despite the existence of import restraints on many products under the Multifiber Arrangement (MFA). Lost jobs and unemployment are particularly acute in the textile and apparel sector. Compared to the national overall unemployment rate of 9.5 percent in June, unemployment was 13.9 percent in the textile industry and 16 percent in the apparel industry. The number of workers employed in textile mills in June 1982, just under 740,000 workers, was about 95,000 fewer than the number employed a year earlier. Similarly, June 1982 employment in the apparel industry of nearly 1.2 million workers represents a reduction in employment levels of some 93,000 workers compared to the preceding year. Thus, in just one year, employment in the textile and apparel sector declined by 188,000 jobs, a dramatic and astounding loss of jobs. The textile and apparel industry, the largest employer in manufacturing in the U.S., which had 2.4 million jobs just a few years ago, now finds that its total employment has declined to below 2 million workers.

Unemployment and lost jobs are also prevalent in the leather apparel industry, which suffers from import penetration of more than 55 percent. Imports of leather wearing apparel increased 21 percent between 1980 and 1981 and increased further by 20 percent in the first four months of 1982 compared to the same period in 1981.

These industries also share a stake in assuring the availability of accurate trade statistics. Collection of trade data and monitoring of trade flows would be made exceedingly difficult, if not impossible, if the informal entry level was raised.

In light of the continued high levels of textile, apparel, nonrubber footwear and leather apparel imports, imports need to be monitored closely. Only the most precise statistics can be relied upon to keep an accurate watch on import levels. Accurate and timely trade data are dependent upon official customs documents which are made available by the U.S. Customs Service to the Bureau of the Census for inclusion in official U.S. Government trade statistics. With large numbers of low unit value items constantly being imported into the United States, an increase in the dollar amount of merchandise eligible for informal entry could undermine the industry's and the Government's efforts to monitor accurately footwear imports. This is particularly true in the case of the textile and apparel import program (the Multifiber Arrangement) which is critically dependent upon accurate trade statistics for proper enforcement of import levels.

There exist several illustrative examples of imports of low-unit value items which can go uncounted in import statistics because of informal entry procedures.

Average unit values of import footwear vary widely. However, the entrance of new country suppliers such as the People's Republic of China (which became the eighth largest supplier in 1981) with very low unit prices on their shoe exports, and the increased significance of low-cost foreign suppliers are evidence that relatively large shipments of imported shoes can enter the United States under informal entry. For example, in 1981 the average unit value of shoes imported from the PRC was $2.50, while the average unit value of shoes imported from Singapore was just $1.57. Even at $250, large volumes of shoes can enter under informal entry. Raising the ceiling will only compound the problem.

Another case in point is imports of men's and boys' cotton shirts from the PRC. In 1981, the average unit value of cotton shirts from the PRC was $21.68 per dozen. Presently, 138 dozen such shirts can be entered into the United States under the current $250 informal entry ceiling. Raise the ceiling to $600 and shipments of 331 dozen shirts can pass through U.S. Customs without being logged for statistical purposes.

Most startling and disturbing of all, however, is the deliberate under valuation of items to evade quota requirements by using informal entry procedures. This is not an uncommon occurence. A recent article in Textile Asia (June 1982) stated that, according to a U.S. customs official, "at a conservative estimate 85% of the parcels of made-to-measure clothing shipped from Hong Kong had been undervalued, so as to save duty or evade quota requirements. Goods valued at U.S. $250 and over are subject to quota." If this practice of undervaluing shipments is rampant now, one can imagine the large volume of imports which will enter uncounted if the informal customs entry ceiling is raised from $250 to $600.

Heavy reliance is placed by these industries on the statistical data provided by U.S. Customs in determining import penetration and other market trends. Further skewing of these data is not in the interest of these and other import-sensitive industries. Workers in these industries cannot afford to see their efforts to fight import injury hindered, or in fact undermined, by the unavailability of accurate trade data due to an expansion of informal entry procedures. Legislation such as that in S.231 had been suggested in earlier Congresses, but was justifiably defeated. The increased difficulty of collecting accurate trade data which would result from enactment of S.231, cannot be considered to be in the public interest.

The Amalgamated Clothing and Textile Workers Union, AFL-CIO and the United Food & Commercial Workers International International Union, AFL-CIO join together to voice their opposition to S.231. There should be no expansion of coverage in the informal entry procedures.

STATEMENT OF AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION, AFL-CIO

MURRAY H. FINLEY, PRESIDENT
JACK SHEINKMAN, SECRETARY-TREASURER

TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE
U.S. SENATE
ON S.1902

JULY 21, 1982

SUMMARY

The Amalgamated Clothing and Textile Workers Union, AFL-CIO opposes the legislation embodied in S.1902. Our reasons for opposing this legislation are related to the import-sensitivity of the textile, apparel, leather apparel, and shoe industries. Unemployment in these industries is extremely high, and in the face of ever increasing imports, our workers neither wish to be threatened with the prospect of possible duty reductions nor can they tolerate the consequences of further increased imports resulting from new duty cuts.

An amendment which excludes by name import sensitive products is one solution to our opposition to S.1902. As an alternative to the specific exclusion of our products by name, an acceptable amendment would be one such as that under consideration in the House which addresses the concept that import-sensitive articles which are already excluded from duty-free treatment under the GSP should also be automatically excluded from the tariff-cutting authority. In this manner, our products would be guaranteed the duty protection currently in place and would not be threatened by tariff reductions.

Introduction

The Amalgamated Clothing and Textile Workers Union, AFL-CIO, represents some 500,000 workers in the textile and apparel industries as well in the shoe and leather apparel industries. Our Union is opposed to S.1902, a bill to extend the authority to reduce duties under Section 124 of the Trade Act of 1974.

Our reasons for opposing this legislation are related to the import-sensitivity of the textile, apparel, leather apparel, and shoe industries. Unemployment in these industries is extremely high, and in the face of ever increasing imports, our workers neither wish to be threatened with the prospect of possible duty reductions nor can they tolerate the consequences of further increased imports resulting from new duty cuts.

Import-Sensitive Industries Cannot Tolerate Any Action Which Would Lead to Further Increases in Imports

Import-sensitive industries such as textiles, apparel, leather apparel and shoes, cannot tolerate any action which might result in further increases in imports.

The current state of health of these import-sensitive industries is quite poor. With respect to textiles and apparel, imports increased 18 percent in 1981 from 1980 levels despite the existence of import restraints on many products under the Multifiber Arrangement (MFA). Lost jobs and unemployment are particularly acute in the textile and apparel sector. Compared to the national overall unemployment rate of 9.5 percent in June 1982, unemployment was 13.9 percent in the textile industry and 16 percent in the apparel industry. The number of workers employed in textile mills in June 1982, just under 740,000 workers, was about 95,000 fewer than the number employed a year earlier. Similarly, June 1982 employment in the apparel industry of nearly 1.2 million workers represents a reduction in employment levels of some 93,000 workers over the preceding year. Thus, in just one year, employment in the textile and apparel sector declined by 188,000 jobs, a dramatic and astounding loss of jobs. The textile and apparel industry, the largest employer in manufacturing in the U.S., which had 2.4 million jobs just a few years ago, now finds that its total employment has declined to below 2 million workers. Overall production of textiles and apparel is currently down 15 percent from a year ago.

The shoe industry is confronted with a similarly dismal situation, aggravated by the termination of import relief by President Reagan in June 1981. Imports of nonrubber footwear increased 27 percent in the first five months of 1982 compared to the same period in 1981 and there is no immediate end in sight for import growth. With domestic production falling (12 percent in January-April 1982), import penetration has risen sharply to 62 percent, substantially greater than import penetration on the order of 50 percent from which we have suffered in recent years. Moreover, the average number of workers employed in this industry has fallen to about 131,000 workers in the first four months of this year, almost 11,000 fewer than were employed in the same period a year ago.

Unemployment and lost jobs are also prevalent in the leather apparel industry, which suffers from import penetration of more than 55 percent. Imports of leather wearing apparel increased 21 percent between 1980 and 1981 and increased further by 20 percent in the first four months of 1982 compared to the same period in 1981.

Increasing imports have a devastating effect on these industries which are already suffering from production and employment losses due to imports, a situation which has also been compounded by the recession.

These statistics cannot be viewed in a vacuum. We remain very concerned about a further loss of job opportunities for our workers. This country has a specific need for, and indeed an obligation to provide, entry-level or low-skilled jobs to certain segments of the population. An economic base which supplies entry-level or low-skilled jobs to those segments of the population which cannot otherwise be employed is critically important for the United States. Unemployment and all its serious attendant social problems cannot be accepted as the norm for these workers. So long as our country remains a beacon for the dispossessed of the rest of the world and so long as we must rely on the private sector for job creation in our society, we absolutely need to preserve industries such as these.

S.1902 Must be Amended or Rejected

The question may be posed to us, "why are you concerned about the tariff cutting authority -- duties on your products will not be cut." Let me explain why we are concerned. First of all, nobody has said this to us. Furthermore, we have no assurances that the Administration may not find it necessary to negotiate lower duties on textiles, apparel, leather apparel or shoes. If, indeed, they do not intend to reduce duties on these products, the Administration should be willing to see this written into the law. Unless the legislation can be amended to specifically exclude our products from being subject to the tariff-cutting authority, the bill should be rejected outright.

When we have had to rely upon a President's discretionary authority, the results have not been favorable. President Reagan decided not to extend import relief for nonrubber footwear despite an affirmative recommendation from the International Trade Commission. President Carter denied import relief for the leather apparel industry despite a unanimous finding of injury from imports by the ITC. President Ford rejected import relief for nonrubber footwear despite a similar unanimous finding of injury from imports by the ITC.

In the latter case, on behalf of the Ford Administration, Ambassador Eberle made a written commitment to the Senate in December 1974 to provide import relief to the nonrubber footwear industry if it received an affirmative finding of injury by the ITC. But when such a determination was made by the ITC, Ambassador Eberle was no longer in office and President Ford rejected import relief for the shoe industry.

Only four years ago, Congress passed by large majorities the Hollings-Holland-Broyhill bill which excluded textiles and apparel from tariff cuts in the Multilateral Trade Negotiations. Although President Carter vetoed the bill, he put forth a new policy to tighten the administration of the textile/apparel import program. Furthermore, many textile and apparel products were excluded from tariff cuts in the MTN; others had their tariffs cut marginally. This process certainly reflected the recognition which both Congress and the Executive Branch gave to the import sensitivity of the textile and apparel industry. Yet S.1902 provides for no exclusion of import sensitive products at a time when we understand the Executive Branch hopes to launch new trade negotiations with the more advanced developing countries which are the major foreign suppliers of textiles, apparel, shoes and leather apparel in the U.S. market.

We therefore must reject as unsatisfactory any amendment to S.1902 which merely excludes from the tariff cutting authority in general terms those items which are import-sensitive.

Let me explain what we have in mind as an acceptable amendment to the legislation.

As you know the House Trade Subcommittee reported out residual tariff cutting authority legislation, H.R. 4761, amended to exclude import-sensitive products, which are so designated by the President, from the authority. While this amendment is a step in the right direction, it is far from satisfactory. It offers no assurance that textiles, apparel, leather apparel, or shoes, will be designated as import-sensitive articles.

An amendment which excludes by name import sensitive products is one solution. As an alternative to the specific exclusion of our products by name, an acceptable amendment would be one such as that under consideration in the House which addresses the concept that import-sensitive articles which are already excluded from duty-free treatment under the GSP should also be automatically excluded from the tariff-cutting authority. Since textiles and apparel (subject to international agreements) and nonrubber footwear are excluded by law from GSP eligibility, and leather apparel is no longer on the GSP list because of its import-sensitivity, an amendment to S.1902 which excludes from tariff reductions those articles not presently eligible under the GSP would satisfy our concerns. In this manner, our products would be guaranteed the duty protection currently in place and would not be threatened by tariff reductions.

I think you will find that most import-sensitive industries are seeking the same thing. By virtue of their import sensitivity these industries have the highest duty rates and these duties play an essential role in maintaining the viability of these industries. Our fear is that these duties will become the major focus of future negotiations. It is precisely these industries which can least afford increased import competition.

98-592 O - 82 - 32

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate
July 21, 1982

STATEMENTS ON BEHALF OF THE
INTERNATIONAL LADIES' GARMENT WORKERS' UNION (AFL-CIO)
IN OPPOSITION TO S. 1902 and S. 231

This submission is made on behalf of the International Ladies' Garment Workers' Union, AFL-CIO (hereafter referred to as the ILGWU) and its 300,000 members engaged in the production of various articles of women's and children's apparel and accessories. Over the last 25 years, an unrelenting rise in clothing imports has devastated the domestic industry. Where once (1957) 4 garments were imported for every 100 made in the United States, today more than 50 are imported for every 100 made here. The result has been a steady decline in the number of garment firms in the United States and a decline of some 90,000 jobs since peak employment in our industry was reached in 1973. The two pieces of legislation in question, S. 1902 and S. 231, would further aggravate an already disastrous situation and it is for this reason that we oppose them. Detailed comments on each bill follow:

S. 1902 TO EXTEND PRESIDENTIAL TARIFF REDUCTION AUTHORITY AN ADDITIONAL TWO YEARS

S. 1902 would extend for an additional 2 years the authority of the President to negotiate tariff reductions pursuant to Section 124 of the Trade Act of 1974. This section expired on January 3, 1982 and it is the firm opinion of the ILGWU that it should not be restored. Section 124 was originally inserted into the Trade Act to permit so-called "housekeeping" adjustments in duties subsequent to the massive reductions accomplished by 5 years of negotiations under the Multilateral Trade Negotiations (the Tokyo Round). These reductions have barely begun to take effect. They will be staged over the next 6 years and their effect remains to be determined. Any "housekeeping" adjustments should have been accomplished by now and the granting of broad authority to negotiate further tariff reductions is unnecessary and invites serious further damage to American industry.

Broad authority to negotiate tariff reductions could have a serious impact on domestic production of women's and children's wear. The negotiations concluded in 1979 provided a wide range of duty cuts taking into account import sensitivity of individual items and compromises needed to secure agreement with foreign governments. Even before the first stage of the reductions took effect in January 1982, imports of many apparel items were growing. Many continued to grow in 1982, even though a recession was under way here at home. Let me cite just a few examples.

Duties on women's, girls' and infants' man-made fiber coats (Category 635) will be reduced between 4 percent and 29 percent over the next 6 years depending on the type of coat. In 1980, when the ratio of imports to production was 59.3 percent, some 2.4 million dozen of such coats were imported. In 1981, still before duty reductions began, 2.7 million dozen were brought in. In the year ending April 1982, after only 4 months of lowered duty, the total imports were 2.9 million dozen.

In the case of women's, girls' and infants' man-made fiber suits (Category 644), duty cuts range from 4 to 29 percent. In 1980, when the import/production ratio was 8.2 percent, 115,000 dozen were imported. In 1981, imports rose to 178,000 dozen and in the year ending April 1982 to 220,000 dozen. In view of the sharp reduction in U.S. suit production in the last year or so, the penetration ratio has clearly more than doubled.

One can also cite the many apparel products that were so severely impacted that duties were not cut at all. Even here imports have continued to rise in many instances and further duty cuts could aggravate matters even further.

At various times the Administration has indicated that it had no intention of using the extended negotiating authority except in a limited manner. While we dispute even the need for such limited use, we would strongly urge that no broad authority be given. It is important to note that S. 1902 makes no exclusions. The

Administration has indicated in connection with the House version of this bill a willingness to accept an amendment excluding from further tariff reduction items found by the President to be import sensitive. Even if adopted by the Senate, such provision would be inadequate, since the President would be free to determine any product eligible. A provision similar to that already in the Trade Act excluding textile and apparel products covered by international agreements is far more satisfactory than the completely open provision of the bill or the House version.

S.1902 would permit and indeed encourage unnecessary and damaging tariff reductions. If applied to the apparel sector, it would lead to a further demise of garment firms and a loss of job opportunities for workers.

S. 231 TO INCREASE FROM $250 TO $600 THE AMOUNT ALLOWED FOR INFORMAL ENTRY

The existing law sets $250 as the maximum aggregate value of a shipment which may be entered through informal entry procedures in accordance with rules prescribed by the Secretary of the Treasury. S. 231 would raise this amount to $600.

Informal entries are just that. Shippers are not required to file detailed declarations identifying the merchandise involved. While the amendment would ostensibly reduce paperwork and improve efficiency, it would also permit a large quantity of low-value merchandise to enter the country without accurate reporting. For example, in April 1982 the average value of brassieres imported from the Philippine Republic under TSUSA 376.2830 was 57 cents per brassiere. Were the ceiling on informal entries raised to $600, over 1,000 brassieres per shipment could be brought into the United States subject to informal entry. This is not a small shipment by any definition.

Increasing the informal entry limit to $600 could seriously impair the nations's ability to enforce the various bilateral textile and apparel agreements negotiated under the umbrella of the Multifiber Agreement. Enforcement requires careful identification of imported articles so that they may be correctly charged to the various quotas.

However, in the absence of the procedures for verification of information used in formal entry, the door would be open to all kinds of error and misrepresentation. Even under formal entry procedures, attempts are repeatedly made to undercount, undervalue or misrepresent the type of article or country of origin. With extended informal dollar entry amounts the chances for wrongdoing are multiplied. To permit proper enforcement of the textile and clothing bilaterals and prevent erosion of the domestic industry by unscrupulous shippers trying to avoid quotas this bill should be rejected.

In this statement, we have addressed ourselves to the problems these bills would create for our industry. With regard to the broader implications of these bills and the other bills before you today, we associate ourselves with the position taken by the AFL-CIO.

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON FINANCE
S.231

August 4, 1982

Testimony of Joseph W. Berg, President
Air Freight Association of America

My name is Joseph N. Berg and I am President of the Air Freight Association of America. I am also President of Air Express International of Darien, Connecticut, one of the nation's largest air cargo companies specializing in foreign air transportation.

The Air Freight Association is the trade group representing a large segment of the air cargo industry. Our members include airlines, air freight forwarders, and companies which provide both functions. A list of AFA members is attached hereto as Exhibit I. Most of these companies operate internationally, as well as domestically, and are therefore vitally interested in any legislation designed to ease the Customs entry process. S.231 is one such piece of legislation.

At a time when budget cuts and increasing imports threaten to swamp the U.S. Customs Service with more work than it can efficiently handle, any move to simplify customs procedures is bound to be welcome. Such a move now sits before this Committee. Introduced by Senator Spark Matsunaga of Hawaii, Senate Bill S.231 would amend the Tariff Act of 1930 to increase from $250.00 to $600.00 the amount allowed for informal entry of commercial goods.

Under the provisions of informal entry, the consignee is permitted to pay duties and obtain imported goods whose value does not exceed the legal limit at airport customs stations at the time of their arrival. In turn, reduced paperwork and lower brokerage fees (which can amount to 50% less, if a broker is used) make informal entry a particular asset to small businesses.

When originally signed into law as the nation's basic customs legislation, the Tariff Act of 1930 provided for a $100.00 value limit for informal entry of commercial merchandise into the U.S. This number was scaled upwards to $250.00 in 1953, and there it has remained for nearly 30 years, regardless of the decline in purchasing power of the dollar to 30% of its 1953 value. (The 1982 equivalent of $250.00 exceeds $800.00). Thus, the intent of the 1953 amendment has been violated by inflation and a new amendment -- S.231 -- is needed.

In support of S.231, it should be pointed out that some of our major trade partners, Canada, for example, has higher informal entry limits, and other supporters of a change in U.S. law will come from the growing international small package trade, as the value of most small packages falls squarely within the $250.00 to $600.00 range. The lower costs and simpler procedures that informal entry of these goods would allow are precisely in line with the intent, but not the current provisions, of the Tariff Act. Perhaps the most telling argument in favor of S.231 is advanced by U.S. Customs itself, which firmly supports the Bill.

More informal entry means less work for the harried agency, whose workforce, barely able to keep up with its mandated tasks, is faced with a reduction of more than 150 inspectors. S.231 will prove as great a boom to customs as it will be business -- both small and large -- throughout the country. Moreover, the Department of the Treasury has stated that the enactment of S.231 will not impede the compilation data which must be collected in order adequately to monitor the import process.

Because the intent of S.231 is the facilitation of international trade and the improved operation of U.S. Customs, the Air freight Association strongly supports its passage. We therefore urge this Committee to act favorably on S.231 and the push for passage in this legislative session.

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TO THE

SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

In Opposition To
S.231

August 4, 1982

JOINT STATEMENT OF

Luggage and Leather Goods Manufacturers of America, Inc.
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Robert K. Ermatinger, Executive Vice President

International Leather Goods, Plastics and Novelty Workers' Union, AFL-CIO
265 West 14th Street
New York, New York 10011
Ralph Cennamo, General President

National Handbag Association
350 Fifth Avenue
New York, New York 10001
Edward Levy, Executive Director

JOINT STATEMENT SUBMITTED BY

ROBERT K. ERMATINGER, EXECUTIVE VICE PRESIDENT
LUGGAGE AND LEATHER GOODS MANUFACTURERS OF AMERICA, INC.;

RALPH CENNAMO, GENERAL PRESIDENT
INTERNATIONAL LEATHER GOODS, PLASTICS AND NOVELTY
WORKERS' UNION, AFL-CIO

AND

EDWARD LEVY, EXECUTIVE DIRECTOR
NATIONAL HANDBAG ASSOCIATION

In Opposition To
S. 231

SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

WASHINGTON, D.C.

AUGUST 4, 1982

The Luggage and Leather Goods Manufacturers of America, Inc., the trade association representing domestic producers of luggage and personal leather goods; the International Leather Goods, Plastics, and Novelty Workers' Union, AFL-CIO, which represents workers in the U.S. handbag, luggage and personal leather goods industries; and the National Handbag Association, the trade association which represents the domestic handbag industry, wish to record their opposition to S. 231, proposed legislation to amend the Tariff Act of 1930 to increase the dollar value of merchandise eligible for informal customs entry from the present level of $250 to $600. Legislation such as this has been offered several times in the last few years but has never passed, for good reason. Once again, we urge the Congress not to pass this bill.

Our groups are concerned that a statutory revision which increases the value of imported articles eligible for informal entry would increase the risk of a significant understatement of aggregate imports. The Census Bureau relies upon customs entry documents collected by the U.S. Customs Service to tabulate official import data. An increase in uncounted imports -- i.e., those which enter under the informal entry procedure -- would skew the offical trade statistics, as the real volume of imports is understated. Accurate and timely import trade data are a vital concern of the domestic luggage, personal leather goods and handbag industries, which face an ongoing battle to compete with large volumes of imports.

Few industry sectors have been as severely affected by import competition as has the U.S. leather products industry sectors. Whether luggage, personal leather goods or handbags, each of these industries has been characterized by increasing imports, which have caused lost market share and jobs in these industries. These labor intensive industries are particularly vulnerable to import competition from low wage foreign countries and to imports of low unit value items.

Imports of handbags, largely from low-wage foreign countries, have captured a significant share of the U.S. market for handbags, as import penetration, in terms of quantity, has grown from 29 percent in 1967 to 79 percent in 1981. These increasing volumes of imports are an ongoing concern of workers in this labor-intensive industry, many of whom are ethnic minorities or women. Domestic production of handbags has declined from 97 million units in 1967 to an estimated 53 million units in 1981. Yet the total market for handbags in the U.S. has grown by 42 percent during the same period, from an estimated 136 million units in 1967 to an estimated 216 million units in 1981.

Imports of luggage and personal leather goods have caused similar damage to the domestic manufacturers of these items. U.S. imports of luggage increased five-fold between 1975 and 1980, from $49 million to $243 million, during a time when real growth in the domestic market was only moderate, at best, and domestic shipments were on a downward trend. Moreover, in 1981 imports increased by a further 20 percent, to $292 million and captured an even greater share of the U.S. luggage market, while domestic shipments declined by approximately 15 percent according to an industry estimate. Imports continued to increase by 6 percent in the first five months of 1982. Increasing imports have clearly been at the expense of domestic production. Imports now hold an estimated 40 percent of the U.S. market.

The situation with respect to personal leather goods is similar. In real terms, domestic shipments of personal leather goods have fallen since 1978, while imports have risen rapidly. Imports increased by 17 percent in 1981 to $84 million and clearly captured an even larger share of the U.S. market as domestic shipments declined by an estimated 15 percent. As with the luggage industry, imports of flat goods have been increasing at a time when the market has not been growing and, thus, imports are at the expense of domestic production. While import penetration in the personal leather goods industry has not yet reached the level achieved in the luggage or handbag industry, it is clear that the import market share is rising rapidly. Imports now hold an estimated 30 percent of the U.S. market.

Our workers cannot tolerate any further erosion of their market or their job opportunities. These three industries combined have traditionally employed more than 50,000 workers. Thousands of jobs have been lost in the last several years, however. According to Government data, some 4,000 jobs have been eliminated in the last five years alone. Available employment data for this year are even more dismal. Some 3,000 fewer workers in these industries were employed in the first four months of 1982 compared to employment levels for the same period a year ago.

Precise monitoring of import trade with respect to handbags, luggage, and personal leather goods from all countries is of crucial importance to these industries in their efforts to counter import injury. In 1981, imports of handbags of all types had an f.o.b. average unit value of just

\$2.39. Some personal leather goods items are entered at an average unit value of under \$1. If informal entry procedures were to apply to shipments up to \$600 in value, it could mean that one shipment containing as many as 250 or 21 dozen handbags (at an average unit value of \$2.39) could go unrecorded in U.S. import statistics. The results would be even worse for some imports of personal leather goods. Shipments of high volume, low-unit value, items could combine to cause major undercounting in Commerce Department data, as informal entries are excluded from trade data collection. It is our view that all imports should be counted, and an accurate statistical base is essential to monitoring imports. Precise and comprehensive information, on a current basis, on all handbags, luggage, and personal leather goods from all sources is required irrespective of the value of shipments concerned.

Beyond our own concerns for accurate and timely compilation of official data on these imports, we believe that elimination of direct appraisement by the U.S. Customs Service for shipments under \$600 is not in the interest of other import-sensitive sectors nor in fact in the public interest. An increase in the ceiling for informal entries could result in more instances of deliberate evasion of duties through false or inaccurate shipping documents. As we understand it, under informal entry procedures, the customs officer simply releases the articles to the importer with payment of duty based on the shipping documents and statements to the U.S. Custom Service furnished therein, and generally without further individual investigation of the kinds, quantities and values of articles in the shipment.

In our view, neither the interest of the U.S. Government, and certainly not those of import-sensitive industries like the luggage, personal leather goods and handbag industries, would be served by legislation such as S. 231, which increases the informal entry provision to a \$600 limit. We urge the Subcommittee not to report this bill favorably.

November 5, 1981

Senate Finance Committee
Room 2227
Dirksen Senate Office Building
Washington, DC 20510

Attention: Robert Lighthizer, Esq.,
Chief Counsel

Re: National Customs Brokers & Forwarders Association of America, Inc.; Comments on S. 231

Dear Mr. Lighthizer:

We are Customs counsel to the National Customs Brokers & Forwarders Association of America, Inc. ("NCBFAA"), and submit for consideration of the Subcommittee on International Trade the following comments on S. 231 (introduced by Senator Matsunaga), which would increase the limit on Customs "informal entries" from the present limitation of $250 (19 U.S.C. 1498(1)) to $600.

The NCBFAA is a nation-wide association of Customs brokers and freight forwarders and, of course, is keenly interested in legislation pertaining to the Customs entry process. As professionals, our members share with the United

States Customs Service a deep and continuing interest in the maintenance of the Customs entry process in terms of its integrity, efficiency, low cost, and freedom from excessive paperwork. To that extent, we support the general objectives of S. 231, as expressed by Senator Matsunaga in his remarks of January 22, 1981 when introducing the bill. However, the NCBFAA is also concerned that without proper safeguards, raising the informal entry limit to well over twice the present amount may open the door for wholesale evasion of Customs law and regulations, and to widespread fraud on the revenue, particularly with regard to mail shipments. We also call to the attention of the Subcommittee the fact that legislation is currently pending before the House Ways and Means Committee (H.R. 4134, Representative Frenzel) which would correct an administrative construction by the United States Customs Service which has the effect of openly allowing the transaction of Customs business on behalf of others by unlicensed parties in violation of law (19 U.S.C. 1641). We believe there is a direct relationship between the Frenzel Bill and S. 231; accordingly we urge that consideration of S. 231 be postponed by the Subcommittee pending House action on H.R. 4134.

THE DANGER OF ALLOWING UNRESTRICTED INFORMAL ENTRY OF MAIL SHIPMENTS UP TO $600

In 1977, the NCBFAA testified before the Subcommittee on Trade of the Committee on Ways and Means of the House of Representatives opposing a provision of H.R. 8149, 95th

Congress, 1st Session, which would have raised the informal entry limit from $250 to $600. The NCBFAA (and other organizations) pointed out the obvious administrative difficulties involved in a huge increase in the number of informal entries presented to the Customs Service; the incentive on the part of importers to split and break down shipments to circumvent the requirements of the law by utilizing the "informal entry" procedure; and the special problems involved in informal shipments of merchandise subject to quota restrictions requirements, FDA restrictions, and the like. During mark-up, the Committee deleted the objectionable provisiion. [Attached for consideration of the Subcommittee are appropriate excerpts from the printed record of the July 19-22, 1977 hearings before the Subcommittee on Trade of the House Ways and Means Committee.]

Although the NCBFAA is still concerned about the ability of the Customs Service to handle a huge increase in merchandise subject to the informal entry procedure which could result in tariff loopholes and possible evasions of duty, the Association at this time would not oppose the increase provided that the present limit of $250 on shipments entered through the mail (i.e., bypassing the Customhouse) were retained, and provided that the Subcommittee recognizes the linkage between S. 231 and H.R. 4134, and considers both bills at a subsequent date, after House passage of H.R. 4134.

THE RELATIONSHIP BETWEEN S. 231 AND H.R. 4134

Although the paperwork requirements for informal entries are substantially less than for formal entries, it should be noted that certain necessary formalities and restrictions imposed by other provisions of law still must be adhered to. Entry of merchandise via the informal entry procedure does not, and should not allow the transaction of Customs business on behalf of others by unlicensed, unqualified agents. As noted above, H.R. 4134 was introduced to counteract an erroneous and dangerous construction of the law by the Customs Service (T.D. 81-108, Federal Register of April 29, 1981, p. 24069) allowing a so-called "nominal consignee" (that is, one having no true interest or ownership in the goods) to clear the goods in his own name on behalf of the true owner or actual consignee. Our position before the Customs Service was then, and is now that the ruling has potentially far-reaching implications, in that it permits unlicensed parties, who can easily qualify as "nominal consignees" to transact business at the Customhouse on behalf of the true party-in-interest, in clear violation of the intent of §641 of the Tariff Act of 1930 as amended (19 U.S.C. 1641).

If the Congress raises the limits for informal entries to $600 without addressing the unfortunate situation created by T.D. 81-108, the potential for mischief is enormous. Not only would the Customs Service have to deal with the administrative difficulties involved in attempting to process a huge increase in the volume of informal entries, but in addition all sorts of unlicensed parties (i.e., couriers, freight forwarders, steamship lines, railroads and truckers) would be invited to engage in the business of clearing goods on behalf of others as nominal consignees, and especially so under the informal entry procedures.

As a practical matter, informal entries are not "looked at" by Customs personnel as closely as formal entries. The membership of the NCBFAA has an abiding professional interest in the quality of the entry process, and to this extent, the Association's interests are identical with that of the Customs Service. The proper protection of the revenue, the complexities of the Tariff Act of 1930, the Tariff Schedules, the Trade Agreements Act of 1979, and the hundreds and hundreds of laws of other agencies which must be administered by the Customs Service, require, in most instances, the services of a professional in dealing with the United States Customs Service - and we are sure that the Service appreciates this, despite the unfortunate effects of T.D. 81-106.

We therefore urge that consideration of S. 231 be deferred pending House passage of H.R. 4134.

Sincerely,

TOMPKINS & DAVIDSON
Attorneys for
National Customs Brokers & Forwarders
Association of America, Inc.

Of Counsel,

Harvey A. Isaacs, Esq.
Norman C. Schwartz, Esq.

cc: Ms. Pat Eveland

bcc: Mr. William R. Casey
Mr. M. Sigmund Shapiro
Mr. Vincent Bruno
Mr. Morris V. Rosenbloom

STATEMENT OF SIGMUND SHAPIRO

Mr. SHAPIRO. Thank you, Mr. Chairman.

My name is Sigmund Shapiro. I am vice-president of the National Customs Brokers & Forwarders Association, and I am president of Samuel Shapiro & Co., customs brokers, with offices in Baltimore and at Dulles Airport.

Section 211 of H.R. 8149 would amend the present law to increase from $250 to $600, the maximum value of a shipment which may be entered informally pursuant to customs regulations.

In our opinion, raising the limits on commercial shipments would be detrimental to the best interests of the United States. Insofar as personal shipments are concerned, we go far beyond the present law. We feel that all personal shipments should be admitted under the informal procedures without regard to value.

In fact, this is done today under existing customs regulations at most ports, although there is a lack of uniformity throughout the ports of the United States as there are in many other areas of customs administration.

Commercial shipments are a different matter entirely, however. We feel that raising the limit would not only fail to achieve the expected economies in Government handling costs, but on the contrary, would result in additional costs to the economy possibly in the millions of dollars.

It would also exacerbate the lack of uniformity of treatment of merchandise, now so prevalent from port to port. Many of the articles lend themselves to shipment by mail. These are presently handled entirely by Government personnel.

Customs officers open the parcels, examine the contents for compliance with customs and other laws, appraise and classify the merchandise. Then they return the parcels to the mail for delivery to the consignee.

In far too many instances, however, dutiable merchandise is released to the importer by U.S. Customs without the collection of duties, with collection of incorrect duties, ~~or~~ without the package being opened at all.

I had an experience in my own office, where I received a $25,000 package of diamonds marked with a stamp of "passed free, gift under $10." Most customs brokers can attest to many cases like this.

We brokers have filed many complaints with Customs, because clients continually receive dutiable goods without having to pay duties, and many clients in their efforts to be reputable businessmen call this fact to the attention of Customs on untold occasions.

It should be equally obvious that these shipments are not being screened for compliance with all U.S. laws, such as Food and Drug, OSHA, EPA, CPSC, et cetera. The U.S. consumer therefore is being deprived of the protection of these laws.

At the present time, in shipments over $250, importers or brokers prepare the entry documents. If the informal limit is increased to $600, a deluge of shipments valued between $250 and $600 can be expected to descend upon the customs officers for preparation of the documents.

Think of the amount of increased burden that would be placed on the inspector at the various piers and air terminals, forcing them to leave their other productive work. Customs would have to dramatically increase its staff at all points of entry.

We do not see how proliferation of informal entries would permit a reduction in personnel handling formal entries. The present customs commodity teams are structured not on the basis of the amount of entries easily handled, but rather on the various statutory functions of the team, such as documents followups, fraud investigation, et cetera.

These functions continually increase in numbers and complexity. Customs is permitting under current regulations one mail importation per importer per day, under the statutory $250 value. On the basis of the proposed $600 limit, one importer could import 260 shipments with a value amounting to $156,000 yearly. If you multiply the number of shipments imported by one importer by 1,000 importers, there would be 260,000 shipments to be handled by customs personnel on an informal basis.

There would also be a great move on the part of importers to split their shipments to get the customs treatment that they would not receive if they brought the shipments in under one order.

We would wonder, too, whether with the computer capability that Customs is now envisioning for AMPS, it is wise to remove such a mass amount of traffic from the mainstream of customs procedures. With our desire for accurate statistics and the abysmal statistical reporting that we have had in past years, it would seem that all imports of a commercial nature should be included in the one major thrust of customs operations, and that the computer can easily accommodate the entries between $250 and $600 in value.

In conclusion, on the basis of the reasons stated above, we ask the portion of this bill proposing to raise the informal entry limit to $600 be changed to apply to commercial entries only if it is limited to one such importation every 30 days. This is similar to the duty-free allowance for tourists. A general increase in the informal entry limit to $600 would be a serious mistake.

Mr. JENKINS. Thank you, Mr. Shapiro. Do any other members of the panel have statements?

Mr. HUMMEL. Yes; we have one more. The fifth segment of our discussion is on section 520, to be delivered by Mr. Paul Wegener.

BURLINGTON INDUSTRIES, INC.,
Greensboro, N.C., July 25, 1977.

Hon. AL ULLMAN,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ULLMAN: I am writing on behalf of Burlington Industries to express our concern about and opposition to two sections of a bill pending before the House Ways and Means Committee. That bill is H.R. 8149 which provides for certain revisions in customs procedures. Both of these sections, although innocuous on their face, can have a substantial detrimental impact on the United States textile industry, which is the largest single employer among the industries in our country.

As you doubtlessly know already, the domestic textile industry is being severely affected by foreign imports of apparel and other textile products. We in the industry believe that we have not been receiving adequate support and assistance from the federal government. The principal approach that has been taken by the government has been to negotiate a Multi-Fiber Arrangement ("MFA"), as a part of the General Agreement on Trade and Tariffs ("GATT"), and a series of bi-lateral agreements with textile exporting nations. The MFA provides a framework and the bi-lateral agreements provide specific limitations on various classifications of textile imports into the United States. In order for these agreements (as inadequate as they may be) to be useful, it is imperative that detailed, accurate records of textile imports be maintained by the Customs Bureau.

Section 211 of H.R. 8149 would increase from $250 to $600 the value of informal entries which are not recorded as imports by the Customs Bureau. Because of the large volume of apparent imports and the obvious possibility of large numbers of items priced over $250 but slightly less than $600 coming into the U.S., section 211 would create a dangerous loophole to permit avoidance of textile import quota procedures.

Similarly, section 103 of the bill could permit the combining of several entries into one report, which procedure could distort the statistical base needed for measuring textile imports under the MFA and the bi-lateral agreements.

These provisions are particularly troubling at this time when negotiations are continuing with respect to renewal of the MFA and when our domestic textile industry is being so severely injured by imports. Tens of thousands of jobs have already been eliminated and others are threatened.

We respectfully urge that you carefully examine these two sections and give consideration to supporting their elimination from H.R. 8149.

Very truly yours,

LANTY L. SMITH,
Executive Vice President
and Senior General Counsel.

MAN-MADE FIBER PRODUCERS ASSOCIATION, INC.,
Washington, D.C., July 22, 1977.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Trade,
Committee on Ways and Means,
Washington, D.C.

DEAR CONGRESSMAN VANIK: The Man-Made Fiber Producers Association is a trade association representing the domestic manufacturers of man-made fibers. Our members produce over 90 percent of the man-made fibers manufactured in this country; and man-made fibers, in turn, account for 70 percent of the fibers consumed in the American textile industry.

duced on Guam. By simultaneously retaining the "substantial transformation" requirement imposed by the Customs Service, the best interests of the economy of Guam are protected through the assurance that real work will be done on the articles in the insular possessions. Thus, there is little danger that H.R. 8222, anymore than the present Headnote 3(a), could be used by clearinghouses established on Guam solely to transship articles into the U.S. Customs Zone under Headnote 3(a) to simply avoid duties.

I believe that the formula change in H.R. 8222 allowing more competitive pricing will provide an incentive for manufacturers to try to wade through the morass of the bureaucracy of the Customs Service and attempt to comply fully with the "substantial transformation" requirements. For example, I have enclosed a letter from a manufacturing concern whose decision is to set up operations on Guam would be contingent upon approval of H.R. 8222. However, Guam's unhappy recent experiences with the administration of the "substantial transformation" criteria in both its watch and garment industries forces me to urge that the committee adopt some language in its Report acknowledging the problems businesses have had trying to comply with the "significant transformation" criteria, and state that it is the desire of the committee that the Customs Service should review its administration of the "significant transformation" requirement and evaluate its rulings for logic and clarity in order to fulfill the original intent of Headnote 3(a) to increase manufacturing operations in the insular possessions. The Guam Chamber of Commerce has written me stating that there is a need for Customs to publish a technical handbook to assist manufacturers in the use of Headnote 3(a).

We respectfully urge your support of H.R. 8222, and your favorable consideration of our request for language directing Customs to improve its administration of the "substantial transformation" criteria.

Sincerely yours,

ANTONIO B. WON PAT,
Member of Congress.

Enclosure.

McDOWELL INDUSTRIES, INC.,
McTEX FABRICS DIVISION,
Memphis, Tenn., July 6, 1977.

GERALD S. A. PEREZ,
President, Guam Chamber of Commerce,
Agana, Guam.

DEAR JERRY: The effort and time spent by you and your office in arranging meetings for me with the appropriate people in Guam is very much appreciated.

At this time our decision seems to depend upon the approval of a cottage labor modification and the 30 percent factor revision to head note 3. Our decision would be an easy one if these were in effect at this time. We could begin posthaste with our proposed venture. I am going to Washington next week regarding this proposal. Anything you can do to help will assist us as well as the other manufacturers who are pursuing the same.

Again, thank you for your help. I look forward to seeing you again.

Very truly yours,

C. D. FLYNN,
Vice President of Operations.

STATEMENT OF MARTIN DYKSTRA, PRESIDENT, WORK GLOVE MANUFACTURERS ASSOCIATION

SUMMARY

The Work Glove Manufacturers Association is concerned over the trade effects of Section 211(a) of H.R. 8149 under which informal customs entry procedures would apply to shipments up to $600 in value instead of shipments valued up to $250, as at present.

Since no formal appraisement would be made by Customs of such shipments, this proposed section would open loopholes in the proper enforcement of the U.S. Government's textile and apparel import program and in the monitoring of trade in articles controlled under that program, which include cotton work gloves. The new provision also creates greater risk of circumvention of Customs regulations and of falsifications or inaccuracies in respect of the quantities and values of articles described in the documents presented for informal customs entry. Such risks arise especially for shipments which represent labor intensive products having low unit values. Work gloves fall into this category.

The domestic work glove industry is suffering serious injury as a result of low-wage foreign imports which are steadily absorbing a greater proportion of the domestic market. Accurate and timely statistics on such imports from all countries are vital for the implementation of the Government's textile import program and for proper assessment of the economic impact of imports on the domestic work glove market. Despite the provision for "accurate statements" covering shipments valued between $250 and $600, there is a danger of improper monitoring, collecting, and recording of trade statistics covering such shipments.

In view of the above considerations, the Subcommittee is urged to delete Section 211(a) from H.R. 8149 or, at the very lease, to exclude work gloves from its provisions.

STATEMENT

My name is Martin Dykstra. I am President of the Work Glove Manufacturers Association with headquarters in Libertyville, Illinois. I am submitting this statement in opposition to one section, Section 211(a), of H.R. 8149 which is before the Subcommittee for its consideration.

The proposed Section 211(a) would increase the value from the present $250 limit to $6600 for shipments of goods which may be entered through Customs through so-called "informal entry" procedures.

While the object of this Section ostensibly is to introduce greater simplification of customs procedures, we believe any potential benefits to the U.S. Government in this direction will be more than offset by added costs in other directions. This provision also carries a risk of increasing the serious injury from low-wage imports already being experienced by labor-intensive domestic industries such as it the work glove industry.

Adoption of the informal entry procedure means there will be no formal appraisement of shipments up to a value of $600 (as is the case currently for goods under $250). Under such informal arrangements, a Customs official would simply accept without further formality or question the shipping documents and statements made therein covering the shipment with regard to the kinds, quantity, and value of imported articles. This raises greater risk of violations through false or inaccurate statements with regard to the quantity and value of shipments for duty purposes.

The Work Glove Manufacturers Association is concerned that the proposed Section 211(a), by providing for informal entry procedures for shipments valued up to $600, would result in considerable understatement of the import statistics collected and tabulated by the Foreign Trade Division of the Bureau of Census. Even more important, it would undermine effective implementation of the Government's textile and apparel import program which encompasses also woven and non-woven cotton work glove imports under TSUSA items 40.4010 and 704.4510.

Under the Multi-Fiber Arrangement and the bilateral agreements negotiated by the U.S. Customs Service plays a particularly important role in monitoring the volume and the value of textile and apparel imports. Accurate import data must be made available in timely fashion to Government officials charged with administering the textile import program and enforcing pertinent restraint levels for controlled countries. We are fearful this will be hindered by Section 211(a).

The proposed Section 211(a) will work to the detriment of labor-intensive industries—which like the work glove industry—face injurious competition from low-wage foreign production which benefits also from government direct export subsidies and other unfair trade practices. U.S. manufacturers of work gloves, (including) gloves of cotton, leather, part leather, and coated and partially coated gloves, have been cruelly buffeted by such imports which, as a percent of the total market, have risen fourfold since 1970. For leather gloves the import penetration rate in 1976 exceeded 52 percent! Clearly, no industry can long sustain import of such magnitude.

At the present time under the $250 informal entry procedure, shipments of work gloves up to this value are simply not recorded in the U.S. statistics. To this extent, U.S. import statistics for work gloves already are significantly skewed, thus, under-estimating the full impact of imports in the domestic industry. Were shipments of work gloves up to $600 in value to be similarly excluded from the import statistics, it would further hide the real extent of import injury suffered by this industry. In 1976, cotton glove imports had an f.o.b. unit value of $1.90 per dozen pair. Raising the informal entry provision to $600 would mean that individual shipments containing 315 dozen pair of cotton gloves could go unrecorded in the import statistics. It is noted that the proposed Section 211(a) would require "an accurate statement" as to kinds and quantities of articles in shipments which exceed $250, but in the absence of formal Customs appraisement of such shipments, there is risk of understatement of values and improper collection and recording of such data.

We would urge the Subcommittee to delete Section 211(a) from H.R. 8149 or, at the very least, to exclude work gloves from its provisions. This would mean exclusion of TSUSA items 704.4010, and 704.4510, 705.3510, 705.3550, and 705.8600.

Statement of Zenith Radio Corporation on H.R. 8149 and H.R. 8367

Summary of Statement

Zenith Radio Corporation respectfully urges the Trade Subcommittee *not* to modify the substantive standards or the penalty provisions of Section 592 of the Tariff Act of 1930, as amended by the Trade Act of 1974, with respect to *intentional or willful acts or omissions* until the conclusion of the current Treasury Department/Justice Department investigation of illegal kickbacks to circumvent U. S. anti-dumping laws by Japanese manufacturers of television receivers. As reported by *Time*,[1] according to a senior official at the U. S. Embassy in Tokyo the investigation involves some 86 importers and "worried embrassy officials concede that they are convinced a major scandal is about to break."

As amplified in the *Chicago Sun-Times*:[2]

"A major Customs Bureau investigation has uncovered evidence of secret kickbacks from Japanese television manufacturers to U. S. importers, The Sun Times has learned."

Government sources said limited findings of the continuing 18-month investigation revealed that some companies falsified records to hide the payments, most of the time in attempts to circumvent U.S. anti-dumping laws aimed at protecting some American industries. That would be a criminal offense.

Investigators also have indications of other possible illegal acts in connection with the rebate scheme, including perjury, obstruction of justice and conspiracy to defraud the U. S. government.

Although Customs officials will say only that the potentially explosive investigation is going "pretty well," the bureau privately has asked the Justice Department to impanel a grand jury to consider indicting both U. S. companies and individual executives. Benjamin R. Civiletti, assistant attorney general in charge of the criminal division, sad "the department is reviewing the matter."

* * * * * * *

The investigation centers on allegations that the importers have received millions of dollars a year in secret rebates, enabling them to sell Japanese color sets at bargain-basement prices. Rebates per se aren't illegal. But they take on criminal overtones if their purpose is to circumvent federal anti-dumping laws, and if they aren't reflected in the declared value of the imports as reported to Customs.

Kenneth E. Ryan, the bureau's top froud investigator, said 25 special agents around the country are cross-checking invoices and other documents dating as far back as 1968 to see whether there were "deletions, discounts or rebates" not reported to Customs.

So far, they have turned up evidence of "a widespread pattern of rebates not limited to one or two companies," a well-informed sourse said. There also were instances of "variation between actual value of the merchandise and the value declared on the invoice," he said, indicating falsification of documents.

At stake for the companies is millions of dollars in back "dumping" duties.

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[1] See Exhibit A, "SCANDALS—Kickbacks in Living Color", *Time*, June 13, 1977, page 63.

[2] See Exhibit B, "U.S. Probes TV Import Kickbacks", *Chicago Sun-Times*, July 7, 1977, page 2. See also, Exhibit C, Editorial, *Chicago Sun-Times*, July 11, 1977, page 37.

THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

JUL 22 1982

Dear Mr. Chairman:

Senate Bill 231, introduced in the 97th Congress, 1st session, by Senator Matsunaga, would amend section 498 of the Tariff Act of 1930, as amended (19 U.S.C. 1498), by increasing from $250 to $600 the amount for informal entry of goods.

The U.S. Customs Service fully supports the amendment to raise the informal entry limit to at least $600. In fact Customs believes that $900 or $1000 would be more appropriate in light of the inflation which has occured since the 1950's. In addition authority for the Secretary of the Treasury to raise the amount up to $2500 as conditions warrant would permit future reasonable charges without requiring new legislation. We believe Senate Bill 231 will have an immediate effect on easing the paperwork and cost burden of importing goods for small businesses and occasional importers. A formal entry requires preparation of an entry, an entry summary and an entry record document, and the importer is required to have a Customs bond issued by an approved surety company. The informal entry procedure requires an informal entry form. Customs duties are paid prior to the release of the imported goods, and no bond is required.

United States Customs estimates that 550,000 formal entries per year are in the $250 to $600 range which would be affected by Senate Bill 231. Enactment of the Bill would reduce the public annual reporting hours burden by 110,000 hours per year by employing an informal entry instead of a formal entry. Cost savings for small businesses which import goods would range from $2,750,000 per year up to $13,750,000 depending on the amount and cost of the Customs bond. The cost varies depending on amount of bond required and whether secured directly from a surety company or through an agent (licensed customhouse broker acting on behalf of the importer). The less complex informal entry procedure will also aid in speeding release of goods and finalizing the Customs transaction (liquidation, the final determination that all duties are correct, occurs upon payment of duties at the time the informal entry is filed).

The U.S. Customs Service will also benefit directly from enactment of the Bill. Formal entries filed will be reduced by approximately 12 percent per year, saving considerable man-hours in document processing. Given present budgetary restraints, a reduction in the number of formal entries required to be processed will have positive benefits on U.S. Customs ability to fulfill its mission.

We appreciate this opportunity to comment on S. 231 and assure you our full cooperation in easing the burden on the public involved in importing goods from abroad.

Yours faithfully,

Alfred R De Angelus

Acting Commissioner of Customs

The Honorable
Robert Dole, Chairman
Committee on Finance
United States Senate
Washington, D.C. 2051

NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION

51 Madison Avenue
New York N.Y. 10010 (212) 683 7520

STATEMENT OF THE
NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION
BEFORE THE COMMITTEE ON FINANCE
SUBCOMMITTEE ON INTERNATIONAL TRADE
ON S.231

This statement is submitted on behalf of the National Knitwear & Sportswear Association, an organization representing more than five hundred domestic manufacturers of knitwear and sportswear. This testimony is in opposition to S.231, a bill to amend the tariff act of 1930, to increase from $250 to $600 the amount for informal entry of goods.

Mr. Chairman and members of the Committee, the National Knitwear & Sportswear Association represents domestic manufacturers of knitwear and sportswear accounting for the bulk of knitted outerwear products manufactured in the United States.

As this Committee is aware, our industry has been particularly hard hit by imports. Details of this situation in some of our leading products, and the threat of further import growth in the entire knitwear sector is spelled out in our testimony filed in opposition to S.1902 for this Committee.

We are opposed to S.231, a bill to amend the tariff act of 1930 by increasing to $600 the valuation authorized for informal entry of goods. We oppose this increase on the valuation from the current $250 level because of our concern that it would compound existing enforcement problems and possibly provide a basis for additional imports outside of the current textile and apparel quota program. This program notwithstanding, imports of some major products such as sweaters, have accounted for more than 50% of all U.S. consumption. Imports already exceed production in the United States across a wide range of products. To further loosen the textile quota program by sharply increasing the value eligible for informal entries would deal a very significant blow to domestic producers and their employees.

American industry sells at wholesale, typically in quite small quantities. Sales frequently are conducted in individual units, rather than in the dozens reported by the Department of Commerce, and manufacturers frequently receive orders from individual retail establishments for shipment of goods at a rate of two or three dozen per shipment. U.S. wholesale prices frequently are below $120 per dozen, and foreign prices are substantially less. Indeed, recent statistics on imports from Communist China show a foreign value on certain cotton sweaters estimated at $[illegible] per dozen. On that basis, a $600 informal entry which would be outside Census reporting would result in shipments of clearly commercial quantities not being reported in U.S. figures. Such goods would not then be counted when determinations are made by the U.S. agencies involved to seek quotas on new supplier countries. A repackaging effort - in many countries - conducted solely to avoid the textile quota program would suddenly become feasible, and the entire effort of the United States government to prevent market disruption would be seriously undermined.

I believe that recent experience of attempts to evade quota enforcement and to misrepresent goods shipped from Hong Kong under the informal country program at the $250 level suggests that such practices would continue if the level were increased to $600.

For these reasons, and in order to avoid any further incentive or opportunity for increasing imports of heavily impacted products into the United States market, the National Knitwear & Sportswear Association opposes enactment of S.231.

We thank the Committee for this opportunity to provide our comments, and hereby request that they be included in the Committee's hearings.

Seth M. Bodner

Seth M. Bodner
Executive Director
NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION
51 Madison Avenue
New York, NY 10010

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

July 20, 1982

Dear Mr. Chairman:

Thank you for this opportunity to submit for the record a statement in support of S. 1565, a proposal to accelerate the reduction of the tariff on certain fishing nets and netting to the final rate agreed upon by the United States in the Tokyo Round of the Multilateral Trade Negotiations. The fishing industry has pushed for similar legislation for the past eight years, and I hope that after you consider the following points you will agree with me that this bill deserves your support.

1. Help Reduce Fisheries Trade Deficit: In 1981 our fisheries trade deficit increased by $300 million, reaching a record $3 billion. S. 1565 will enable American fishermen to compete with foreign fishermen and thereby help alleviate this tremendous deficit. To accomplish this the bill proposes only to accelerate tariff reductions already agreed to by the U.S.; it would not provide further tariff cuts. As you know, tariffs on imported cotton and vegetable fiber nets have already been reduced, and this legislation simply brings into parity the tariffs on all imported nets.

2. More Competitive U.S. Fishing Industry: While our fishermen are forced to compete with highly subsidized foreign fishing fleets, they are also being forced to pay higher tariffs on their nets than their foreign counterparts (25¢ per lb. + 32.5% ad valorem: average tax rate of 42.5%). Canada, which exports into the U.S. more than twice as much fish as any other country, has no duties on imported nets. The tariff duty on nets is also lower in the European Community, a major market for U.S. shrimp and salmon exports. Currently, the European Community duty is 13.5%, and will decline to 11% in 1987. Such discrepancies provide our fishing industry's major competitors with a tremendous material cost advantage.

3. No U.S. Manufacturing of Nets: Because the United States does not manufacture the quality or quantity of nets demanded by the industry, our commercial fishermen depend on a wide variety of imported fish nets. The fishermen in my area tell me that the imported nets are lighter and more durable. These features translate into nets which have better catch rates and last longer. Today, we are importing over a third of the nets or netting used

Chairman Danforth
July 20, 1982
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by our commercial fishing industry. Synthetic nets alone account for over 95% of these imports.

A typical New Bedford fisherman spends almost $15,000 a year on imported nets, and he must pay over $6,000 in duties. The duty on a single, 50,000 pound purse seine net used by our commercial tuna industry is over $77,000. The commercial fishermen will continue to depend on imported synthetic nets, and I believe the cost to import these nets is far more than the fishermen should be expected to pay.

4. High Cost of Operation: Increasing operational costs (fuel, insurance rates, mortgage rates) and low priced imports are squeezing the fishing industry into an intolerable position. Recent figures from the Bureau of Labor Statistics indicate that since 1975, diesel fuel prices paid by our fishermen have increased almost 285%. At the same time, the U.S. has negotiated reductions in U.S. tariff barriers on fishery imports. Last session, this Congress took away from the fishermen their entitlement to public health care service, a cost the industry was forced to incur with very little notice. Additionally, the House Coast Guard Subcommittee now has pending before it legislation that would impose user fees on fishermen for Coast Guard services. In some cases these fees would be as high as $9,000. Also pending before the Subcommittee is a proposal that would increase the cost of nautical charts from $4.50 per chart to well over $50 each.

   Not long ago the entire New Bedford fishing fleet remained in port because our boats could not even meet expenses. A reduction in the duty on nets would greatly help the industry cope with its tenuous economic position.

5. Jobs: Passage of S. 1565 will help stimulate further development of the U.S. fishing industry. The high cost of fishing gear can seriously hamper the national effort to achieve the full development of our nation's fishery resources. As full development of these resources takes place, more jobs will be made available both on fishing vessels and in our shoreside processing facilities.

   In an ITC memorandum submitted last October to the House Ways and Means Committee it was stated that total employment in the domestic net industry is estimated to be approximately 1,000 persons. The National Marine Fisheries Service reports that in 1981 there were 193,000 fishermen, in addition to over 103,000 people in the processing sector. Certainly, the benefits resulting from passage of this legislation far outweigh any potential damage which may occur to the domestic net manufacturers. As you know, there will still be a 17% duty on imported nets, which, in my view, is adequate protection for our own manufacturers.

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6. Consistent With Administration Trade Policy: The thrust of this Administration's trade policy has been to further open world markets by reducing the number and level of barriers to international trade. Indeed, your Committee has encouraged free trade and the reduction of trade barriers. Present trade policy seeks to enforce competitiveness and encourage efficiency in our own industry by avoiding domestic trade restrictions that distort markets. Fish nets are not simply a textile product, but a vital tool of an industry struggling towards international competitiveness in U.S. and foreign markets. Support of S. 1565 is consistent with the basic principles of U.S. trade policy outlined in the White Paper issued last July.

In summary, Mr. Chairman, let me just observe that this bill is probably not considered by most to be a major legislative initiative. However, to the fishing industry, it represents a small cost savings, which is sorely needed at a time when the price of everything else is going up. The fishing industry has never wanted nor asked for fuel subsidies or price supports. If you take the estimated loss of revenue to the Treasury resulting from the enactment of S. 1565 ($5.741 million) and divide this by the number of commercial fishermen who could benefit from this legislation (193,000), you come up with a savings of exactly $4.25 per fisherman per year for the next seven years. I do not believe that this is asking too much.

With kind regards.

Sincerely,

Gerry E. Studds, Chairman
Subcommittee on Coast Guard
and Navigation

Senator John C. Danforth
Chairman
Subcommittee on International
Trade
Committee on Finance
227 Dirksen Senate Office Building
Washington, D.C. 20510

STATEMENT OF SENATOR WILLIAM S. COHEN ON S. 1565, A BILL TO LOWER DUTIES ON SYNTHETIC FISH NETS, BEFORE THE FINANCE COMMITTEE: JULY 22, 1982

MR. CHAIRMAN, I AM PLEASED TO HAVE THE OPPORTUNITY TO SPEAK TODAY ON BEHALF OF S. 1565, A BILL THAT WOULD AMEND THE TARIFF SCHEDULES OF THE UNITED STATES TO LOWER THE DUTIES IMPOSED ON IMPORTED, SYNTHETIC FISH NETS AND I AM PLEASED TO JOIN MY COLLEAGUE FROM MAINE IN SUPPORTING THIS MEASURE.

AT PRESENT, THE IMPORT DUTY ON IMPORTED SYNTHETIC FISH NETTING AND FISHING NETS AS SET FORTH IN 355.45 OF THE TARIFF SCHEDULES OF THE UNITED STATES (TSUS) IS $0.21 PER POUND PLUS 30.6 AD VALOREM. THIS IS AN EFFECTIVE DUTY OF ABOUT 40 PER CENT AD VALOREM. IN OTHER WORDS. THE PRICE OF SUCH NETS IS INCREASED BY 40 PER CENT AS THEY ENTER THE UNITED STATES WITH THE DUTIES BEING DIVERTED TO THE U.S. TREASURY. S. 1565 WOULD REDUCE THIS DUTY TO 17 PER CENT AD VALOREM.

AS THIS COMMITTEE IS AWARE, THE HIGH TARIFF ON MAN-MADE FISHING NETS WAS ESTABLISHED ALMOST 20 YEARS AGO. IN THE LAST NINE YEARS, SEVERAL BILLS, INCLUDING THE ONE BEFORE US TODAY, WERE INTRODUCED TO REDUCE THIS OVERLY PROTECTIVE DUTY.

IN 1979, THE UNITED STATES AGREED TO A PHASED REDUCTION OF THE DUTY ON SYNTHETIC FISHING NETS AS PART OF THE TOKYO ROUND OF THE MULTILATERAL TRADE NEGOTIATIONS (MTN). THE IMPLEMENTATION OF THIS REDUCTION, WHICH WAS TO TAKE PLACE OVER A PERIOD OF EIGHT YEARS, WAS HELD IN ABEYANCE, HOWEVER, WHILE THE UNITED STATES COMPLETED ITS NEGOTIATIONS ON THE MULTIFIBER ARRANGEMENT (MFA). AS A RESULT, THE PHASED REDUCTION OF THIS DUTY DID NOT BEGIN UNTIL JANUARY 1, OF THIS YEAR.

MR. CHAIRMAN, THE U.S. FISHING INDUSTRY IS ON THE VERGE OF EXCITING NEW GROWTH IN THE WAKE OF THE ENACTMENT OF MAGNUSON FISHERIES CONSERVATION AND MANAGEMENT ACT IN 1976. IT HOLDS GREAT PROMISE AS AN INDUSTRY THAT WILL MAKE LARGER AND LARGER CONTRIBUTIONS TO THE PROSPERITY OF THIS COUNTRY BY THE HARVESTING OF FISH, ONE OF OUR GREATEST NATURAL RESOURCES.

THE PROMISE THE INDUSTRY HOLDS, HOWEVER, HAS NOT YET BEEN FULLY REALIZED. ALTHOUGH THE UNITED STATES HOLDS WITHIN ITS FISHERIES CONSERVATION ZONE AS MUCH AS 20 PER CENT OF THE WORLD'S FISHERIES, THE INDUSTRY SUFFERS FROM A TRADE IMBALANCE.

THE IMPEDIMENTS THAT FACE THE FISHING INDUSTRY ARE DERIVED IN LARGE PART FROM THE CAPITAL-INTENSIVE NATURE OF THE INDUSTRY. LARGE AMOUNTS OF MONEY MUST BE SPENT FOR THE CONSTRUCTION OF FISHING VESSELS AND THE ACQUISITION OF FISHING GEAR. IN ADDITION, MANY AMERICAN FISHERMEN MUST COMPETE WITH FOREIGN FISHERMEN WHO ARE THE BENEFICIARIES OF GOVERNMENT SUBSIDIES RANGING FROM VESSEL LOAN AND GRANT PROGRAMS TO SUBSIDIZED FUEL.

FISHING NETS CONSTITUTE A SIGNIFICANT EXPENSE TO ALL FISHERMEN. FOR TUNA FISHERMEN, THESE SYNTHETIC NETS CAN COST AS MUCH AS $300,000. IN THE GULF OF MAINE, FISHERMEN SEEK GROUNDFISH AND SCALLOPS WITH NETS THAT COST AS MUCH AS $15,000. AS THIS COMMITTEE IS WELL AWARE, MORE THAN A THIRD OF THAT PRICE IS ACCOUNTED FOR BY THE DUTY THE UNITED STATES IMPOSES ON THESE NETS.

THE DIFFICULTY FACING THE FISHERMAN WHO WOULD AVOID THE COST OF THE DUTY IS THAT NO FISHING NET MANUFACTURER IN THE UNITED STATES MAKES NETS WHICH HAVE THE HIGH QUALITY OF THE FOREIGN NETS. THE U.S. - MADE NETS ARE, ACCORDING TO THE FISHERMEN WHO USE THEM, HEAVIER THAN THE FOREIGN NETS AND LACK THE ABILITY TO STRETCH AND ASSIST IN THE ASSEMBLING OF THE FISH. ACCORDING TO SOME ECONOMISTS, THE IMPORT DUTIES ON FOREIGN FISHING NETS ALONE MAY CONSUME AS MUCH AS 9 PER CENT OF THE PROFITS MADE BY AMERICAN FISHERMEN.

I WOULD POINT OUT TO THE COMMITTEE THAT THE AMERICAN SYNTHETIC NET INDUSTRY ONLY EMPLOYS ABOUT 1,000 PERSONS, ACCORDING TO AN ESTIMATE OF THE INTERNATIONAL TRADE COMMISSION, AND--AGAIN ACCORDING TO THE ITC--THE ENACTMENT OF S. 1565 WOULD RESULT IN A LOSS OF ONLY ABOUT $6 MILLION TO THE U.S. TREASURY.

MR. CHAIRMAN, I WOULD URGE THAT THE COMMITTEE ACT FAVORABLY ON S. 1565. THE TIMETABLE FOR REDUCING THIS DUTY IS SIMPLY TOO LONG. AMERICA'S FISHERMEN NEED RELIEF NOW IF THEY ARE TO REALIZE THE GREAT PROMISE THAT THEIR INDUSTRY HOLDS.

THANK YOU FOR AFFORDING ME THIS OPPORTUNITY TO SPEAK ON THIS TOPIC WHICH IS SO IMPORTANT TO THE FISHERMEN OF MAINE AND THE REST OF THE COUNTRY.

TARIFF ON IMPORTED FISH NETS

S. 1565

SUBCOMMITTEE ON INTERNATIONAL TRADE

The New Bedford Seafood Council represents over 150 vessels and 1600 crewmen who fish out of the port of New Bedford, Massachusetts. In terms of the value of landings, New Bedford is the largest commercial fishing port on the East Coast. We appear before your Committee today in support of S. 1565, to reduce the tariff on imported fish nets of synthetic material.

Current Tariff of 35 - 40% is Unjustifiable

In 1981 the tariff on imported fish nets was twenty-five cents (25¢) per pound, plus 32.5% *ad valorem*. In 1982, the tariff was reduced to twenty-one cents (21¢) per pound, plus 30.6% *ad valorem*. The effective rate of this compound tariff is approximately 35% to 40%. This is an enormous trade barrier. From a public policy standpoint, no industry should be entitled to such protection. Even a 17% level which this legislation calls for is a high tariff barrier.

Cost Impact on U. S. Fishermen

A fisherman in New Bedford will employ approximately eight to twelve crewmen. Throughout the year he will spend approximately $15,000 per year on fish nets. Should he buy foreign made fish nets, approximately $5,000 of that $15,000 will be spent to pay the import tariff.

The expense for nets and netting is even greater for certain other fisheries such as the Alaska ground fishermen and the tuna purse seiners.

Quality and Availability of Nets

The fishing industry requires a wide variety of nets and netting. As a general rule, fishermen have found that the foreign made product is superior to the domestic product. It lasts longer and maintains its quality longer. A fisherman cannot afford to use a net that allows fish to escape. There are also several types of nets that are not manufactured in the United States.

In New Bedford several fishermen have begun to use a fish net made of polyethylene. We have been unable to find any domestic manufacturer of polyethylene nets of the quality we require. Most of the polyethylene nets we purchase come from Portugal. We must pay the 35% tariff on a product that is not manufactured in the United States.

Promote Growth of U.S. Fishing Industry

The intent of the Magnuson Fisheries Conservation Management Act and the recently passed American Fisheries Promotion Act is to promote the domestic fishing industry. S. 1565 is in line with that purpose in that it will reduce some of the costs fishermen must bear.

The U. S. suffers a $3 billion trade deficit in fish products. Our fishermen must compete with subsidized foreign fleets. This legislation would reduce one of the many competitive disadvantages the U. S. industry must endure.

Make Trade Policy Toward Fishing Industry Consistent

The situation is aggravated by the fact that fish products which are imported to the United States arrive duty free or at very low duties. While imports of fish products enter this country duty free, the equipment necessary for the fishermen to catch the fish bears this very high tariff. This presents a contradiction in policy.

We seek some consistency in the tariff policy of this government towards the fishing industry. We are being unfairly treated at both ends of the spectrum in that the products we compete with have very low tariffs and the products we need to harvest fish have very high tariffs. S. 1565 would make the current situation more equitable. It would also be consistent with the Administration free trade policy.

Small Revenue Loss to U.S. Treasury

In costing out the revenue loss of this tariff reduction, it has been determined by the International Trade Commission that the loss would only be a total of $4.3 million if this bill were to take effect in January, 1983. This is a very small amount to the U.S. Treasury, whereas to the individual fisherman this is a very large amount of money. Most fishermen are small businessmen. Their vessel is the extent of their production capabilities. A 35% to 40% tariff works a very unfair burden on the independent fisherman

In conclusion, the enactment of S. 1565 would:

1. save fishermen thousands of dollars per year.
2. establish a more consistent trade policy with regard to the fishing industry.
3. reduce an unjustifiable and burdensome tariff barrier
4. provide tariff protection of 17% to the domestic net industry.

I ask the Committee to support S. 1565.

Thank you for the opportunity to present our views on this matter.

Charles H. Fritss
New Bedford Seafood Council
New Bedford, Massachusetts

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An ALLIED Company

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Vice President
Operations

bcc: Claud Gingrich
Trade Counsel
2227 Dirsken Senate Office Bldg.
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July 21, 1982

The Honorable John C. Danforth
Chairman
Subcommittee on Trade
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairman Danforth:

Allied Corporation, a producer of nylon fiber used in fish net manufacture, is opposed to S. 1565, a bill which would significantly and immediately reduce the duty on imported man-made fiber fish nettings -- from 30.6 percent ad valorem plus 21¢ per pound to a 17 percent ad valorem rate.

During the Multilateral Trade Negotiations, the U.S. made a commitment to <u>gradually</u> reduce the duty from the then 32.5 percent level to 17 percent by 1989.

It should be noted that even at the higher duty levels, importers have been able to capture a third of the market. Furthermore, we do not believe it would be appropriate or fair to impose prematurely a further duty reduction in violation of the agreement arrived at in the negotiation process.

U. S. fiber producers and fish net manufacturers can readily supply domestic market needs but will need time to adjust to the negotiated changes. For example, our fibers plant in Chesterfield, Virginia is currently in the process of introducing a new fiber blend of higher quality for the nylon market. It is also our intention to enter the polyester tuna fish net market. By applying this new technology, we hope to preserve our market share as well as the jobs of our employees. Premature action by the Congress could jeopardize these objectives.

We urge the subcommittee to reject S. 1565.

Sincerely

Jack G. Owens

Jack G. Owens

STATEMENT

OF THE

FLORIDA FRUIT & VEGETABLE ASSOCIATION
4401 EAST COLONIAL DRIVE
ORLANDO, FLORIDA 32814

SUBMITTED BY

JOHN M. HIMMELBERG, ESQUIRE
BARNETT & ALAGIA
1627 K STREET, N.W.
WASHINGTON, D.C. 20006

Summary of Comments

The Florida Fruit and Vegetable Association (Association) opposes S. 1588 which would temporarily suspend the duty on bulk fresh carrots from August 15 through February 15 of each year. The Association's position is based on the fact that passage of this bill will result in economic harm to Florida growers of carrots.

Florida Fruit and Vegetable Association

The Florida Fruit and Vegetable Association is a non-profit, agricultural cooperative composed of growers, shippers and processors of Florida sugar cane, citrus fruits, tropical fruits and vegetables including carrots. It provides a medium for cooperative effort in dealing with public and private agencies to aid in the recognition and solution of industry problems.

The Association's members directly connected with producing carrots in Florida oppose this bill.

Carrot Production in Florida

Florida produced 1,365,000 cwt. of carrots in the 1980-81 season.*/ This was one percent above the previous year and represents a steady increase in the production of carrots in Florida. Yet, even though production is on the rise, the value of the crop has fluctuated. For example, the value per cwt. beginning with the crop year 1975-76 through 1979-80 is respectively $7.90, $12.60, $9.68, $11.00 and $8.90.

Last year was a record year for Florida carrot growers, the total value of the carrot crop was $16.8 million compared to $12 million for the 1979-80 crop. Despite increased acreage and increases in the total value of the carrot crop over the last several years, the fluctuations in the value per cwt. referred to above, indicate clearly that carrots are a competitively sensitive crop.

Increases in imports from Canada, which would happen if this bill was passed, would depress the prices Florida farmers receive for their product.

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*/ Statistics in this section are taken from: Vegetable Summary 1981, Florida Agricultural Statistics, Florida Crop and Livestock Reporting Service, Florida Department of Agriculture and Consumer Services, Orlando, Florida, April 1982.

Also, the Committee should note that New York City is Florida's number one market for carrots. Passage of this bill will permit Canadian carrots to be shipped unrestrained into New York City via Buffalo to compete directly with Florida producers.

Florida growers now compete with growers from Texas and California. Such competition obviously makes Florida a more efficient, competitive producing state. Florida growers willingly accept the challenge of competing with growers in sister states, however, unrestrained foreign imports, which is the object of this bill, will undermine the domestic carrot industry.

This is especially true where the bill seeks to suspend the duty from August 15 through February 15. Florida plants carrots continuously from mid-August to the following mid-February and begins harvesting carrots on the 1st of November. Florida is most active harvesting carrots during the period December 15 through May 25. Because this bill covers a major portion of Florida's production period it is apparent, that this bill is intended to carve out a spot for Canadian carrots at the direct expense of the Florida and other domestic carrot industries.

We have been in touch with growers in Texas and Michigan and are advised that they are opposed to S. 1588.

Conclusion

We trust you will consider the foregoing factual information and the substantial harm, both real and potential, to the Florida carrot industry in your deliberations on this bill.

Armed with this information, we believe the Committee will make the right decision and vote against S. 1588.

STATEMENT OF

DONALD C. LUBICK

before the Hearing of the

Subcommittee on International Trade
of the Senate Committee on Finance

July 21-22, 1982

Chairman Danforth and members of this Subcommittee:

Introduction and Recommendations

I appreciate the opportunity to appear here today on behalf of Draper-King Cole, Inc., of Milton, Delaware and the J.C. Brock Corporation of Buffalo, New York, to urge favorable action on S. 1588. S. 1588 would provide for a temporary three-year period suspension of the duty on bulk fresh carrots imported into the United States in packages weighing over 5 pounds. The purpose of S. 1588 is to alleviate an unintended inequity created by a change in the tariff on bulk fresh carrots from 6% *ad valorem* to .5 cents per pound. This tariff change was negotiated as part of the Trade Agreements Act of 1979 without the required public notice and comment and expert advice from the International Trade Commission (ITC). An inadvertent effect of the change has been to impose a relatively higher tariff on American packers than Canadian packers, thus placing American packers at a competitive disadvantage. S. 1588 is intended to correct this anomaly.

We also suggest a number of modifications to the Bill that are consistent with this narrow objective, but which at the same time will assure domestic carrot growers that the Bill will not result in increased imports of carrots into the United States. Our suggestions for modification are the following:

1. Raise the minimum weight package for eligibility for duty free import to over 100 pounds: This change would ensure that only large bulk imports of carrots are eligible for duty free treatment. We do not know of washed and packaged carrots that are imported in larger than 50 pound packets. Moreover, in effect, this change would ensure that only fresh unpackaged carrots imported from Canada would be eligible for duty free treatment. The only other significant source of imported fresh carrots is Mexico and all imports of Mexican carrots enter the United States in packaged form.

2. Provide that the suspension apply only between August 15 of each year and February 15 of the following year: This change would more nearly harmonize the United States tariff with the Canadian tariff which is suspended for a significant portion of the year. Harmonization with Canada was the principal objective of United States negotiators of the 1979 change in the tariff rate on fresh carrot imports. The partial year suspension would retain tariff protection, however, during most of the Texas and Florida harvesting season, which runs from January to May.

3. Provide a limitation on the number of tons of carrots that can be imported under the suspension to the historical volume of bulk carrot shipments into the United States -- some 20,000 tons: With this change, it can be said with assurance that the Bill will not open up any additional incentive to import Canadian carrots at the expense of domestic growers.

The Effect of the 1980 Duty Change on American Packagers

The purpose of S. 1588 is to alleviate an unfair tariff disadvantage to American packers that resulted from the change in 1980 from a 6% *ad valorem* duty on imported fresh carrots to a specific rate of .5 cents per pound. This change was enacted as part of the Trade Agreements Act of 1979 without the benefit of public notice and comment and expert advice from the ITC. While the purpose of the change was to *increase* the United States duty on imported fresh carrots, paradoxically the unintended effect has been to *reduce* the effective duty paid on the vast majority of imported fresh carrots -- specifically, packaged carrots -- because it eliminated entirely all duty on value-added in packaging fresh carrots.

For example, the 1979 6% tariff on a typical 50 pound unit of packaged carrots costing approximately $8.00 at current prices would be 48 cents. At the new tariff rate of .5 cents per pound, however, the tariff is only 25 cents -- a reduction of 48%. The result has been an increased percentage of carrot imports from Canada in packaged form from approximately 67% to approximately 80% of imports. Canada accounts for 90% of all United States carrot imports.

On the other hand, a small group of American packagers and processors have incurred a sharp increase in the duty on the raw product they import from Canada to process and package for American consumption. For example, for an American packager like the J. C. Brock Corporation to obtain 50 pounds of carrots suitable for packaging, it is necessary to import 66 2/3 pounds of bulk carrots; the 1979 duty on this amount of bulk carrots (with a typical cost of $4.00) would be 24 cents; at the new duty rate, the tariff is 33 1/3 cents -- or an increase of 39%. In other words, since the American packager must pay duty by the weight of imported bulk carrots (which includes the dirt and culls that must be thrown out) it pays a higher duty on the raw product than the Canadian packer pays on the finished product. The Canadian packer has the advantage of being able to separate out the dirt and culls <u>before</u> the carrots are weighed for tariff purposes and of not paying any duty on the value-added in packaging the carrots -- thus receiving a two-fold advantage when compared to prior law. As a result, the tariff change has placed American businesses at a competitive disadvantage with Canadian packagers of carrots; and in at least one case, an American packager has been forced out of business. For an American processor like Draper-King-Cole of Delaware, the actual increase in duty on its carrot purchases from Canada went from $20 a truckload to $225 a truckload -- an 1100% increase.

Other Problems with the New Duty Rate

In addition, the 1980 tariff change did not accomplish its stated policy objective of harmonizing United States and Canadian tariffs. Apparently, during negotiations with Canada, United States representatives sought a change in the Canadian duty from a specific to an *ad valorem* rate. When Canada refused to agree to such a change, the decision was made to change the United States duty to a specific rate from an *ad valorem* rate. For at least three reasons, this change has failed to fulfill the stated purpose of harmonizing United States and Canadian tariffs on fresh carrots.

First, the Canadian tariff of .5 cents per pound on bulk carrots is only a partial year tariff. The Canadian revenue authority may impose this duty only for a maximum of 40 weeks during the year (which can be divided into two separate periods) and at its discretion may put the duty into effect for any period less than 40 weeks. For this purpose, Canada is divided into three different regions, and the duty may be imposed or lifted at different times in each of these regions. Thus, in Region II, which covers the areas of Quebec and Ontario and accounts for most (65%) of Canadian imports of bulk fresh carrots from the United States, the Canadian government has declared their tariff to be in effect for only 6 weeks in 1978, 3 weeks in 1979, 12 weeks in 1980 and for 6 weeks during 1981. And overall in Canada, which accounts for 84% of the United States carrot exports to other countries, 82% of all fresh carrots from the United States were allowed to enter duty free in 1979. In Region II for 1979, 97% of bulk carrots imported into Canada were duty free. The total Region II duty actually collected on bulk carrots was Can. $6,357. At a true rate of 0.5 cents per pound, it would have been Can. $193,625. In Region II, for example, for 1979 the average rate of duty on United States carrots imported in 1979 into Canada was Can. $0.328 per ton. The comparable 1980 United States duty rate would be U.S.$10 per ton on imports of Canadian carrots. This hardly can be considered a harmonization of United States and Canadian tariff rates.

Second, not only did the 1980 change fail to achieve harmonization in the specific duty applicable to bulk carrots, it also ignored the additional Canadian ad valorem duty of 5% applicable to dutiable imports of packaged carrots. Thus, the Canadians to protect their packagers have a special ad valorem duty applicable to products of United States packagers, the very type of duty that the Canadians successfully persuaded the United States to drop.

Third, the 1980 change has produced disparities in the degree of available tariff protection that did not previously exist. Approximately 75% of fresh carrot exports from the United States to Canada are in bulk form, for which the specific duty results in a higher duty, and hence greater tariff protection, than the ad valorem duty. By contrast, the vast majority of fresh carrot exports from Canada to the United States are in packaged form, for which the change from the ad valorem to the specific duty resulted in a lower tariff and hence less tariff protection for United States growers.

In summary, the change in the United States tariff rate on carrots from an ad valorem to a specific duty has had what can only be called a perverse effect. These problems might have been avoided if prior to the change, the Trade Act procedures for obtaining public comments and expert advice from the ITC had been followed. The present focus, however, must be on what can be done now to resolve the problems that have been created by the 1980 duty change.

Reasons for S. 1588

Quite clearly, the appropriate way to solve the problems just described would be to restore the pre-1980 ad valorem duty or to parallel the Canadian system of an additional 5% duty on packaged carrots. This would solve not only the problems of American packagers and processors who face an unfair tariff burden under the new tariff structure, but also the concerns that we understand have been expressed by American growers about the increased imports of packaged carrots caused by the 1980 tariff reduction. Under the restrictions imposed by the GATT, however, it is not practical to switch back to the ad valorem system in the short run. Accordingly, S. 1588 is an interim solution that at least will enable American packagers and processors to compete on an equal footing with Canadian packagers until trade negotiators are able to work out a long-term solution to the problems created by the 1980 change.

Description of S. 1588

S. 1588, which has been introduced by Senator Roth, would provide for a suspension of the duty on fresh carrots imported in bulk packages weighing more than 5 pounds. This suspension would apply only for a temporary three year period. The changes contained in this legislation would alleviate the unfair tariff burden on American packers and processors by restoring the pre-1980 tariff differential between bulk and packaged carrots and provide more consistency between the U.S. and Canadian tariff treatment, without prejudice to American growers.

Additional Modifications for Committee Consideration

We recognize that in correcting an unintended inequity caused by the 1980 change, it is important to insure that domestic growers are not subjected to increased imports from Canada and Mexico. This can be done by making the three changes described below:

1. Provide that the suspension does not apply to packages of 100 pounds or under. It appears that packaged carrots do not come in sizes larger than 100 pounds. Thus all Mexican carrots and the estimated 80% of Canadian carrots being imported in packaged form would be ineligible for duty free treatment.
2. Provide that the suspension applies only from August 15 of each year through the following February 15 of the following year.
3. Limit relief under S. 1588 to a fixed volume of 20,000 tons of bulk fresh carrots.

By providing a partial year suspension, such legislation would more nearly harmonize the United States tariff with the Canadian tariff which is suspended for a significant portion of the year. And by restoring the tariff differential between bulk and packaged carrots, the Bill would provide for a tariff structure similar to the Canadian system which contains a differential between bulk and packaged carrots.

With the first two changes the legislation would have a negligible impact upon American growers.

First, at least 98% of carrots imported into the United States come from Canada and Mexico and packaged carrots, on which the duty would be retained, account for virtually all of the imports from Mexico and in 1980 over 80% of imports from Canada.

Second, in Florida and Texas, two of the major United States producing states, the principal growing season is during January to May of each year, which overlaps for only 1½ months with the months in which the suspension would apply. Moreover, the cost of shipping carrots from Texas or Florida (approximately $60 - $70 per ton) for a packager in New York that imports carrots from Canada is not economical even with the increased tariff. Thus, the principal potential competition for growers in Texas and Florida is from growers in Mexico, virtually all of whose exports to the United States, as noted above, would still be subject to duty under the Bill. Similarly, while the growing season in California is year-round, competition from Canada is not a serious factor because of transportation costs and again the retention of the duty on packaged carrots would protect California growers against competition from Mexico. Insofar as the other significant growing states of Michigan, Wisconsin and New York are concerned, growers in these states often also are packagers and thus would benefit by such legislation.

A third change, limiting suspension to the historical level of bulk imports, would absolutely ensure no detriment to growers compared to the pre-1980 situation. The eligible fixed volume of 20,000 tons of bulk fresh carrots* under this limitation would be less than 2%

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*The ITC estimates that in 1979 40% of imports of 104 million pounds of carrots was entered in bulk. This is slightly over 20,000 tons. See ITC Report to the Committee on Ways and Means, 17 March 1982, page 14.

of United States production.

Since this is the volume of bulk carrots that would be imported even at the existing duty rate of .5 cents per pound, the limit would ensure that the duty reduction would not result in increased imports and that its only function would be to make American packers more competitive with the Canadians. (The reason that this volume will be imported even at the existing duty rate is that the cost of the duty is still less than the cost of transporting comparable carrots from other parts of the United States.)

The three changes described herein are entirely acceptable to the proponents of S. 1588 and should alleviate fully any concerns that American growers might have about the Bill causing additional imports of bulk carrots.

Conclusion

The 1980 change from an ad valorem to a specific rate of duty in carrots represented the only tariff increase in the Trade Agreements Act of 1979 that was enacted without the benefit of public notice and comment and expert advice from the ITC. The increase has imposed a substantial, and apparently unintended, burden on American packagers competing with packagers in Canada to the detriment of the business operations of these companies and of our economy. It has meant a significant loss of jobs to employees of United States concerns placed at a competitive disadvantage. The question is not one of competition on an equal basis. The change in the United States law has forced United States packagers actually to shoulder a higher United States tariff burden than their Canadian competition. The change has not fulfilled the basis purpose of harmonizing United States and Canadian tariff rates. For these reasons, I believe that S. 1588 represents an appropriate and urgently needed short term solution to these problems and I urge the Subcommittee to act favorably on this Bill.

STATEMENT

OF

RICHARD E. JOHE

DIRECTOR, GOVERNMENT AFFAIRS

SEA-LAND INDUSTRIES, INC.

Mr. Chairman and members of the Subcommittee, my name is Richard E. Johe. I am Director, Government Affairs of Sea-Land Industries, Inc.

Our liner affiliate Sea-Land Service, Inc. (Sea-Land) is the world's largest container transportation system. Sea-Land operates 39 United States flag vessels, without the aid of government subsidy, supported by an investment in 81,000 containers and 46,000 chassis. Sea-Land serves more than 180 ports and cities in 56 countries and territories worldwide. Revenues for the Sea-Land group in 1981 totaled $1.6 billion.

Sea-Land supports the passage of S. 1717 which changes the tariff schedules of the United States to "provide for a temporary suspension of the duty on certain freight containers".

We believe extension of duty-free treatment to freight containers is an excellent step. The containers covered are instruments of international commerce and as such should be entitled to flow freely between all countries without unnecessary governmental impediments.

For years, Sea-Land, as I believe is true of other U.S.-flag carriers, has purchased containers of foreign manufacture. This has been done for two basic reasons: Container manufacture at various geographic locations throughout the world minimize the cost of relocating new equipment as it enters international transport service; and normally the foreign built container is less expensive than a comparable U.S. built model.

The duty on foreign- built containers is currently set at 3.8%. However, Customs Regulations permit temporary use of these containers in the United States without the payment of duty as long as they remain instruments of international commerce. To qualify for this exemption, the container must follow a reasonably direct route to destination for unloading, reloading, and direct movement to an ocean port for export. This practice is in keeping with an international Customs Convention with which the U.S. and most other countries comply.

The cost of monitoring these activities far outweighs the minimal revenue collected under the tariffs. For example, when a container upon which duty has not been paid is sold at the end of its useful life, the residual value of the container is around $300 on the average. Thus, a tariff of 3.8% on $300 results in a payment of $11.40, a very small income considering the expense of collecting it. Furthermore the potential for revenue under this tariff will continue to drop. Under the 1979 GATT Agreement, the tariff is set for planned reductions each year, reaching total elimination on January 1, 1987.

It is evident that the current 3.8% tariff and its scheduled phaseout do not currently protect domestic container manufacturers. In fact, domestic manufacturers have about 4% or less of the world's container production market. There is little if any likelihood of a change in purchasing patterns of foreign-built containers if S. 1717 is passed. In addition, both the U.S. Customs Service and U.S.-flag carriers could quickly realize substantial administrative cost savings by eliminating the tariff on containers as proposed in S. 1717.

In closing, Sea-Land supports the rapid passage of S. 1717.

Thank you for this opportunity to testify. I will be happy to answer any questions.

STATEMENT ON S.1723: THE CULTURAL PROPERTY IMPLEMENTATION ACT

Throughout the ten years that Cultural Property implementation legislation has been considered by Congress, most debate has taken the form of a combat between two small special interest groups, much like U.S. rubber producers seeking restrictions against athletic shoe importers. The art dealers want their trade to remain unhampered; it may have appeared that the archaeologists want sites to be protected only so that they will have something left to dig up in twenty years. However, Congress needs to consider more fundamental issues. Does the United States have any national interest in any of this? Are any benefits to the American public involved, and if so, how can they be attained? The Association for Field Archaeology believes that both U.S. national interest and the public interest are served by S.1723.

The Convention on Cultural Property is intended to reduce the looting of archaeological sites. It follows the principle of supply and demand: if the demand for illegally-acquired antiquities is reduced, the looting which supplies that demand will diminish.

Looting destroys archaeological sites, and with them disappears the knowledge which could have been gained from careful excavation. Recent popular accounts of scientific archaeology, such as Martin's Hundred (review appended), many National Geographic articles, and the Odyssey television series, show what can be learned about man's past when excavation is more than the mere seizing of aesthetically-pleasing objects. All civilized nations hold the principle that the pursuit and acquisition of knowledge benefits mankind as a whole. All civilized people deplore the destruction of knowledge. Thus a moral obligation requires that some action be taken to combat the ravishment of this irreplaceable cultural resource.

But does the U.S. have anything to gain from this principled moral posture, or as this bill's critics have claimed, does it have everything to lose? Full participation in the Convention would immediately be a significant factor in improving our relations with many countries whose cultural patrimony is being destroyed by theft and smuggling. The loss of such material is a blow greatly exceeding its monetary value: it represents national identity and pride, symbolizing a past often more glorious than these nations' developing status today. Our cooperation in Peru's recent attempts to regain artifacts taken illegally has warmed our relationships with that country in much wider spheres.

The actual text of the Convention is a rare example of what may be considered a U.S. "victory" in UNESCO. The original draft, much broader and more sweeping, which was supported by the Soviet bloc and many third world countries, was rejected by the Conference in favor of the present one, which is essentially a U.S.-drafted agreement. Certainly the U.S. has long recognized the necessity of international cooperation in dealing with some internal problems, as witnessed by our approach to narcotics enforcement.

But will the American public be deprived of its ability to own and see cultural artifacts if this legislation is passed? On the contrary. First of all, S.1723 will not affect the legal trade in antiquities: individuals and institutions with the money to buy them will still be able to purchase properly documented objects on the open market. In fact, such buyers will be better protected by the clear title and authenticity assured by the trading procedures required by the legislation.

The vast majority of the American people, however, must depend on museums and other public institutions for its access to ancient artifacts. Such opportunities will be increased by the passage of S.1723. As Senator Moynihan has observed, most U.S. museums today already have policies prohibiting the purchase or acceptance of illicitly acquired objects, so the material affected by the Convention would not be going to museums anyway. Moreover, the economic realities of today dictate that most cultural institutions cannot make numerous and large-scale purchases of any kind.

Much more important to the public's enjoyment are the large loan exhibitions, often sponsored by private enterprise, which have become more frequent in recent years. An exhibit such as "The Treasures of Tutankhamun" contained more objects than could ever be purchased by one museum, and was seen by more Americans because it traveled to several U.S. cities. The great popularity of this show also attests to the importance of archaeological context: Egyptian tombs have been looted for more than three thousand years and U.S. museums contain thousands of objects from this source. But the Tutankhamun exhibit attracted much more interest because it was known where all the things came from and to whom they belonged. These artifacts spoke to us of a living human being. S.1723 specifically encourages such loan exhibits and other forms of cultural exchange. In fact, it provides important leverage for the President to use to elicit exchange with countries that have been reluctant to participate in the past.

Recent developments such as the McClain decision and the bilateral treaties with Mexico and Peru represent a demand for some action to slow the wholesale destruction of these cultural resources. Congress should not delay any longer passing into law the moderate and fair measures represented by S.1723.

Submitted by:

Dr. Ellen Herscher

Chair, Committee on Public Action
The Association for Field Archaeology

3309 Cleveland Avenue, N.W.

Washington, D.C. 20008

The Washington Post
BOOK WORLD
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The Town That Time Forgot

MARTIN'S HUNDRED. By Ivor Noël Hume. Knopf. 343 pp. $17.95

By BRIAN FAGAN

MARTIN'S HUNDRED is a fascinating and [illegible] archeological detective story, the story of the discovery and excavation of a long-forgotten colonial hamlet in Virginia. The tragic history of the Martin's Hundred settlement has long been known, but the location of the village was forgotten until Colonial Williamsburg archeologists [illegible] and excavated it in the 1970s.

[illegible] settlers left England to populate the [illegible] Martin's Hundred tract by the James River in Virginia. The settlement was to consist of a palisaded fort and the nucleus of a fledgling town named Wolstenholme Towne. The tiny hamlet struggled along for three years. In March 1622 the local Indians attacked the James River settlements without warning and massacred nearly [illegible] people. Half the population of Martin's Hundred was [illegible] the houses and fort set afire. The survivors rebuilt the village and held on for a few more years. Eventually Martin's Hundred was abandoned [illegible] for 350 years.

Ivor Noël Hume, director of Colonial Williamsburg's archeological research [illegible] describes the excavation of Martin's Hundred. [illegible] book offers a unique insight [illegible] world of historical archeology. [illegible] the thrill of the [illegible] until the moment of [illegible] quality for any serious historical [illegible] detective skills were [illegible] Martin's Hundred.

The [illegible] formidable difficulties. The [illegible] of the Carters [illegible]

CONTINUED ON PAGE 14

BRIAN FAGAN [illegible] at the [illegible] is the author of *The* [illegible] *Babylon* [illegible]

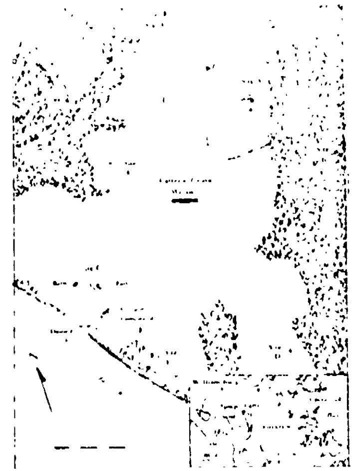
Martin's Hundred

(CONTINUED FROM PAGE 1)

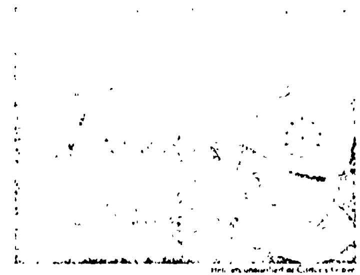
Grove plantation near Williamsburg in the early 1970s. Centuries of deep plowing had churned over the fertile soil of the estate and displaced surviving artifacts. So the archeologists used a mechanical grader to expose the clay subsoil where signs of colonial postholes and rubbish pits might be found. They uncovered not an imposing town, but a hamlet of lightly constructed, wattle and daub houses. They excavated fence posts and graves, the remains of a quadrilateral fort, a company compound, and a large barn, 45 by 29 feet. These structures were pieced together by surveying and excavating tell tale black smudges in the subsoil, all that remained of the posts that once supported the buildings. This type of archeology is a demanding exercise in logical reasoning and meticulous excavation, a form of research that requires not only superb digging skills, but a detailed understanding of how ancient houses and fences were built. It was here that historical detective work came into play. An obscure New York document enabled comparison of a mysterious, cellar like structure at Martin's Hundred with deep cellar pits used by other early colonists to keep themselves warm and dry in the winter. The research into 17th century fencing surrounding the village structures involved sources as esoteric as needlework, woodcuts, and country almanacs, all this over and above the difficulties of tracing practically invisible post marks in the ground.

Martin's Hundred is a striking reminder of how sheer persistence can pay off in archeology. The chances, for example, of identifying the owner of one of the excavated houses might seem remote indeed. The fill of the cellar hole found in "Site A" yielded three short strings of gold and silver wire and a gold point once used to decorate clothing. These few, tantalizing clues led Noel Hume to a local regulation of 1622 that permitted only heads of hundreds to wear "gold in their cloaths." He then identified one William Harwood, the head of Martin's Hundred, as one of the signatories of the resolution and thus the owner of the house. This was tenuous evidence at best, but perhaps supported by the find of a 6½-pound cannonball. This may have been Harwood's property, for he was listed in the 1625 census as the only resident of the hundred possessing "a peece of Ordnance."

Martin's Hundred yielded dozens of delicate and frequently badly preserved 17th century artifacts. These included two tinned copper farthings minted in 1613, two complete visored helmets, tobacco pipes, and shards of stoneware and delftware. The reconstruction of these precious finds was but the beginning. Dating and interpreting them led Noel Hume and his colleagues to the most arcane and obscure historical sources, to clues as far afield as western Australia and Ireland. The book tells of rows of nails in Martin's Hundred graves that resulted in a lengthy search for gabled coffin lids. This culminated in the opening of an aristocratic burial vault in England. We follow the archeologists to obscure Dutch paintings of scruffy people in less than elegant surroundings where analogies for Martin's Hundred artifacts were to be found. The book is a treasure trove of such sleuthing. We learn about 17th century stills, a new spectrographic technique for studying mineral elements in pottery clays, and visit the armory at Graz, Austria, where the author found parallels to a musket scourer – more than 800 of them.



Excavation sites at Carter's Grove



There were burials, too, some of them deposited in haste, including one victim whose features were reconstructed using a technique developed for identifying modern homicide victims. The archeologists even called on a pathologist who had studied a recent murder in England to identify the gash in a Martin's Hundred skull as being consistent with that from a spade. The skeleton of a woman about 30 years old was found in a rubbish pit, her skull cramped with a narrow iron band that had the diggers at a loss. Experts identified this as a hair band, which had been wrenched askew, perhaps when she was scalped and left for dead by the Indians. She crawled away and huddled in a pit, where she froze to death.

Martin's Hundred is much more than an engrossing account of a complex and demanding excavation, it is a *tour de force* of sophisticated team research. The excavation techniques are meticulous, the applications of science to the past both ingenious and appropriate. Experts on everything from human pathology to Civil War fortification are marshalled and deployed. Above all the author shows how modern archeological research is a cumulative, logical process with its share of insights, triumphs, and disappointments. The clear descriptions of dating problems, post hole excavation, and artifact analysis are models of their kind. Small wonder the Martin's Hundred excavations have dramatically altered our understanding of early American agriculture and warfare, and of the cultural contacts between Europeans and Indians in colonial times. No one interested in archeology, early America, or detective investigations should miss this fascinating volume. Noel Hume's well illustrated and vivid foray into the past is, quite simply, one of the best books on American archeology yet written.

WRITTEN TESTIMONY IN SUPPORT OF S. 1723

The "Convention on Cultural Property Act"

Submitted by: American Anthropological Association
1703 New Hampshire Avenue NW
Washington, DC 20009

Submitted to: Senate Finance Committee
Subcommittee on International Trade

We are grateful for this opportunity to expand upon the oral testimony given on behalf of the American Anthropological Association and 13 other organizations by Dr. Richard E. W. Adams in hearings before the Subcommittee on July 22, 1982.

The American Anthropological Association is the world's largest professional organization of anthropologists, with over 10,000 members representing the anthropological subdisciplines of ethnology, archeology, linguistics, and physical anthropology. The Association has twice affirmed its overwhelming support for the UNESCO Convention on the Means of Prohibiting the Illicit Export, Import, and Transfer of Ownership of Cultural Property: by a voice vote of the Council of the Association in 1972 and by a mail ballot of all members in 1973. We would like to reiterate our strong support for the legislation to implement that Convention, S. 1723, in the version submitted by Senators Matsunaga and Baucus. Opponents of the bill have suggested revisions in oral and written testimony submitted as part of these hearings; while several of their major concerns are addressed directly in what follows, we would argue in general that further revisions will virtually emasculate what is already a weakened, though still effective, compromise bill.

A. Background

1. The Problem

The international trade in illicitly acquired and exported antiquities, archeological and ethnological material has recently been reviewed by Paul M. Bator, the Bruce Browley Professor of Law at Harvard University (34 Stanford Law Review 275, 1981), who wrote:

> Many agree that an enormous amount of art is illegally exported. But nobody has even an approximate idea of just what quantities and values are involved. There is also wide agreement that the looting problem is virulent and growing; but - with the notable exception of the Maya field - I know of no systematic inquiry into its actual impact...
>
> (p 15)
>
> Since World War II there has been an enormous increase of interest among art collectors in (and a corresponding increase in the value of) antiquities and all varieties of primitive and ethnographic art. This has fueled an intense world-wide search for such art; the search has in turn led to an important black market in pillaged art. The most significant aspect of the problem is the looting of archeological sites, many of them unknown or unexcavated.
>
> (p 17-18; our emphasis)

An abundant literature, most of which is referenced in Bator (op. cit.), can be consulted to confirm these observations. Some recent examples of the severe depredations brought on by this illicit international market include:

(a) The recent theft of 7 wall paintings from the tombs at Luxor, Egypt (see 9 J. Field Archeology 119, 1982);

(b) The destruction of the San Isidro archeological complex in Ecuador by pothunters in search of salable objects (9 J. Field Archeology 123, 1982);

(c) The theft of a priceless Sixth Century Byzantine mosaic from the Kanakaria Byzantine Church in Cyprus (Cyprus Bulletin, June 12, 1982;

(d) The continuing destruction of hundreds of irreplaceable pieces of Mayan sculpture and wall art from Mexico, Guatemala, Belize and elsewhere (see 120 Science News 37, 1981; 160 National Geographic 220, 1981); in the words of Mark Gutchen, former Assistant Archeological Commissioner of Belize, "of the many thousands of sites I visited in my official duties, I recall only two or three which had not been looted..." (Bator, op. cit., p 60)

(e) The well-publicized theft of the Afo-a-kom, a small sculpture embodying the political and religious unity of the people of Kom in Cameroon (B. Burnham, The Art Crisis).

This problem is not confined solely to objects flowing into the US from outside our borders; increasing interest in American Indian art among collectors in Japan and Western Europe has helped to stimulate a growing export trade in American antiquities. In the words of three archeologists, "any field worker in North America can provide numerous examples of site destruction by 'pot hunters'" (36 American Antiquity 472, 1971). To take but two recent examples:

(f) A recent theft of 243 Mississippian Period ceramics from the Erskine Ramsey Repository in the Mound State Monument, Moundville, Alabama (8 J. Field Archeology 361, 1981);

(g) The destruction of several prehistoric Pueblo occupation sites in Colorado, including the Mudsprings and McPhee Pueblos (6 J. Field Archeology 85, 1979).

2. The UNESCO Convention and related controls

The UNESCO Convention was adopted by member countries (including the US) by a vote of 77-1 in 1970. Subsequently, it was submitted to the Senate for ratification, and advice and consent was unanimously voted in the Senate 79-0 on August 11, 1972. It is also important to note that the US State Department registered strong objections to the first draft of the Convention, and that the major substantive provisions in the final draft are largely the work of the US delegation to the UNESCO Conference. S. 1723 is thus based upon a strong foundation of US involvement and support for a concerted international effort to curb the illicit international antiquities trade.

Implementing legislation has been before the Congress several times since 1973. Most recently, H.R. 5643 was passed by the House of Representatives (1977), and re-introduced in 1979 as H.R. 3403 and in the Senate as S. 426 in 1981. The Senate has never taken formal committee action on implementing legislation.

It is important to note that, with the exception noted below, an art object exported in violation of another country's laws can, nonetheless, be legally imported into the US (and, generally speaking, into the other major art importing countries). Thus, there are few legal remedies available for the recovery of illegally exported material, even for those countries which have implemented conscientious and measured programs to protect their own cultural patrimony. The exception referred to above is a 1972 statute (P.L. 92-587) on the Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals, whereby illegally exported material of specified type is subject to seizure and return to the country of origin. In contrast to the narrow range of objects covered by that statute, a variety of sanctions apply to individuals who import stolen material, including two Treaties of Cooperation Providing for the Recovery and Return of Stolen Archeological, Historical, and

Cultural Material between the US and Mexico (1970) and Peru (1981).

In testimony submitted to the Subcommittee by Douglas Ewing on behalf of the American Association of Dealers in Ancient, Oriental, and Primitive Art, reference was made (p 6 ff.) to the recent decision in United States v. McClain (545 F.2d 938 and 593 F.2d 658) in connection with the definition of "stolen" property. First, Ewing's recommendation that S. 1723 be used either to redefine the National Stolen Property Act in light of the McClain decision or to "reconcile the perverse notion of "stolen" permitted by McClain with that which has evolved over the years in common law" (Ewing's testimony, p 7) strikes us as highly improper and fundamentally irrelevant to the important matter now before the Subcommittee. In McClain, the court ruled (in 1977, and reaffirmed in 1979) that the National Stolen Property Act applies to property illegally exported from a country that had issued a blanket declaration of state ownership of its antiquities. The distinction between "stolen" and "illegally exported" material is thus eroded (see Bator, op. cit., p 70 ff.). This is, of course, a matter of substantial concern to art and antiquities dealers and collectors, museum officials, and others. We would argue, however, that passage of S. 1723 may make such blanket declarations of ownership less attractive to foreign governments by providing for alternate remedies to reduce the pillaging of archeological sites and to recover illegally exported material.

B. Arguments in Support of S. 1723

1. Beneficiaries

The benefits accruing from passage of S. 1723 fall into three general categories:

(a) Preserving the Archeological and Ethnological Record

The universal cultural and archeological heritage of mankind is today in grave jeopardy. Once an object has been removed from its original context without any regard to the most rudimentary principles of archeological excavation, even if it is subsequently perfectly preserved, its ability to add to our understanding of mankind's cultural history has been irrevocably damaged. It becomes an object of purely aesthetic appeal; its place within the web of human history has been destroyed and may never be reconstructed. The looting of archeological sites to feed a flourishing market threatens the knowledge of our own past that can only come from scrupulous and expert excavation. Furthermore, the search for marketable antiquities frequently destroys those seemingly insignificant materials - pottery fragments, discarded tools, seeds, food refuse - which can, if properly handled, provide a wealth of information about ancient cultures. And the artistic integrity of the objects themselves may be threatened; a lucrative market for antiquities fragments may sorely tempt an unscrupulous pot-hunter in possession of a single intact object.

(b) US Foreign Relations

In transmitting the UNESCO Convention to the Senate for advice and consent in 1972, President Nixon wrote:

> The illicit movement of national art treasures has become a matter of serious concern in the world community. Many countries have lost important cultural property through illegal exportation... Rising prices for antiquities stimulate looting of archeological sites, causing the destruction of irreplaceable resources for scientific and cultural studies. In addition, the appearance in the United States of important art treasures of

> suspicious origin gives rise to problems in our relations with other countries.

The preservation of a "cultural patrimony" is often a matter of high priority in other nations, for whom archeological objects are often visible and treasured symbols of national pride and identity. In this country, national symbols are, generally speaking, not drawn from our aboriginal past. We may, however, appreciate the seriousness with which other nations view this problem by imagining that Colonial Williamsburg had been pillaged to serve a market hungry for 17th and 18th century American antiquities.

Among the 50 signatories to the UNESCO Convention are such important US allies as Greece, Italy, Mexico, Saudi Arabia, and Turkey. As an Appendix, we have enclosed letters from the Ambassadors of Greece and Cyprus attesting to their interest in seeing the United States exercise its moral and economic leadership to prevent further destruction to these irreplaceable national treasures.

(c) US Public

The general public stands to benefit in two ways from the passage of this legislation. On the one hand, S. 1723 explicitly directs the President to "endeavour to obtain the committment of the State Party concerned to permit the exchange of its archeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural partimony" (see 2(a)4(b)). More importantly, perhaps, in the last year alone hundreds of thousands of Americans have had their lives enriched by contact with exhibitions displaying the remains of long-vanished civilizations (e.g. "The Search for Alexander" and "The Treasures of Costa

Rica"). These are not simply collections of beautiful objects arranged on a gallery shelf, but living, interpreted records of the ways of life of ancient peoples. These exhibitions were possible only because the materials on display were collected in a manner whereby their contexts were preserved and recorded for purposes of study and interpretation, a situation all-too-rare under prevailing conditions.

C. Responses to the Art Dealers' Objections

In his testimony before this Subcommittee, Douglas Ewing, President of the American Association of Dealers in Ancient, Oriental, and Primitive Art, raised several objections to S. 1723 which we would like to address. It must be stressed at the outset that this is a compromise bill, virtually identical to the Discussion Draft of the House Ways and Means Committee (February 27, 1980), and that the strong feelings of both proponents and opponents of earlier versions preclude language which is acceptable in all details to all concerned parties. S. 1723 is by no means an "archeologist's bill"; the art dealers were involved in the negotiations over the Discussion Draft, and their major objections to earlier versions have been substantively addressed in S. 1723.

1. Concerted International Effort (Section 2)

Article 9 of the Convention calls for a "concerted international effort" to control the illicit traffic in cultural property. In response to the art dealers' previously expressed concerns, language to this effect has been incorporated into S. 1723. In particular, the application of import restrictions is conditional on a finding that these restrictions, "if applied in concert with comparable restrictions implemented, or to be implemented, by those nations having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage..." (Sec. 2(a)(3)).

We reject Ewing's suggestion that this standard is too ambiguous, and that some quantitative guidelines governing the necessary number of ratifying States is required. First, this language properly allows for the implementation of restrictions outside of formal ratification of the UNESCO Convention, a course which some countries may choose to take. Second, discretion must be granted to President and the Cultural Property Advisory Committee to respond to each State Party request on its individual merits; in each case, the nations with a "significant import trade" may differ, and a single blanket requirement will be unnecessarily inflexible.

It is, furthermore, not at all obvious that "extensions clearly should not be limitless" as Ewing states (referring to Sec. 2(e)). Section 2 agreements are initially limited to five-year terms; if those factors which justified the entering into of the agreement still pertain after that five-year period has expired, we see no reason to forbid the President from extending those agreements. <u>This bill is not designed merely to delay the pillaging and destruction of archeological sites for some arbitrarily defined period of time; it should properly seek to eliminate it wherever possible</u>.

2. Emergency Conditions

It is true, as Ewing claims, that Section 3 allows emergency restrictions to be implemented unilaterally by the United States. Here, however, agreements are <u>not</u> limitless and cannot be extended indefinitely. Ewing offers no reasons for reducing the effective period of these emergency restrictions, and we would therefore recommend that the five years (plus three year extension) standard be maintained.

Ewing argues that Section 3(a)(3) is "hopelessly ambiguous". We disagree; in the absence of any pseudo-quantitative standards, discretion will have to be exercised in a determination of what constitutes "crisis proportions" (or, for that matter, of what constitutes "substantial destruction" in Ewing's suggested language).

3. Documentation Requirements (Section 6)

This section has undergone substantial modification when compared to predecessor bills, and must not be weakened further. All that is now required, essentially, are declarations under oath by the importer or consignor concerning the date of export. Ewing claims that consignors will "invariably refuse" to make import-export declarations under oath, adding the curious claim that their reasons for refusing "should not concern the United States". Are we to believe that reputable dealers, and their equally reputable partners abroad, would invariably refuse to comply with this requirement? And, if so, does that not reflect rather poorly on the nature of this market?

4. Stolen Cultural Property

Our comments on the relevance of the McClain decision to this legislation have been given above.

5. Definitions (Section 15)

Contrary to Ewing's claim, the term "nonindustrial society" does have a recognized definition among ethnologists and anthropologists. Indeed, this term was added to the Discussion Draft on the advice of anthropologists to clarify the more ambiguous term "tribal society". In the US, the legal definition of "tribe" is rather narrow and is currently before the courts. Addition of "nonindustrial society" embraces peasant and folk societies, as well as politically complex "tribes" with populations in the millions. It should not be deleted.

In predecessor bills, objects of "archeological interest" were defined as being 500 years or older, conflicting with the Convention's definition of "antiquities" as objects more than 100 years of age. We would again urge that this 100 year standard be adopted. In many parts of the world, objects of archeological interest are less than 250 years old. For example, Hawaii was discovered by Europeans 204 years ago; Benin was sacked in the late 19th century; interior Papua-New Guinea was not penetrated by Europeans until the 1940s.

The age requirement for objects of "ethnological interest" was dropped from predecessor bills, and properly so. Many objects of recent manufacture are of enormous ethnological and national interest and are irreplaceable because of recent shifts in technology and material culture.

APPENDIX

Letters in support of the intent of the UNESCO Convention, from N. Karandreas (Ambassador of Greece) and Ch. Christoforou (Charge d'Affaires at the Embassy of Cyprus) are attached.

EMBASSY OF GREECE
WASHINGTON, D C

July 21, 1982

Mr. David G. Post
Director of Programs
American Anthropological Association
1703 New Hampshire Avenue, NW
Washington, D.C. 20009

Dear Mr. Post,

I understand that your sister organization, the Society for American Archaeology, intends to present testimony to the Senate Committee on Finance in support of legislation proposed for the implementation of the 1970 UNESCO Convention on Cultural Property.

The wealth and variety of Greece's cultural property, dating from ancient times onwards over the centuries, and the continuing conduct throughout Greece and its islands of active archaeological exploration, makes my country especially vulnerable to the dangers which the UNESCO Convention is designed to combat.

To the extent that is possible by means of unilateral legislation and vigilant enforcement, my country has done everything possible to protect its cultural resources and to implement the aims and standards of the UNESCO Convention which, as you know, Greece has ratified along with some 50 other countries.

However, by its very nature, the problem of illicit trafficking in cultural property is an international one; and its solution, as the Convention recognizes, requires close international cooperation in many areas of controls and enforcement.

It is for this reason that my government would view with great satisfaction the passage of legislation by the U.S. Congress to give practical effect in the United States to the provisions of the UNESCO Convention which was unanimously ratified by the Senate ten years ago. Such a step would, in our view, substantially advance the cause of international cooperation in a most important area.

Sincerely yours,

Nicolas Karandreas
Ambassador

EMBASSY OF CYPRUS
2211 R STREET. N W
WASHINGTON. D C 20008

(202) 462-5772

Ref: 479/76

27 July 1982

Mr. David G. Post
Director of Programs
American Anthropological Association
1703 New Hampshire Avenue, N.W.
Washington, D.C. 20009

Dear Mr. Post,

As you are well aware the history of Cyprus goes back to the 6th millenium B.C. Over that long period of time Cyprus has established a unique position in the cultural history of mankind as a depository of the cross currents of the various Mediterranean civilizations, as evidenced from the rich archeological finds and other cultural and religious treasures that are to be found throughout the island.

Regrettably, a subtantial part of Cyprus's cultural wealth is being plundered by unscrupulous profitmakers who engage in the illicit trafficking of antiques. And since the 1974 crisis, when almost 40% of Cyprus came under foreign occupation this plundering has reached truly gigantic proportions.

Cyprus, being a small country, possesses neither the financial means nor the required manpower to protect itself against the ongoing destruction of its cultural heritage. While the Cyprus government vigorously enforces its laws on this matter, and has been an active member of the 1970 UNESCO Convention on Cultural Property, the fact remains that unless the provisions of the UNESCO Convention are enforced by member countries through self-implementing legislation, the said Convention will remain ineffective and the illicit trafficking in cultural property will continue unabetted.

It is for this reason that the Cyprus government views with great satisfaction the passage of such legislation by the competent bodies of the various states which are members of the 1970 UNESCO Convention.

Yours sincerely,

Ch. Christoforou
Charge d'Affaires a.i.

ARCHAEOLOGICAL INSTITUTE OF AMERICA FOUNDED 1879

Archaeological Institute of America

July 31, 1982

Mr. Robert E. Lightheizer, Chief Counsel
Committee on Finance
Room 2227, Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Lightheizer:

Please include the following in the printed record of the hearing on S. 1723.

The Archaeological Institute of America, representing 10,000 professional archaeologists and lay enthusiasts, strongly supports the prompt passage of the Cultural Property Implementation Act, S. 1723. The Archaeological Institute of America is a grass roots organization with its membership in 81 chapters across the United States, in addition to the 50,000 subscribers to its magazine Archaeology. The Institute has supported cultural property legislation since 1970, when the UNESCO Convention was signed, because at that time there was clear evidence of worsening depredations of the world's archaeological and ethnological heritage.

Since then the UNESCO Convention was unanimously ratified by the Senate in 1972. It was passed by the House of Representatives in 1977. It did not, however, emerge from the Finance Subcommittee on International Trade in 1979, nor did a similar bill from the House Ways and Means Committee in 1980.

The reason for these delays was the continuing objections of the commercial dealers in antiquities and ethnological

53 PARK PLACE, NEW YORK, N.Y. 10007 PHONE (212) 732-6677

cultural property. Their criticisms have been met and the legislation is now an abbreviated, but highly specific, instrument which should be an invaluable tool in the efforts of the United States to help conserve the cultural property of all nations. As the biggest market for such objects it is both highly appropriate and absolutely essential that the United States be the first major art importing country to respond to the crisis.

Senate 1723, our Cultural Property Act, is only a small part of the UNESCO Convention. It omits many of the requirements of that document. It is, however, much more realistic and capable of implementation. The Senate is requested to listen to those who are trying to retain some of the fabric of past and dying cultures rather than only to those who would continue to cut it up for sale.

Please act favorably on S. 1723.

Yours sincerely,

Clemency Coggins

Clemency Coggins, Chairman
Committee on Professional Responsibilities
Archaeological Institue of America

July 22, 1982

STATEMENT OF
JONATHAN W. SLOAT,
GENERAL COUNSEL AND CONGRESSIONAL LIAISON,
INTERNATIONAL COMMUNICATION AGENCY,
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE,
SENATE COMMITTEE ON FINANCE
ON S. 1723
TO IMPLEMENT THE CONVENTION ON THE MEANS OF
PROHIBITING AND PREVENTING THE ILLICIT IMPORT,
EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

Mr. Chairman, Members of the Subcommittee:

I am pleased to have the opportunity to express the Administration's support of S. 1723, a bill to Implement the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. I also wish to express the particular support of the International Communication Agency for this proposed legislation. The bill now reflects more than 11 years of effort to implement the UNESCO Cultural Property Convention adopted in November of 1970. Since the Senate gave its unanimous advice and consent to that Convention on August 11, 1972, legislation to implement the Convention has been repeatedly submitted to the Congress. The evolution of this proposed legislation has been marked by constant modification of its provisions, mainly to accommodate concerns that it would operate unfairly against American, as opposed to foreign, dealers and other members of the art and antiquities purchasing public. S. 1723, for example, now provides that, before taking action, the President must find that there is a significant level of international concerted effort among the various market nations toward neutralizing a serious situation of pillage. Furthermore, U.S. import limitations would come into play only upon demonstrations that the requesting state party, whose cultural patrimony is threatened by pillage and outside sale, has taken steps, insofar as it is able, to protect its own cultural heritage.

The 1970 Convention and S. 1723 are principally aimed at solving a global problem of theft, fragmentation and pillage of archaeological sites and regions of ethnological concern. A second major aspect is stopping the illegal removal of art treasures from churches, museums and similar institutions in state parties to the Convention.

This Agency is deeply concerned about the dwindling archaeological and ethnological resources left available to the world's scholars if present conditions of pillage and despoliation are allowed to continue virtually unabated. This situation obtains largely in countries which are unable to protect their own cultural heritage without international assistance. USICA holds a strong concern for the preservation of the evidence of humanity's past, and the knowledge to be gained therefrom.

The Administration and USICA are committed to the proposition that this country should render assistance to the nations who are losing their cultural patrimony, on the grounds of principle, good foreign relations and international educational and cultural exchange.

The International Communication Agency is convinced that passage of this legislation by the United States will have significant impact upon illicit international trade in such cultural property, and will help persuade other market nations such as France, Switzerland, the United Kingdom, West Germany and Japan to take similar steps. A large number of ethnologists, archaeologists, museum organizations and academicians agree with this assessment and actively support passage of this legislation. This large and prestigious body of private sector proponents of S. 1723 is in the best position to assess and to describe the loss to mankind of irreplaceable sites and regions which are often carelessly and wantonly fragmented in the search for easily concealable and transportable bits and pieces of salable antiquities.

As evidence of the United States' commitment to solving the problem addressed by S. 1723, Congress has enacted legislation which prohibits, except under prescribed circumstances, the importation into the United States of Pre-Columbian monumental and architectural artifacts. This law was enacted to deal with the wholesale depredation and pillage of Mayan antiquities. The United States also has concluded a treaty with Mexico which assures reciprocal assistance when certain cultural properties are stolen in one country and removed to the other. An executive agreement similar to the Mexico treaty has been signed with Peru to provide U.S. best efforts to assist in the recovery of identified property stolen from one of the two parties found in the other which may be outside the protection of the Pre-Columbian monumental and architectural statute.

The International Communication Agency believes that this legislation is of utmost importance to our international cultural relations around the world. USICA is deeply concerned not only with the protection of cultural property from destruction, but also the exchange and interchange thereof among the nations of the world to promote mutual understanding of past and present cultures. In furtherance of our international cultural exchange mission, and in addition to our own program of exchange of arts, the Agency presently administers a law to provide immunity from judicial seizure for art and artifacts brought into this country for temporary exhibition from abroad. We are responsible (under Executive Order 12048, issued as an incident to Reorganization Plan No. 2 of 1977) for Government-wide policy guidance on international informational, educational and cultural matters. Also, the Agency, under the policy guidance of the Department of State, has its own authority to negotiate international agreements with foreign states or international organizations concerning matters for which responsibility is vested in the Director. Therefore, we have a vital mission interest in the early passage of S. 1723.

S. 1723, as has been the case with past legislation submitted to implement the 1970 UNESCO Convention, focuses upon two important provisions of the Convention. Article 9 of the Convention sets forth the agreement of the parties to participate in a concerted international effort to determine and carry out corrective measures in the circumstance where the cultural patrimony of a nation is in jeopardy from pillage. Article 7(b) of the Convention requires parties to prohibit the importation of properties stolen from museums or similar institutions of a state party and to take appropriate steps to return such stolen cultural property to the state party from which it was stolen.

Section 2 of S. 1723 permits the President to enter into bilateral or multilateral agreements which will apply import restrictions to cultural property, the pillage of which is jeopardizing the cultural patrimony of a particular state party who has requested assistance. These agreements may be entered into only after four specific findings have been made by the President. First there must be jeopardy to the cultural patrimony of a state party from the pillage of its archaeological or ethnological materials; next a state party must have taken measures consistent with the convention to protect its cultural patrimony; then the President must determine that the application of import restrictions by the United States, if applied in concert with comparable restrictions implemented or to be implemented by nations having a significant import trade in such material (whether or not state parties to the convention) would be of "substantial benefit" in deterring a serious situation of pillage, and that less drastic remedies are not available; finally the President must determine that application of the import restrictions in the particular circumstance is in the general interest of the international community in the interchange of cultural property among nations.

A provision of major importance to USICA under Section 2 is the direction that the President should endeavor to obtain the commitment of the state party concerned to permit the exchange of its archaeological and ethnological materials. This provision seeks to encourage more reasonable export controls by art-rich nations and, we submit, more formalized exchanges, such as are sponsored by USICA.

Under S. 1723, an existing agreement shall be suspended if, after entering into force, the President determines that a number of nations having signficant import trade in the material covered by the agreement have not implemented, or are not enforcing, import restrictions comparable to those set forth S. 1723.

Under Section 3, the President may also take emergency U.S. action in extreme circumstances when he determines that the threat from pillage or dismantling is of crisis proportions.

Under Section 4, the Secretary of the Treasury is to consult with the Director of USICA before promulgation of a list of archaeological or ethnological material from a state party which is to be covered by an agreement or by emergency action.

A Cultural Property Advisory Committee is established by Section 5 of S. 1723 to advise the President on actions to be taken under the bill. The membership of the committee consists of representatives from the various constituencies who are most concerned with, or would be affected by, such an agreement. Membership includes two members who represent the interests of the public. This committee would look to the Director of the International Communication Agency to provide its necessary administrative and technical support services.

Section 7 of the proposed legislation prohibits the importation into the U.S. (non-retroactively) of objects stolen from museums or similar institutions in another state party. This bill also establishes procedures for the seizure and forfeiture of such objects and for their return to the state party from which they were stolen.

The proposed legislation, in consonance with understandings expressed in the Senate's resolution of advice and consent to ratification, is not retroactive in effect and does not modify any state law concerning the title to cultural property, nor does it preempt other remedies available under federal or state law.

S. 1723 reflects numerous, substantial accommodations made to views expressed by dealers in antiquities, as well as by members of the archaeological and ethnological and museum communities, in the various hearings and meetings concerning prior bills. We believe it now meets every reasonable concern as expressed by the various interested and knowledgeable constituencies.

The International Communication Agency joins with the Department of State in concluding that this legislation now before the Committee is long overdue for enactment, and we urge careful consideration toward its early passage in light of the continuing and immeasurable loss of knowledge of the history of mankind.

The number of countries which are parties to the Cultural Property Convention has now increased to fifty. Most of the countries which have ratified or accepted the convention are developing countries such as Egypt, India, Mexico and Peru which need assistance to help protect their cultural patrimony from despoliation and pillage. The list does, however, now include Canada and Italy. Canada, in fact, is now prosecuting a case based upon its cultural property law.

Since 1979, the following countries have ratified or accepted the convention: Honduras (March 1979), Cyprus (October 1979), Guinea (March 1979), Cuba (January 1980), Peru (October 1979), Greece (December 1980), Sri Lanka (April 1981), Turkey (April 1981), and Pakistan (April 1981). USICA believes that ratification of the convention by the United States will give encouragement and impetus to its acceptance by the other major art-importing nations.

In the two sections of the bill where the name of the International Communication Agency appears, an additional change may be necessary if, as expected, the Agency's name is changed back to "United States Information Agency." Also, USICA concurs with the amendments advocated by the Department of State in the Department's report dated March 9, 1982. The Agency would, however, add to the Department's proposed amendment to Section 6(c)(2), that in lieu of a period, a comma appear at the end of the department's recommendation and the following language (which now appears in S. 1723) be added: "together with such other evidence of exportation as the Secretary may require." USICA believes the added flexibility provided by this language may prove useful in the future.

The International Communication Agency believes that this legislation before you is fair and adequately safeguarded to protect legitimate U.S. interest in acquiring and exchanging cultural property and is extremely deserving of your support.

STATEMENT OF THE LEAD-ZINC PRODUCERS COMMITTEE
SUBMITTED TO THE INTERNATIONAL TRADE SUBCOMMITTEE
SENATE COMMITTEE ON FINANCE
ON S. 1902

July 21, 1982

Pursuant to the Senate Finance Committee's press release of July 9, 1982, the Lead-Zinc Producers Committee submits this statement on S. 1902, a bill to extend for two years the President's authority to negotiate tariff duty reductions under Section 124 of the Trade Act of 1974.

The Lead-Zinc Producers Committee consists of ~~four~~ member companies which account for most of the primary lead and zinc metal produced in the United States. The members of the Committee are:

AMAX Lead & Zinc, Inc. (smelters in Missouri and Illinois; mine in Missouri)

ASARCO Incorporated (smelters in Missouri, Texas, Nebraska, and Montana; mines in Tennessee and Colorado)

National Zinc Company (smelter in Oklahoma)

St. Joe Minerals Corp. (smelters in Missouri and Pennsylvania; mines in Missouri and New York)

The Lead-Zinc Producers Committee seriously questions the desirability of extending the authority to reduce tariffs contained in Section 124 of the Trade Act of 1974. This position is based upon two essential concerns: first, how this authority will be used if Section 124 is extended, and second, what effect this authority would have on the already poor state of health of the domestic lead and zinc industry.

I.

Despite the existence of residual tariff-cutting authority from the end of the Multilateral Trade Negotiations to January 1982, the Executive Branch appears to have actually used the authority of Section 124 only twice, with regard to Japan and Taiwan. However, the threat of using this authority to reduce the tariff on lead was raised with the Lead-Zinc Producers Committee to secure support for legislation which reduced the lead duty in 1980. A long list of hundreds of items that might be the subject of Section 124 tariff cuts was published in the Federal Register in August 1980. Lead bullion and unwrought lead were on that list resulting in appearances by producers before the Trade Policy Staff Committee and the International Trade Commission.

The U.S. Government has made approaches to Canada and the European Community, two of this industry's major competitors, to initiate negotiations. A list of items which the United States would consider for possible duty cuts was submitted to the Italian Government to attempt to persuade that Government to agree to have the European Community enter into tariff negotiations with the United States.

Although the U.S. lead and zinc industry was not included on the so-called "Italian List," the products of other U.S. industries which had also submitted statements to the TPSC and the ITC in opposition to duty cuts were included. To date, we understand, neither the Italians nor the EC has agreed to enter into negotiations.

We see no need to enact Section 124 legislation, unless there is a reasonable prospect that countries want to negotiate with the United States and that they will grant meaningful concessions to U.S. exporters. There is little justification for extending the Section 124 authority based purely on vague plans, which is all that exists to date. S. 1902 should not move ahead unless Congress is told in specific terms what the Executive Branch expects to accomplish by its use, which U.S. exports will be benefited, and which U.S. products are likely to be the subject of tariff cuts in the process.

II.

Even if there were good prospects for the successful use of the Section 124 authority to enhance U.S. exports, certain U.S. products should not be subject to tariff cuts under this authority because of their import sensitivity, particularly products of those U.S. industries in poor economic health today. Specific products should be excluded by law from any extension of Section 124.

The lead and zinc industry cannot afford to have the tariffs on its products cut further, nor can it afford to have the threat of tariff cuts hanging over it. The effects of the tariff cuts on lead and zinc in the Multilateral Trade Negotiations and subsequent action by Congress in enacting a three-year reduction in the lead metal duty, have contributed to the depressed state of the industry today.

As Gulf Resources and Chemical Corporation pointed out in November 1981 when it announced the closing of its Bunker Hill Company operations:

> In terms of constant dollars, there have been significant increases in the costs of production of lead, zinc and silver, particularly in labor and energy costs since 1970. In the same constant-dollar terms, today's price of lead and zinc is essentially the same as in 1970.... In addition, significant operating and capital costs have been imposed upon Bunker Hill's operations by the requirements of the environmental and health and safety laws. Over-capacity for lead and zinc have developed on a worldwide basis, in part because foreign governments have encouraged and in some instances subsidized mining and smelting operations.*

In 1980, Bunker Hill produced 20 percent of the total U.S. output of lead and zinc. At one time its facility in Idaho employed almost 2,500 workers. However, the facility was closed permanently in early 1982 with a major loss of jobs for the region.

National Zinc closed its Bartlesville, Oklahoma zinc smelter for six weeks beginning June 26, 1982 due to excessive inventories and low demand.

Prices of both lead and zinc have fallen drastically in recent months. While the price of lead was 45 cents per pound in October 1980, it fell to 37 cents by October 1981, and has continued to fall to its current price of only 28 cents, a decline of 38 percent. Prices for U.S. high-grade zinc also have fallen. Only 10 months ago, the price of zinc was 49 cents per pound; now it has dropped to only 37 cents.

* Release of Gulf Resources and Chemical Corporation, Houston, Texas, November 10, 1981.

As a reflection of the weak domestic market, imports of lead and zinc have fallen in 1982. However, imports of unwrought, unalloyed lead in 1981 were 27 percent above those in 1980. Similarly, imports of unwrought, unalloyed zinc in 1981 were 49 percent higher than the volume of such zinc imports in 1980.

The duties on lead and zinc metal are lower in the U.S. than they are in the European Community or Japan. This means that in time of market glut, excess metal enters the U.S. market, the most open of the three major markets. Further reductions in lead and zinc tariffs would only add to this already serious problem and lead to further injury to this strategic industry.

III.

For the foregoing reasons, the Lead-Zinc Producers Committee believes that it is not appropriate for Congress to extend Section 124 without being furnished specifics as to what industries will benefit from the supposed increase in U.S. exports, to which countries will such exports go, and what U.S. industries and workers will be expected to pay the price by having to face the consequences of lower tariffs on their products. Even if these points are answered to Congress' satisfaction, any extension of Section 124 should exclude by name of product those items that are import sensitive. Alternatively, an amendment to the legislation being considered by the House of Representatives, which would limit the use of this authority to only those products eligible for duty-free GSP treatment as of the date of enactment, would exclude unwrought lead and zinc from the provisions of this bill.

U.S. Council for an Open World Economy

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Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, in hearings of the Subcommittee on International Trade of the Senate Committee on Finance concerning various tariff bills. August 4, 1982

(The U.S. Council for an Open World Economy is a private, non-profit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall public interest. The Council does not act on behalf of any commercial interests.)

Our Council is favorably disposed toward those bills before the Subcommittee that would remove, suspend or reduce import duties. Tariffs are subsidies to certain sectors of our economy and costly to other sectors. Bills suspending tariffs should make the duty-free treatment continuous, without time limitation, until made permanent by statute or negotiation, or until such time as U.S. producers of like and directly competitive products can prove that their industries are seriously injured by imports and that restoration of the respective tariffs is essential to a redevelopment strategy addressing the real problems of the particular industries. This procedure for duty suspension would, among other advantages, save Congress the considerable time currently consumed in periodic examination of suspension bills on the same products.

Among the bills now before the Subcommittee, significant examples of the advisability of permanent exemption from import duties include doxorubicin hydrochloride, which is not produced in the United States. The fact that the foreign patent expires in 1988, and U.S. firms may at that time wish to make the product, is no convincing reason to provide duty suspension -- only until 1988 -- looking toward establishing a tariff subsidy for U.S. production of this item. Any U.S. manufacturers contemplating production of this chemical should crank a duty-free premise into their planning. Another example is metal waste and scrap. This duty has been suspended for about 40 years but only for a few years at a time -- a history suggesting the propriety of making duty-free treatment permanent, and not contingent on a certain market price for copper (as proposed in the Senate bill). Here, too, the domestic producers of products competing with the imports should crank a free-trade premise into their planning.

<u>"Tariff Anomalies"</u>

I take issue with the Administration's opposition to duty-free treatment for imports of chipper knife steel (the Administration view is now reflected in the House bill's continuation of the duty, although at marginally declining levels). This product is traditionally a low-profit, marginal sector of U.S. steel production. I note with some amusement the Administration's argument that the differentials between the tariffs on certain materials and those on finished manufactures incorporating these materials -- what the Administration calls "tariff anomalies" -- must be fine-tuned to prevent inequities in competition between imports of these finished products and domestic production of comparable finished manufactures incorporating those semi-finished materials. The benefit of duty-suspension for chipper knife steel to U.S. producers of chipper knives appears to have been omitted from the policy equation. Government officials seem to see their efforts to align tariffs on various semi-finished materials with those on finished products in which such materials are used as some sort of science, as if in a laboratory exercise so controlled that the other factors affecting the competition of domestic with imported products can be isolated and are in fact not worthy of incisive analysis.

The Administration's opposition to tariff suspension on ceramic insulators for spark plugs is another example of fanciful efforts to correct "tariff anomalies". In the case of chipper knife steel, the present, temporarily reduced tariff is 4-and-a-fraction percent. The Administration, I understand, feels that the tariff should not be reduced to zero (because, supposedly, this would be unfair to the domestic steel industry) but should be a fraction of one percent lower (ad valorem) than the tariff on chipper knives themselves. Hence the House bill's reduction of the duty on chipper knife steel by one-tenth or two-tenths of one percent ad valorem each year until December 31, 1986. Fine-tuning indeed! Such images of a scientific tariff evoke reminders of the presumed precision that characterized the old "peril point" charade.

The Ethyl Alcohol Abomination

It is regrettable that the Frenzel-Gibbons-Mottl bill, which would remove the huge, additional duty imposed on imports of ethyl alcohol by the Omnibus Reconciliation Act of 1980, has not advanced beyond approval by the trade subcommittee of the House Committee on Ways and Means. And that there is (to my knowledge) no comparable bill in the Senate. This additional duty is not only harmful to U.S. producers and consumers of gasohol and to U.S. trade relations with Brazil (the main foreign supplier); it resulted from one of the more shameful violations of trade-policy due process of law in recent years. There were no hearings on this duty in Congress, and no proceedings before any government agency. The domestic ethyl alcohol industry -- consisting virtually if not entirely of one company -- is being given a subsidy by this duty without any government determination that the industry needs a subsidy and that such aid is part of a coherent strategy addressing the real problems and needs of this industry. It is regrettable that the Administration has not taken a position on this bill, and that most of the "liberal trade" community has itself ducked the issue, if aware of it at all.

Extension of Residual Negotiating Authority

S. 1902, extending for two additional years the President's authority to negotiate tariff reductions pursuant to Section 124 of the Trade Act of 1974, merits support. The President needs continuation of this authority so that he may deal effectively with contingencies demanding U.S. negotiation of additional tariff cuts. U.S. producers fearing harm from such tariff reductions, should, as quickly as possible, explore ways to adjust to such changes and, if necessary, seek government help outside the realm of import restrictions.

Nairobi Protocol to Florence Agreement

As a longtime supporter of U.S. participation in the Florence Agreement on the Importation of Educational, Scientific and Cultural Materials, I urge U.S. participation in the Nairobi protocol, which broadens the Florence Agreement by removing some of its limitations and extending it to various items not previously covered. The strategy for U.S. adoption of the protocol seems sound, and the proposed U.S. action even beyond the protocol's coverage merits enthusiastic endorsement.

I urge U.S. producers fearing adverse consequences from expanded foreign competition in these materials to explore ways to adjust successfully without seeking restoration of tariffs on the affected products. I urge the Administration to make a special effort to preclude recourse to import restraints where adversely affected U.S. producers seek and deserve government help.

STATEMENT OF THE SPECIALTY STEEL INDUSTRY OF THE UNITED STATES TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE, COMMITTEE ON FINANCE, U.S. SENATE

On S. 1902

August 1982

This statement is submitted by the Specialty Steel Industry of the United States, whose 17 member companies* account for most of the specialty steel produced in the U.S., in response to the International Trade Subcommittee's Press Release 82-149 of July 9, 1982 asking for comments on S. 1902. This bill would extend for two years the President's residual tariff cutting authority under Section 124 of the Trade Act of 1974.

The specialty steel industry is opposed to the extension of this authority. It takes this position because of the threat which this authority represents to an industry which is severely and adversely impacted by imports. The import sensitivity of this industry was recognized by the International Trade Commission when it found in January 1976 that imports were seriously injurying the industry. It was recognized by President Ford when he provided for an orderly

* The members of the Specialty Steel Industry of the United States are Allegheny Ludlum Steel Corporation; Al Tech Specialty Steel Corporation; Armco Stainless Steel Division; Braeburn Alloy Steel Division of Continental Copper & Steel Industries, Inc; Carpenter Technology Corporation; Columbia Tool Steel Company; Colt Industries, Inc.; Cyclops Corporation; Eastern Stainless Steel Company; Electralloy Corporation; Guterl Special Steel Corporation; Jessop Steel Company; Jones & Laughlin Steel Corporation; Joslyn Stainless Steel; Latrobe Steel Company; Republic Steel Corporation; and Washington Steel Corporation.

marketing agreement with Japan and import quotas on imports of specialty steel from all other countries. It was recognized by President Carter when he refused to remove these restrictions on imports after a review by the International Trade Commission in 1977 and later when he extended the import relief for an eight-month period in 1979. He then established a "surge mechanism" to permit the government to move promptly to enforce the trade laws of the U.S. if specialty steel imports surged.

For a period after the termination of the import relief in February 1980, the industry enjoyed a respite from injurious imports, although for some specialty steel products imports continued at high levels of penetration of the U.S. market. Unfortunately the "surge mechanism" has not prevented imports from growing. In the first quarter of 1982, import penetration of alloy tool steel was 45.4 percent of domestic consumption, stainless steel rod 53.7 percent, stainless bar 26.9 percent, stainless sheet and strip 16.2 percent, stainless plate 11.0 percent, and stainless pipe and tube 51.7 percent. All of these levels represent substantially higher import penetration than when import relief was terminated and the "surge mechanism" was established. For some products, import penetration is now at an all-time high. Coupled with declining domestic demand, this flood of foreign product has reduced the industry's shipments and resulted in losses for some firms,

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growing unemployment with almost 25 percent of the industry's workforce now out of work, the closing of Bethlehem Steel's tool steel facilities, and the imminent sale or closure of Crucible Steel's Midland plant, which accounts for the employment of some 5,000 workers. Unemployment at some plants in the industry is as much as two-thirds of the work force.

The sad fact is that the surge mechanism has not stemmed the flow of foreign specialty steel, much of which is exported to the U.S. by companies which are government owned or government subsidized, and by companies whose products are being sold here at dumped prices. Yet our foreign competitors have shown no propensity to open their borders to imports from the U.S. or elsewhere.

As a result, the industry has filed Section 301 petitions against Austria, France, Italy, Sweden, United Kingdom and Belgium; countervailing duty petitions against Brazil and Spain; and anti-dumping petitions against West Germany and France.

It is against this background that we view with alarm the possibility of cuts in the tariffs on specialty steel. We note that the U.S. has invited the European Community and Japan, our two major foreign competitors, to enter into negotiations pursuant to the Section 124 authority. The procedures that must be followed before duties can be cut give us no sense of security that specialty steel products will not be the subject of tariff cuts to the detriment of the domestic industry.

During the Multilateral Trade Negotiations, specialty steel was exempted from tariff cuts because of the existence of "escape clause" import relief on these products. Yet, as pointed out above, the condition of the industry has not improved, indeed it has deteriorated as result of import surges, since the termination of import relief. We would recommend, therefore, that Congress retain for itself the authority to approve any tariff reductions that may result from future negotiations and not extend the authority of Section 124.

NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION
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STATEMENT OF THE

NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION

BEFORE THE COMMITTEE ON FINANCE

SUBCOMMITTEE ON INTERNATIONAL TRADE

ON S.1902

This statement is submitted on behalf of the National Knitwear & Sportswear Assocition, an organization representing more than five hundred domestic manufacturers of knitwear and sportswear. This testimony is in opposition to S.1902 which would extend for two additional years the President's authority to negotiate tariff reductions pursuant to Section 124 of the Trade Act of 1974.

Mr. Chairman, and members of the Committee, the knitwear and sportswear industries, which have already been heavily impacted by imports across a broad front, from many countries, should not be subjected to any further reductions of tariffs on any items. It is recalled that duty reductions already made in the MTN have not been fully phased in for this import impacted sector of the U.S. industry. Thus, the first partial reduction of duties in line with the cuts made in the recent trade negotiations went into effect on January 1st of this year. Subsequent reductions will be phased in in six equal annual installments. Given this phase in, and the fact that our industry has not yet absorbed the cuts which have already been made, we do not understand why it is even contemplated to provide for still further cuts in duties as authorized by S.1902.

During the MTN, duties were reduced on a range of significant products which are heavily impacted items. Thus, men's and boy's wool sweaters were reduced from 39.9% to 17.0%. Knit shirts for men and boys of manmade fiber, and sweaters of manmade fiber were reduced from 25¢ per pound plus 32.5% ad valorum, to 13¢ per pound plus 32.5% ad valorum. A number of other knit items were also cut substantially. Some items, however, were not changed. Cotton men's and boy's not ornamented knit shirts and sweaters will remain dutiable at 21% ad valorum. Cotton women's, girl's and infant's knit blouses, shirts and sweaters were not reduced. In each case, the proposed legislation would authorize reductions in the tariffs on these import sensitive items.

Notwithstanding the tariffs that do exist, the import share of the U.S. market for knitwear has increased substantially in recent years, as new suppliers have entered the market, forcing out domestic companies and sacrificing domestic jobs. In particular, the past three years have seen the emergence of Communist China as a major supplier whose market disruption forced government import control action, and resulted in the negotiation of a bilateral quota agreement. That agreement expires at the end of this year. It is also to be recalled that the People's Republic of China has received the benefit of Most Favored Nation treatment, notwithstanding their non-participation in the MTN. Thus, the PRC in this field has had a fundamentally free ride on trade negotiations and will likely receive further benefits of the phase in unless the Congress sees fit to disapprove such benefits by exercising its right to prevent continuation of MFN treatment. In short, the domestic industry is under heavy pressure at the present time, and must respectfully oppose further duty reductions in this sector.

As a general proposition, we must call the Committee's attention to the vulnerability of the entire knitwear sector to low cost import competition. The information provided below illustrates the significance of imports in these sectors, the ability of imports to grow rapidly even over pre-MTN tariffs as well as over existing tariffs, and the effect those imports can have on domestic producers and employment. This is an effect which runs throughout the entire fiber/textile/apparel sector, and is not limited to the garment manufacturers alone. All of their suppliers are affected by heavy imports of knitted garments. Our industry has worked hard to modernize and to urge upon the government at all levels that further erosion to low cost imports be prevented. The extension of tariff cutting authority to these products would be particularly crippling, and we believe should not be permitted. This is especially true in a situation in which the full impact of cuts which have already been made have not been felt. The American knitwear and sportswear industry is adversely affected under present circumstances by low-cost imports, and it is impossible to see how further duty reductions can do anything but aggravate that situation.

Sixty-three percent of all sweaters and almost one-third of the knit shirts and blouses sold in our country are imported. Five-hundred-sixty-seven million, yes, 567,000,000 of these garments alone were imported in 1981. 1981 sweater imports alone were valued at $769,452,000 with knit shirts and blouses valued at $1,027,031,000 and knit headwear adding another forty-seven million dollars to the import ledger. The trade deficit for knitted outerwear overall was $1,750,000,000. This represents 36% of the overall deficit for textiles and apparel.

These imports mean lost jobs, wages and tax revenues on the one hand, and higher unemployment, welfare payments and government spending for relocation allowances on the other. The most sharply affected are the least skilled workers of the small firms, frequently those located in the inner cities.

Sweaters continue to take the brunt of this charge and demonstrate the seriousness of the import threat to the entire knitwear industry.

In 1981, domestic sweater shipments declined to 7.2 million dozen while imports amounted to 12.3 million dozen accounting for 63% of the U.S. market. In women's sweaters, the largest segment of the market, 1981 imports exceeded domestic shipments by more than 100% as domestic shipments declined by 6.4%, and imports remained almost constant with 1980's record levels. The situation has been worsening throughout the decade.

The heavy surge of wool sweater imports from China demonstrates just how rapidly this trade can develop. In 1979, U.S. imports were 17,000 dozen, and in 1980 the figure rose to 500,000 dozen or six million wool garments. At their 12-month peak, the year ending March, 1981, imports hit 771,000 dozen, or 9.25 million garments. And the level for 1981 maintained the pace at 279,000 dozen.

Wool sweaters are among the most heavily impacted categories of any U.S. apparel item. According to the U.S.

Department of Commerce, the ratio of total wool sweater imports to domestic production in 1980 was 194.4%. Women's wool sweater imports exceeded domestic production by almost 4 1/2 times, with an imports to production ratio at 436.7%.

Concentration of sweater imports has been important. Key low-cost suppliers are Hong Kong, Korea, Taiwan, and the People's Republic of China. They accounted for 10,800,000 dozen sweaters imported last year.

But new countries are moving in. Dramatic increases in wool sweater imports were again registered in 1981 by countries which scarcely appeared in the sweater statistics for 1979, but which moved up sharply in 1980.

SOME NEW SUPPLIERS TO THE U.S.
WOOL SWEATERS ; 1979 to 1981
(in dozens)

Country	1981	1980	1979
Malaysia	23,236	19,216	3,647
Mauritius	162,455	38,417	925
Singapore	13,909	32,536	6,346
Sri Lanka	93,555	15,019	-0-
Thailand	18,907	18,044	1,365
TOTAL	312,092	123,232	12,283

And to this list, we can add still another name from the lexicon of the well traveled importer: the Maldive Islands, a tiny group in the Indian Ocean. Incredibly enough, the United States imported 15,511 dozens of wool sweaters from these tropical islands in 1981. "Quota dodging" continues to develop new and almost absurd sources for imports which displace American made goods.

These figures highlight but a small sample of the degree and magnitude of this sweater and knitwear import problem, and the pace at which it can worsen.

China further compounds the problem, and on a scale not previously experienced. The Chinese bilateral with the United States expires at the end of 1982. Their desires and demands will be extensive, and may not be approachable without a massive redistribution of existing quotas forcing Hong Kong, Korea and Taiwan to compete with China for a single major country quota. unilateral controls may be the only recourse for the U.S. absent such a realignment of existing agreements.

CURRENT SITUATION AND OUTLOOK

The Commerce Department's Import/Production ratios show just how far imports have moved into the U.S. sweater market. In the principal area of the domestic market, women's, girls' and infants' sweaters, imports far exceed domestic production.

Sweater Categories	Import/Production Ratio 1980
All Cotton	313.6%
Men's & Boy's Wool	59.9%
Women's Girls & Infants Wool	436.7%
Men's & Boys Manmade Fiber	69.2%
Women's Girls & Inf. Manmade Fibers	188.2%
TOTAL	162.6%

Domestic sweater shipments declined in 1979, 1980, and again in 1981. Imports have remained extremely high, and we are deeply concerned that further declines in domestic shipments unmatched by comparable declines in imports, will continue to force domestic plant closings and severly damage what remains of the U.S. industry.

While 1980 and 1981 have been relatively strong sweater years, the cycle is due to turn, and the 1982 - 1983 outlook is likely to be weak.

Labor costs are a key element in our vulnerability to imports. In 1981, average hourly wages in the U.S. knitwear sectors were $4.99 for knit apparel, $5.74 for knit fabrics, $5.18 for yarn, and $5.87 for dyeing and finishing. Compare these to China, where the sweater mill wages are 15 cents per hour, or to Mauritius where it is understood to be about $1.80 per day!

Low wages enable extensive production on hand-powered knitting machines, greater finishing and detail work, and overall, a significantly lower production cost. And that assumes that production cost is relevant. In China, where foreign currency earnings and employment maintenance are crucial, production cost does not appear to be an important concept in sweater production or export pricing.

THE IMPACT

At Wholesale

The impact of all this on our industry comes at the store level. U.S. industry sells at wholesale to chains and independent retail operators. The price at which retailers may obtain goods from foreign suppliers is crucial; regardless of the price at which those goods are sold to the U.S. consumer. Recession has hurt retail sales. Retail stores, seeking higher mark-ups, search out the lowest cost imported goods which are then sold to consumers at prices as close as possible to those being charged for domestic goods. Consumers do not benefit fully from the low wholesale prices of these imports. Importers and retailers of Chinese wool sweaters have acknowledged buying sweaters in China for $5.00 each which they have sold to U.S. consumers at $24.00 each, a mark-up of more than three hundred percent - after duties and freight!

Unit prices for U.S. wool sweaters at wholesale in 1980/81 range from $7.75 to $10.00 for lower-end, reprocessed wool and wool blend sweaters. Fine goods ranged to $15.00 per sweater, and up. Some recent unit values of imports - as declared for duty purposes - are shown here:

AVERAGE UNIT PRICE WOOL SWEATERS
WOMEN'S GIRLS' & INFANTS' - 446

Country	1980
Sri Lanka	$ 3.35
Macao	5.79
Thailand	4.86
Maritius	4.31
Malaysia	3.62
China	5.57
Singapore	4.13
Hong Kong	7.15

On Job Opportunities

Knitwear imports represent lost jobs and business for people and companies in all sectors of the industry. For example, ten people produce approximately 100 dozen sweaters per week. The 12,300,000 dozen sweaters imported in 1981 on a 47-week production year, common in this industry, would represent a full year of employment for more than 26,000 sweater production workers. Additional supervisory and management positions are also displaced. And, it is not sweaters alone that lose out. Sweaters are at the top of a broadly-based manufacturing pyramid.

These sweaters require yarn. Imported sweaters account for approximately 8.325 lbs. of yarn per dozen, so that 1981 imports would displace more than 102 million pounds of yarn.

Dyeing and finishing generally assumes 10 lbs. per dozen sweaters. 12,300,000 dozen would yield more than 120 million pounds for dyeing operations, and, would represent a year of employment for an industry the size of that presently employed in U.S. operations.

The wages lost range from $3.50 per hour for trimmers in sweater operations to $8.40 per hour for sewing machine mechanics. The average wage for domestic sweater production is in the area of $5.04 per hour, plus approximately 25% for fringe benefits. An annual payroll in excess of $300 million is involved here.

Additional amounts are spent by local, state and federal government unemployment compensation and social action programs required to deal with the impact of these imports.

Where does it hurt? States with important sweater and knitwear production are Pennsylvania, New York and New Jersey, Massachusetts, and the rest of New England, North and South Carolina, Ohio, Wisconsin, Virginia and California. Cities hurt by imports include Cleveland, Philadelphia, Milwaukee, and of course, New York County. The industry's fiber, yarn, materials and services suppliers are located throughout the country. All would benefit from immediate relief, and from the prevention of further damage.

Threat to Other Knit Sectors

Repetition of the sweater import problem in other knit sectors, particularly knit shirts and blouses, is feared unless action is taken, to further restrict imports, not to lower tariffs, because the knit sectors are open to low cost investment and ease of entry. Imports of knit shirts and blouses already exceed 50 percent of domestic production. Knitting mills can be set up quickly, with high productive output. Domestic knit fabric mills already are feeling severe declines as a result of knit garment imports. Employment dropped almost 9% in circular knit fabric mills in 1981, the third straight year of declines, and the situation has continued to deteriorate in 1982.

Can This Sector Be Saved?

Last year's renegotiation and extension of the Multi-Fiber Arrangement was an important accomplishment. The United States carried out that portion of President Reagan's campaign commitment which was to strengthen the MFA. The 1981 MFA protocol provides the tools needed by the Administration to fully carry out the President's campaign commitment to relate "import growth from all sources to domestic market growth." The Administration's current strategy is to achieve this overall import growth limitation by means of the various bilateral trade negotiations being conducted in 1982. These bilateral agreements will govern actual imports from the major suppliers to the United States for the next half dozen years. These negotiations are crucial. We are not convinced that they can be successful without actual rollbacks of trade from the major suppliers, a position which the Administration has not accepted. According to administration officials, the MFA protocol would authorize such reductions. Notwithstanding this authority, recent agreements continue to provide growth in existing quotas.

INDUSTRY RECOMMENDS

Emergency action on the sweater categories is needed until the domestic industry is assured a 50% share of the U.S. market now and through the next upward sweater market cycle.

Preliminary reports of major negotiations held recently with Hong Kong reveal that the U.S. has established limits on imports of certain sensitive categories from Hong Kong, including sweaters and knit shirts, which will provide annual import growth for these categories of one-half of one percent per year from 1981 quota base level. Agreements with Korea and Taiwan should be tighter on these categories, and it must be recognized that the same firmness will be required to limit imports of these products from other developing countries.

China is a critical threat. The U.S. agreement with China expires at the end of 1982. There is no assurance that it will be continued. Domestic producers cannot withstand surges of imports from China like those experienced during the past several years. Through great efforts and determined action by the U.S. government, which we acknowledge with pleasure, many of those import surges eventually were brought under control. But much damage was done. The Chinese have shown every indication of attempting to exert maximum political leverage in every negotiating situation they have faced with the United States. We anticipate that in the coming negotiations they will again threaten U.S. relations over each dozen of quota. But with or without agreement, the U.S. must freeze China's current quotas through 1987.

The Administration has persistently refused to accept domestic industry proposals for globalization of the quota system, or to apply an overall freeze on even the most sensitive category imports. Thus, we have no assurance that the new agreements with the current major suppliers will suffice to prevent further growth of imports from new starter countries discovered by importers seeking ever changing sources of temporarily quota-free supplies. There is no reason to import wool sweaters or other similar products from the tropical Maldive Islands other than to avoid quotas and exploit ultra-low wage labor. The U.S. market does not need these goods.

It is essential that overall action be taken which will protect what is left of the domestic sweater industry and will provide it the opportunity to generate jobs and economic activity for American workers and communities. The U.S. industry must be given the opportunity to produce whatever growth may return to the domestic market through an entire sweater cycle, without having that growth skimmed off by a new wave of presently unknown sweater sources. Only then can we consider reasonable the restoration of import growth in line with the then anticipated growth of domestic production.

Knit shirt and knit headwear imports should be frozen for two years (1982/83), so that any growth in the domestic market in these categories is reserved for domestic production. Following a two-year freeze, imports would be allowed to grow (or compelled to decline) annually at a rate not in excess of average annual domestic production growth or decline in these categories during the preceding five years.

This recommendation is particularly crucial in this labor intensive area. Present negotiations alone cannot meet the objectives outlined here, and we anticipate a rapid spread of knit shirt supply sources through numerous Southeast Asian and Caribbean countries. Only outright quota and trade reductions of these giant suppliers could have made possible the transfer of quota to such areas as the Caribbean without critically damaging the remaining domestic idustry. Absent such reduction and quota transfer, increases from new starter countries come at the direct expense of American producers.

All other knitwear categories should be monitored closely and regulated so that import growth is limited on the basis of a five-year moving average of domestic production growth (or decline) during the period beginning 1982.

During this special control period, all flexibility on these products in bilateral agreements, including swing and carryover, shall be eliminated. Thereafter, all such flexibility should not be permitted to total more than 1% of the relevant quotas.

In the last analysis, we continue to believe the U.S. must apply comprehensive restraints on low-cost country imports in these heavily import-penetrated categories. This action must be combined with vigorous enforcement of existing Customs laws to prevent quota and tariff evasion, false product marking, and transshipment frauds.

Domestic producers are investing in new technology and can recapture an improved share of the market, but not if each emerging, developing low-wage country is permitted to obtain an important slice of the market in addition to the shares already held by the Far East giants. Major import suppliers must give ground in the U.S. if the U.S. market is to accept still more goods from emerging country producers. Clearly, this is not the time to contemplate further tariff reductions.

Again, we return to the pivotal issue of China. Direct recognition of the threat that unrestricted imports from China pose to the U.S. apparel industry, and to the knitwear and sportswear producers in particular is essential. America's knitwear industries cannot be pushed over to accommodate China's desire for an unfettered run at the U.S. market. U.S. producers can give no more.

CONCLUSION

In conclusion, the National Knitwear and Sportswear Association joins with the Textile/Apparel Coalition in opposition to this legislation, and in particular, express its opposition to the applicability of any such legislation to knit products discussed in this statement.

Seth M. Bodner
Executive Director
NATIONAL KNITWEAR & SPORTSWEAR
ASSOCIATION
51 Madison Avenue
New York, NY 10010

39 Ashland Road
Summit, NJ

BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES

STATEMENT IN OPPOSITION TO

S. 1979

To Eliminate the Duty on Sulfapyridine

On Behalf of

Pharmacia, Inc.
800 Centennial Avenue
Piscataway, New Jersey 08854

Of Counsel:
FREEMAN, WASSERMAN & SCHNEIDER
90 John Street
New York, New York 10038
(212) 619-1770

July 21, 1982

Louis Schneider
Beth C. Ring

I. INTRODUCTION

This statement is submitted on behalf of Pharmacia Inc. of Piscataway, New Jersey in opposition to S. 1979 which proposes to eliminate or suspend the assessment of duties on sulfapyradine, one of the drugs currently provided for in Item 411.28 of The Tariff Schedules of the United States at 22.5% ad valorem.

Pharmacia Inc. is the United States subsidiary of A.B. Fortia, a Swedish company. Pharmacia markets a range of drugs, scientific equipment, fine chemicals and other chemicals from its facilities in Piscataway New Jersey. Certain of its products are manufactured in its American facilities, while others are imported. Pharmacia currently employs over 350 Americans in its United States facilities. Pharmacia has traditionally been the sole United States importer of bulk salicylazosulfapyradine, also known as sulfasalazine and marketed in dosage form by Pharmacia under the trade name "Azulfadine". Pharmacia obtained its sulfasalazine from Pharmacia A.B., located in Upsala, Sweden. Pharmacia A.B. developed and patented sulfasalazine in the 1940's has been exporting the drug to the United States since 1949.

Due to a significant duty increase on sulfasalazine which inadvertently resulted from the conversion to ad valorem equivalents of duties assessed under the former American Selling Price ("ASP") method of customs appraisement, Pharmacia has made a major investment on St. Croix, Virgin Islands for the production of its Azulfadine products.

Sulfapyridine is the intermediate used to make sulfasalazine. Bulk sulfasalazine is made by Salisbury Laboratories of Charles City, Iowa from imported sulfapyridine. Salisbury then supplies the sulfasalazine to two pharmaceutical producers who manufacture tablets for sale under brand or generic names.

The suspension or elimination of the duty on sulfapyridine will seriously jeopardize Pharmacia's investment in the Virgin Islands. This action in contrary to intent of Congress in enacting existing legislation and the policy of the present Administration to continue to reinforce United States support for the economic development of the Virgin Islands.

II. REDUCING THE DUTIES ON SULFAPYRIDINE WILL FRUSTRATE THE INTENT OF CONGRESS AND THIS ADMINISTRATION.

A. Congress Intended to Maintain the Level of Protection Afforded By Duties Collected Under the American Selling Price.

Sulfapyridine (as well as sulfasalazine) is currently classified in the Tariff Schedules of the United States under Item 411.28 which carries a column 1 rate (or "most favored nation") rate of duty of 22.5% *ad valorem*. This rate of duty has been reduced from 26.8% since July 1, 1980, when it was enacted pursuant to Section 223(d) of the Trade Agreements Act of 1979 (19 U.S.C. 1202, as amended) which implemented the rates of duty converted from the American Selling Price. This rate of duty was the rate which yielded customs duties "substantially equivalent" to the amount of duties collected under the American Selling Price basis of customs valuation, which section 223(d) eliminated pursuant to the United States agreement at the Tokyo Round of multilateral trade negotiations.

The American Selling Price was the price that an American producer "would have received or was willing to receive" from a United States customer.[1] The American Selling Price method of valuation was adopted by the United States to protect the American chemical industry from low priced imports. Thus the American Selling Price method of valuation resulted in extremely high dutiable values, and thus exceptionally high duties on "low priced" imports. A contrary effect resulted when the price of the imported product approximated or exceeded the price of the domestic product, thereby helping to create a competitive balance in the marketplace.

The United States' agreement to eliminate the American Selling Price basis of valuation was conditioned upon the substitution of rates of duties which would produce revenues "substantially equivalent" to the amount of duties

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1 Section 402(e) or Section 402a(g), Tariff Act of 1930, as amended by the Customs Simplification Act of 1956, 70 Stat. 943, 946, 19 U.S.C., Sections 1401a(e), 1402(g) (1975).

collected under the American Selling Price method of valuation "during a recent representative year." The new rates of duty were calculated by the United States International Trade Commission, which used the year 1976 as the "representative year".[2]

In enacting section 223(d) of the Trade Agreements Act of 1979, Congress made it clear that the new United States rates of duty applicable to benzenoid chemicals and chemical products were intended to protect American industry to the same extent as it was protected under the former American Selling Price method of valuation. Congress expressly stated:

> The...rates of duty...for merchandise currently subject to the ASP method of valuation...are designed to ensure that U.S. industries producing the merchandise in question will receive protection... substantially equivalent to the protection they receive from present rates of duty....[3]

In the case of sulfapyradine, the amount of duties assessed under the new rate was "substantially equivalent" to the

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2 Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates, Report to the President on Investigation No. 332-99 under Section 332 of the Tariff Act of 1930 as amended, USITC Pub. 896 (July 1978).

3 S. Rep. No. 96-249, "The Trade Agreements Act of 1979", 96th Cong., 1st Sess. 127 (1979).

amount of duties collected under the prior ASP method of valuation. Further, the rate of duty on sulfapyridine will be reduced in stages to 11.6% by January 1987, a 48% reduction from the present rate of duty.

For sulfasalazine, however, the amount of duties assessed was significantly increased under the converted rate compared with the amount collected under the former American Selling Price.[4] This duty increase prompted Pharmacia to make a substantial investment in the Virgin Islands, on St. Croix, to manufacture sulfasalazine and thereby benefit from the duty-free treatment applicable to products imported from the Virgin Islands pursuant to General Headnote 3(a)(i) of the Tariff Schedules of the United States as well as from the various incentives granted by the United States for such investments.

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4 This duty increase resulted from the historical inclusion of sulfasalazine in a "basket" tariff provision with other sulfa drugs, the values of which were averaged together for purposes of negotiating tariff reductions from an "ad valorem equivalent" rate. By reason of this aggregation of the invoice values of all products included under a "basket" provision, the negotiating authorities could not identify separate values for individual products. The invoice value for sulfasalazine was significantly higher than the invoice values for the other four drugs. Thus the ratio between its invoice value and the applicable American Selling Price was greater than the ratio between the invoice value of the other drugs and their respective American Selling Prices.

B. Eliminating the Duty on Sulfapyradine Will Frustrate the Congressional Intent Underlying Headnote 3(a)(i).

Pharmacia has recently made a large investment in building and equipping a manufacturing facility for the production of Azulfazine on St. Croix in the Virgin Islands pursuant to the Industrial Development Law of the Virgin Islands.[4] The purposes of this program are:

> ...the promotion of the economic and social development and the diversification of the economy of the Virgin Islands, the establishment and preservation of opportunities of gainful employment for residents of the Virgin Islands and the alleviation of the acute shortage of housing for residents of the Virgin Islands, which purposes and objectives are declared to be in the public interest.[5]

General Headnote 3(a)(i) of the Tariff Schedules of the United States codifies the support of the policy of the Virgin Islands Industrial Development Program by exempting from United States customs duties importations of merchandise from the insular possessions of the United States which do

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4 29 V.I.C., Ch. 12 (at No. 3748) and Section 934 of the United States Internal Revenue Code.

5 29 V.I.C., Ch. 12, Section 701.

not contain foreign materials of more than 50% of their total value.[6]

In enacting General Headnote 3(a)(i), Congress' express purpose paralleled that of the Virgin Island's Industrial Development Program:

> ... it was calculated to, and in effect has, stimulated the development of light industry in the possessions. The development of light industry has helped the economy of the possessions, particuarly the Virgin Islands, where numerous new businesses have been established to produce or assemble various articles for duty-free shipment to the United States.[7]

Moreover, in reinforcing this policy, President Reagan's message to Congress transmitting his Caribbean Basin Initiative expressly stated that:

> ...the U.S. Virgin Islands have a longstanding special relationship with the United States. Their development must be enhanced by our policy toward the rest of the region. We have consulted closely with...the Virgin Islands about the Caribbean Basin Initiative and the legislation I am requesting today will reflect...Virgin Island interests in many important ways.[8]

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6 The Reagan administration supports proposed legislation which will permit products from the Virgin Islands whose foreign content do not exceed 70% to receive duty-free treatment. 128 Cong. Rec. S 2304 (H.Doc. No. 97-153) March 17, 1982.

7 S Rep. No. 1679, 89th Cong., 2nd Sess., reprinted in [1966] U.S. Code Cong. & Ad. News 4389, 4390.

8 Supra note 6.

Paralleling the goals of the Virgin Island's Industrial Program under which Pharmacia made its investment, the President stated:

> With the governments and private sectors of interested countries, we will develop private sector strategies for each country. The strategies will coordinate and focus development efforts of local business, U.S. firms, private voluntary organizations, the U.S. government, and Puerto Rico and the Virgin Islands. The strategies will seek new investment and employment opportunities and will also seek to remove impediments to growth including lack of marketing skills, trained manpower, poor regional transport, and inadequate infrastructure.[9]

Pharmacia's plant has just started production and Pharmacia has instituted a major training and educational program for the local labor which it will employ in its Virgin Island facility. Azulfadine is the first product which Pharmacia plans to export to the United States from this facility; Pharmacia expects to expand its facility to include other products in the future. The specialized training in a high technology field which local residents will receive from Pharmacia's program will be transferrable to such future products as well. However, if the United States customs duty on sulfapyradine is eliminated, Pharmacia's investment will be seriously jeopardized, since it would remove the incentive for a sulfasalazine

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9 Id.

producer to invest in the Virgin Islands rather than import directly into the United States. Attached hereto are copies of letters from the Governor of the Virgin Islands in opposition to the proposed duty suspension on sulfapyridine which will jeopardize Pharmacia's investment in the Virgin Islands.

III. CONCLUSION.

The removal of duties on sulfapyradine would frustrate the purpose of Congress to protect the American chemical industry, as originally reflected in the American Selling Price basis of customs appraisement and carried over into the converted rates of duty on these chemicals.

There is a strong Congressional, and now Administration policy, of fostering the economic development of the Virgin Islands.

The removal of the duty on sulfapyradine would frustrate both of these policies.

We strongly urge that the duty exemption for sulfapyradine embodied in S. 1970 not be enacted.

Respectfully submitted,

Pharmacia, Inc.
800 Centennial Avenue
Piscataway, New Jersey 08854

Of Counsel:
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Beth C. Ring

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THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
CHARLOTTE AMALIE, ST. THOMAS 00801

June 1, 1982

Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Representative Gibbons:

A major thrust of the U.S. Virgin Islands' economic development program has been an effort to diversify the economic base of the territory. To this end, the Virgin Islands Industrial Development Program was established to encourage businesses to invest in the Virgin Islands in order to insure the establishment and preservation of opportunities of gainful employment for United States citizens residing in the Virgin Islands.

Pursuant to the Industrial Development Program, Pharmacia Incorporated of Piscataway, New Jersey, has made a major investment in St. Croix for the production of sulfasalazine (SASP). H.R. 4890 would exempt sulfapyridine from duties. Since sulfapyridine is the principal ingredient used in the manufacture of SASP, H.R. 4890 would undermine this nascent industrial development in our territory.

Pharmacia's investment, its occupational training program and its opportunities for meaningful and productive employment for residents of the Virgin Islands are of utmost importance to the U.S. Virgin Islands. Since this investment and the new job opportunities arising thereunder are jeopardized by the proposed legislation, I strongly urge the Committee to disallow any duty exemption for sulfapyridine.

Sincerely,

Juan Luis
Governor of the Virgin Islands

SPECIAL OLYMPICS, INC.
International and National Headquarters
1701 K St N.W., Suite 203 Washington, D.C. 20006-1581 (202) 331-1346

July 29, 1982

The Honorable Bob Packwood
145 Russell Senate Office Building
Washington, D.C. 20510

Re: S.2247

Dear Senator Packwood:

Your Legislative Assistant, Mr. David Spencer, recently contacted me at Special Olympics Headquarters to ask our organization's position on S. 2247, which involves waiving import duties on athletic footwear donated to organizations offering sports programs for handicapped individuals.

By ruling dated December 12, 1974, the Internal Revenue Service classified Special Olympics as a tax-exempt charitable organization under Internal Revenue Code Section 501(c)(3) and as a private foundation under Section 509(a). Because it is classified as a private foundation, Special Olympics is prohibited from engaging in lobbying activities. Consequently, Special Olympics has not taken and does not intend to take a position on S.2247.

Let me take this opportunity to thank you again for your support of Special Olympics in Oregon.

Sincerely,

Robert M. Montague, Jr.

Robert M. Montague, Jr.
Executive Director

/dm

Senator Mark O. Hatfield
Statement
Finance Finance Committee on International Trade
July 22, 1982

Mr. Chairman,

I ~~am~~ ~~ple~~ased to submit testimony to your committee on behalf of S. 2247 which would allow the duty-free entry of shoes imported for donation to the Special Olympics.

When Ronald Reagan became President, he issued a call for the private sector to increase contributions to charitable organizations in order to pick up the slack that might be felt with federal funding to such organizations is reduced along with other outlays in an attempt to reduce the federal deficit. This bill would give further impetus to the President's call by providing an incentive to manufacturers who donate shoes to the Special Olympics. The cost the U.S. Treasury is minimal and the rewards are great for athletes who participate in the Special Olympics.

The need for this legislation exists to encourage greater contributions to groups like the Special Olympics. Approximately one million children participate in Special Olympics events alone. Should the scope of S. 2247 be broadened, as I think it should, to include all other non-profit organizations who sponsor or organize sports events for the mentally or physically handicapped, the potential for shoes would grow considerably. Seventy percent of the Special Olympic participants come from low-income families who cannot afford to pay for a pair of athletic shoes. To date only a small percentage of this need has been met by shoe manufacturers and something must be done to encourage increased donations to these worthy causes.

The number of shoes required to fit the children who participate in the Special Olympics and like events, cannot be expected to come solely from domestic manufacturers - the demand is too great and the donations to date too small to match that demand. Domestic manufacturers have only recently stated their intention to provide shoes and have yet to commit themselves to any actual donation. On the other hand, Blue Ribbon Sports/Nike has contributed a significant number of shoes to the Special Olympics, would like to contribute more but is unable to, because of financial considerations. Legislation is necessary to encourage more charitable contributions to athletic organizations for the handicapped. Without legislation providing an added incentive, I fear the donation programs will fall by the wayside while the number of participants increase.

S. 2247 has been labelled by some as a special interest bill. While it is true the legislation certainly does affect Nike directly, it also would apply to any manufacturer who imports into the U.S., including such manufacturers as Adidas, Puma, and Tiger, and also domestic manufacturers who manufacture off-shore as well. Thus, S. 2247 would encourage more companies to donate an increasing number of shoes to the Special Olympics - which is the primary goal. The real winner in this is not any particular company, but the Special Olympians who receive that brand new pair of shoes.

This issue is too important to be bogged down by squabbling between competitors in footwear manufacturing. We should instead concentrate our discussion on those who will truly benefit from the legislation now before us, the Special Olympians. The Special Olympics has given handicapped children a wonderful opportunity to participate in competitive sports activities just as the non-handicapped have that same opportunity. The Special Olympics has created an environment which allows these children to grow, not just physically, but spiritually and mentally as well. We need to do what we can to help the Special Olympics help their children.

Nike has displayed its willingness to help by contributing over 250,000 pairs of shoes to the Special Olympics since October 1981. Their record has gone unmatched by any other domestic or foreign manufacturer. The Nike give-away program and promotion of athletic events for handicapped children ought to be commended. I challenge other manufacturers to meet its donation program for the good of the Special Olympics.

Senator Packwood and I introduced S. 2247 to encourage the private sector to increase contributions to charitable organizations like the Special Olympics. As pointed out earlier in my statement, passage of this bill would have a minimal effect on the U.S. Treasury but would be very beneficial to the Special Olympics. For the sake of the handicapped youth, I urge the committee to favorably pass out S. 2247 so that the underprivileged athletes will have properly fitted athletic shoes.

I am skeptical of domestic manufacturers who claim they can meet all the needs of the Special Olympics when they have done little in the past to demonstrate their willingness to do so. If these domestic manufacturers are truly concerned about the well-being of handicapped athletes, let them acknowledge this by giving the Special Olympics Committee and like organizations a firm commitment to donate shoes. Until this happens, there is no reason to believe that domestic manufacturers can or will provide the necessary shoes.

Mr. Chairman, Nike, Inc. is and Oregon corporation and I am very proud of the leadership it has taken in establishing a relationship with the Special Olympics. I am also very proud of the role the Oregon chapter of the Special Olympics has played in facilitating the distribution of shoes for Special Olympic events all around the country. The purpose of my statement, is not, however, to promote Nike shoes or its goodwill, but to encourage other manufacturers, both domestic and foreign, to follow suit in helping organizations for handicapped youth.

Hearing on S 2247
Subcommittee on International Trade
July 2, 1982

Statement of Congressman Les AuCoin
For the Committee Report

I believe the administration has overlooked key points regarding S. 2247.

First, it claims the needs of organizations like the Special Olympics are likely to be met without the benefit of this bill. I disagree. The equipment needs of the physically and mentally handicapped for athletic competition are largely unmet. Many children compete at these competitions in boots, street shoes, or no shoes. Clearly the Administration illustrates its misunderstanding of the situation. Although footwear manufacturers have expressed an interest in donating footwear to qualifyed organizations, their odder falls far short of the potential donations the bill could bring. In the fine print, their offer refers only to the finals of the Special Olympics Competition, not to any preliminaries. I believe this legislation provides the incentive to more fully equip the handicapped at each level of athletic competition.

Second, the Administration claims that the bill represents special interest legislation, and opposes any effort to expand it. Since the only real interest is that of the handicapped athletes, and since the tax code and tariff schedule are occasionally used to provide incentives for charitable donations, I fail to see any reason not to target donations where there's a job that needs to be done.

Finally, the Administration claims that it has no way to enforce the expanded tariff provisions under current staffing levels. This can be overcome with the cooperation of footwear manufacturers, who have already stated that they would properly label the imported shoes creating a minimum amount of work for customs officials.

I believe that the Administration's reasons for not supporting the bill are shallow and poorly conceived. The importation of the footwear presents no threat to any person, any corporation, nor any job. Moreover those who need the footwear would benefit tremendously.

STATEMENT OF

ASSOCIATION OF SYNTHETIC YARN MANUFACTURERS, INC.

IN SUPPORT OF

S-2566

This statement is presented on behalf of the Association of Synthetic Yarn Manufacturers, Inc. in support of S-2566, which provides for duty-free treatment of machines specifically designed for stretch or heat-set texturing of continuous filament man-made fibers. The Association's membership is composed of firms who texture filament yarns for the production of knit and woven fabrics consumed in apparel and home furnishings. Our membership is spread geographically along the eastern seaboard in ten states from Rhode Island to South Carolina.

Since the introduction of textured man-made filament yarns in the early 1950's, textured yarn production has grown to over one billion pounds annually. This was made possible by technological developments which increased yarn output per spindle from 60 meters per minute in 1955 to a 1,200 meters per minute potential today. The resulting productivity increases and manufacturing cost reductions have been phenomenal by any standard.

To illustrate how rapidly texturing technology has developed over the past 25 years, we have prepared a table identified as Exhibit I which traces the machine developments of four manufacturers since 1955 in terms of yarn output per delivery in meters per minute. From 1955 to 1965, output increased some three fold. From 1965 to 1970, the output doubled, and doubled again by 1975 and again by 1980. This has been further illustrated in Exhibit II to show the relationship between delivery speed and output in pounds per hour. The result is a twenty fold increase in output per machine week since 1955.

Throughout the 25-year history of texturing, European and Japanese machinery manufacturers dominated in terms of technology and enabled their domestic yarn producers to capture a large share of the U.S. textured yarn market in the early 1970's. Being unable to obtain comparable technology at home, U.S. texturizers turned to Europe. The results can best be illustrated by the data in Exhibit III, which shows U.S. imports and exports of textured yarn in pounds since 1970. Beginning in 1974, U.S. texturizers turned a huge trade deficit into an enviable surplus in textured yarn.

Over the last five years, U.S. texturizers imported European texturing machines valued at roughly $100 million. In 1981 alone, U.S. textured yarn exports exceeded $400 million.

The technological lead in filament yarn texturing enjoyed by the U.S. today, coupled with a successful yarn export effort over the last five years, is what brings us before you today. In order to maintain our competitive position in the international and domestic markets, we must continue to replace older machines with the more advanced technology available only from foreign machine manufacturers, since failure to do so would be an open invitation to our competitors in Japan and Europe to retake the competitive advantage.

Currently texturing machines are imported under subpart E of part 4 of schedule 6 of the Tariff Schedules of the United States and have a column 1 duty rate of 5.3% ad valorem. While this small rate of duty may seem insignificant, it must be remembered that we are talking about machines that cost up to $600,000 each. When one considers the 5.3% duty, coupled with a 16% prime rate, the ability to purchase equipment of this type is becoming increasingly difficult.

While it may be argued that the elimination of the customs duty would be a loss to the U.S. Treasury, it should also be pointed out that the overall advantages far outweigh this consideration. In pure economic terms, one must also consider the extra income generated by corporate income taxes paid by the yarn producer, the effect on domestic employment, and finally the favorable trade balance in textured yarns. Furthermore, since the effective date of the House Bill is October 1, 1982, there would be no impact on the current budget.

Hearings on a companion bill, H.R. 5884, were held by the House Ways and Means subcommittee on May 26, 1982. We are pleased to report that the Administration presented testimony during those hearings in support of H.R. 5884 with a minor technical amendment to the definition of the machinery covered and limiting the duty suspension to three years. We have no objection to these amendments and support the position of the administration as outlined in a letter from the General Counsel of the U.S. Department of Commerce to the Honorable Dan Rostenkowski, a copy of which is attached to this statement.

In conclusion, our organization fully supports duty-free treatment for heat-set stretch texturing machines as provided for in S-2566. We hope you will agree that our position is sound and appreciate the opportunity to express our views to the Committee.

Jim H. Conner
Executive Director
Association of Synthetic Yarn Mfrs., Inc.
P.O. Box 66
Gastonia, NC 28052
(704) 867-7201

July 14, 1982

EXHIBIT I
TEXTURING TECHNOLOGY ADVANCES EXPRESSED
IN METERS PER MINUTE BY MANUFACTURER
1955 Thru 1980

	ARCT		BARMAG		SCRAGG		LEESONA	
YEAR	MODEL	METERS/MIN	MODEL	METERS/MIN	MODEL	METERS/MIN	MODEL	METERS/MIN
1955	FT-1	60					550	50
1957					CS3	N/A		
1958			FK0	90			552	90
1960							553	100
1961	FT-3	80			CS9	N/A		
1963			FK3	100				
1965	FT-400	120	FK4	185	CS12	N/A		
1968	FT-415	180						
1969			FK4C	400	SS1	160		
1971			FK5	400	SS2	400	571	140
1973	FTF-483	400					(Ceased Production)	
1974			FK6	600				
1976	FTF-90	900	FK6-900	900				
1978					SDS8	900		
1980			M-80	1200	DCS-1000	1000		

NOTE: For purposes of this table, the four manufacturers shown are the major ones whose machines have been sold in the United States since 1955. Leesona Corporation ceased manufacturing of texturing machines in the early 1970's with the introduction of European friction twist machines of the type produced by ARCT (France), Barmag (Germany), and Scragg (England).

EXHIBIT II

TEXTURING PRODUCTIVITY PER SPINDLE HOUR

AT VARIOUS DELIVERY SPEEDS

ASSUMING 100 AND 150 DENIER YARN

DELIVERY SPEED (METERS/MINUTE)	POUNDS OUTPUT PER HOUR PER POSITION 100 DENIER	150 DENIER
60	.088	.132
120	.176	.264
180	.264	.397
400	.588	.881
600	.881	1.322
900	1.322	1.983
1,200	1.763	2.644

CONVERSION FORMULA

$$\text{Output per delivery in pounds per hour} = \frac{\text{Meters/min} \times \text{denier} \times .533}{36{,}288}$$

NOTE: Output per machine week can be calculated by multiplying the pounds output per delivery position per hour by the number of spindles on the machine times 168 hours per week. At 1,200 meters per minute, the output per week for a 216 spindle machine would be computed as follows:

1.763 x 216 x 168 = 63,975 pounds 100 denier yarn

EXHIBIT III

U.S. TRADE IN TEXTURED

MANMADE FIBER YARNS

1970-1981

(Pounds in Thousands)

YEAR	IMPORTS	EXPORTS
1970	77,892	N/A
1971	145,087	N/A
1972	126,640	N/A
1973	100,271	39,515
1974	41,890	57,117
1975	30,999	53,505
1976	30,841	49,123
1977	48,399	56,592
1978	21,099	56,439
1979	11,979	143,825
1980	9,062	190,273
1981	12,174	317,860

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

JUN 21 1982

COMMITTEE ON
RECEIVED
JUN 29 1982
WAYS AND MEANS

Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Commerce on H.R. 5884, a bill:

> "To apply duty-free treatment to machines specifically designed for stretch or heat-set texturing of continuous filament manmade fibers."

If enacted, H.R. 5884 would eliminate the column 1 (MFN) duty on certain machines designed for texturing continuous filament manmade fibers. The column 2 (statutory) duty of 40% ad valorem is unaffected by this legislation.

Machines for heat set, stretch texturing of continuous filament manmade fibers are primarily classified under Tariff Schedules of the United States (TSUS) item 670.06 with a column 1 duty of 5.3% ad valorem and an LDDC duty of 4.2% ad valorem.

The Department of Commerce would have no objection to enactment of H.R. 5884 provided the definition of the machinery involved were revised to cover machines specifically designed for "heat set, stretch" texturing of continuous filament manmade fibers, vice "stretch or heat-set" texturing (emphasis added). We also recommend that H.R. 5884 be revised to provide for a three-year duty suspension instead of a duty elimination.

There is at least one manufacturer of stretch texturing machinery in the United States. This manufacturer produces air-jet stretch texturing machinery designed to process heavier yarn than that treated by heat-setting. The change in definition would assure that texturing machinery produced in the United States would not be covered by the duty-free treatment.

A duty suspension of three years would allow time to assess any economic impact of duty free treatment, while benefiting U.S. users of heat set, stretch texturing machinery.

The U.S. International Trade Commission (USITC) estimates that enactment of H.R. 5884 would result in an average annual revenue loss of $1.07 million. Enactment of H.R. 5884 would have no effect on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

Sincerely,

Irving P. Margulies

for Sherman E. Unger
General Counsel

WHCLIST

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES TASKFORCE

301 Hanover Bldg., 480 Cedar St., St. Paul, MN 55101

July 29, 1982

Senate Committee on Finance
2227 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Sir:

I am writing regarding S. 2685 to implement the Nairobi Protocol to the Florence Agreement on the importation of educational, scientific and cultural materials and request that this letter be entered into the record for the July 21, 1982 hearing on this matter of the Senate Finance Committee.

The White House Conference on Library and Information Services Task Force (WHCLIST), representing each state and territory, was created by the White House Conference on Library and Information Services and charged with responsibility for monitoring implementation of conference resolutions. Conference resolutions were adopted by some 800 White House Conference delegates representing more than 100,000 persons who participated in state and territorial pre-White House Conferences.

WHCLIST supports S. 2685 as a mechanism for implementing White House Conference Resolution E-1 resolving "that protocol for library and information exchange in the United States support the participation in the universal availability of publications and encourage the elimination of trade and other barriers to the exchange of library materials and information of all kinds..." Users of libraries have benefited greatly from the provisions of the original Florence Agreement, because the costs of imported educational, scientific and cultural materials have been reduced and administrative procedures for importation have been simplified. The Nairobi Protocol, adding duty free treatment to microforms, audio and visual material, will result in greater benefits.

WHCLIST urges your committee to report favorably on S. 2685 and to seek Senate consideration as soon as possible after consideration of the protocol itself.

Sincerely yours,

William G. Asp

William G. Asp
Chair

WGA:rm

TESTIMONY OF NATIONAL BULK VENDORS ASSOCIATION

BY

MICHAEL R. LEMOV
SPECIAL COUNSEL

ON BEHALF OF S. 2692

BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE
SUBCOMMITTEE ON INTERNATIONAL TRADE
JULY 22, 1982

Special Counsel:

Michrel R. Lemov
Leightın Conklin Lemov Jacobs
and Bu :kley, Chartered
2033 M Street, N.W.
Suite 8 J0
Washington, DC 20036
(202) 785-4800

Mr. Chairman and Members of the Subcommittee:

My name is Michael R. Lemov, I am Special Counsel to the National Bulk Vendors Association. I am here today to urge your support for S. 2692, a bill co-sponsored by Chairman Danforth and Senator Bentsen. The language of S. 2692 is identical to that of H.R. 6268 which was favorably reported on June 22, 1982, by the House Ways and Means Subcommittee on Trade. This bill is supported by the Administration and by the bulk vending, toy and jewelry industries. In drafting the legislation, care was taken to assure that no harm can befall any American industry as a result of the bill. To our knowledge, there is no opposition to S. 2692.

Briefly, the National Bulk Vendors Association is an organization of approximately 165 small businesses that include manufacturers and servicers of the bulk vending machines and distributors and importers of the items vended. Bulk vending machines are typically non-electrically operated machines that dispense confections, gum balls, nuts, toys, and novelty items at random from bulk. The machines are located mostly in supermarkets and department stores throughout the country. There are approximately 800,000 machines in use nationally.

Nationwide, there are approximately 12 manufacturers of bulk vending machines, 30 to 40 distributors of the machines and their contents, and hundreds of vending machine operators. In total, the industry provides jobs for over 10,000 people throughout the United States. The industry serves a useful function creating jobs and selling recreational products mostly to America's children. Approximately 30% of the merchandise which is sold in the machines can be classified as small toys and novelty items which are imported largely from Hong Kong and Taiwan. These are sold for five cents, ten cents and twenty-five cents.

Mr. Chairman, the bulk vending industry needs S. 2692 because the economic viability of this industry has been seriously threatened in the past decade by a combination of inflation and maintenance of the tariffs in question. Our primary reasons for urging your favorable consideration of this legislation are as follows:

1. The tariffs in question[1/] are an anachronism and serve no useful purpose. At the time they were enacted there was a small domestic industry that produced these imported novelties. No domestic industry exists at this time. In the last decade, the labor costs involved made it impossible for American producers to manufacture these items. Since there is no domestic industry at this time, the tariffs no longer serve the purpose for

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1/ See 19 U.S.C. §1202, TSUS 735.19, 737.77, 740.30 and 740.34 through 740.38.

which they were intended. Attached to our testimony are Exhibit A, a letter from the President of the Toy Manufacturers of America, and Exhibit B, a letter from the jewelry industry, indicating that there is no domestic industry of which they are aware and also indicating support for this type of legislation.

2. The bulk vending industry is composed entirely of small businesses. They are virtually all "Ma and Pa" operations. It is a significant hardship for them to pay a duty that may range from 7.7 percent to 22 percent on these imported novelty items.

3. The industry in total is so small as to be insignificant in terms of tariff revenues. We estimate that the total sales of both vending machines and of the products distributed through them is less than $100 million per year in the United States. We estimate that the total amount of charms, novelties and small toys imported for sale in our machines is between $7 million and $10 million per year. Assuming an average duty of 14 percent (which is probably high) the total loss of revenue from the repeal of these tariffs would be, at maximum, $1 million, an amount which we suggest is minimal in terms of revenues to the Treasury, but which is of great significance to

the struggling companies in the bulk vending industry.

4. Current economic conditions have adversely affected the bulk vending industry. Annual sales have fallen in recent years as the number of people in the industry and the number of machines on location have dropped. We believe the primary reasons for this reduction are: 1) declining birth rates; 2) inflation; and 3) the closing of numerous national supermarkets, thus reducing available outlets. In part, the problem is caused by the unique nature of the industry, in the sense that cost increases cannot be passed on in the form of higher retail prices to our purchasers. The coin slots on the simple mostly non-electrical bulk vending machines are fixed at either one cent, five cents, ten cents, or twenty-five cents. If the cost of merchandise goes up, the coin slot cannot be changed. As a result, operators must absorb much of the increased cost thereby diminishing or eliminating their profits until the operator cannot afford to absorb any further increased costs. At that point, an item previously vended through a five cent machine is then vended through a ten cent machine and corresponding items vended in ten cent machines would be increased to

twenty-five cent machines. The result is lesser value merchandise available for children and a loss of incentive for persons to buy bulk vending products from our machines.

5. The existing schedules impose an administrative burden to the industry and the Customs Bureau. The duties imposed on the items imported range from 7.7 to 22 percent depending upon which of the approximately 13 applicable classifications an item falls within. Moreover, whether a particular item fits within one category or another has been the subject of frequent controversy. Consequently, different results have been obtained at different ports of entry. Passage of S. 2692 would eliminate a portion of this burden thereby assisting both the bulk vending industry and the Customs Bureau.

The bulk vending industry has not grown in recent years — rather, jobs have been lost and the financial pressures on the industry now threaten its existence. In the 1960's there were perhaps as many as 1,000 operators spread across the United States. Today the estimated number of total operators is less than 500. The National Bulk Vendors Association has diminished in size during the same period from about 350 members to the current 165 members, the smallest number of members in over 30 years. Moreover, the average profit margin in the industry is extremely low ranging from an estimated 2.3 percent of net sales to 4.7 of net sales.

Mr. Chairman, the foregoing are the primary reasons for our request that this Subcommittee grant relief from an unnecessary tariff. Several states have already recognized the plight of the bulk vendors of America and have enacted legislation exempting from sales tax certain classifications of bulk vended merchandise and/or exempting from licensing fees the companies that so vend. See Exhibit C. Moreover, the bill before you is fully supported by the Administration and all American industries affected by it.

In the final analysis, the real basis for our plea is people. We are appealing to you on behalf of the thousands of employees and the hundreds of small businesses which are the employers in our industry. We ask you to help our industry survive and to continue to provide jobs and services to the American public. We stand ready to answer any questions the Subcommittee may have or furnish any further information concerning S. 2692 and the bulk vending industry. We thank you, Mr. Chairman, and the Subcommittee for your consideration.

#

TOY MANUFACTURERS OF AMERICA

April 21, 1982

Mr. Michael R. Lemov
Leighton Conklin Lemov
Jacobs and Buckley
2033 M Street, Northwest
Washington, D.C. 20036

Dear Mr. Lemov:

As we discussed on the phone, the Toy Manufacturers of America would offer no objection to a proposal to exempt from duties the small toys and novelty items sold in vending machines.

A review of our membership indicates that such items, valued at fifteen cents or less per item, are not part of this domestic industry.

Yours very truly,

Douglas Thomson
President

DT/ik

cc: Aaron Locker

EXHIBIT A

200 FIFTH AVENUE/NEW YORK, N.Y. 10010/PHONE (212) 675-1141

MANUFACTURING JEWELERS & SILVERSMITHS OF AMERICA INC.

THE BILTMORE PLAZA HOTEL, KENNEDY PLAZA
PROVIDENCE, RHODE ISLAND 02903
(401) 274-3840

June 7, 1982

Michael R. Lemov, Esq.
Leighton Conklin Lemov Jacobs & Buckley
2033 M Street, N.W., Suite 800
Washington, DC 20036

Re: H.R. 6268

Dear Mr. Lemov:

This is to confirm our Association's position on the legislation cited above as we have previously discussed.

Manufacturing Jewelers and Silversmiths of America has no objection to the proposed duty-free entry of jewelry and novelty items valued not over 1.6¢ per piece.

This type of product is, to the best of our knowledge, not produced by manufacturers in the U.S. and we therefore raise no objection to this legislation.

Sincerely yours,

Matthew Runci

Matthew A. Runci
Executive Assistant to
Vice President/Executive Director

MAR:JM

EXHIBIT B

NEW YORK OFFICE: 570 SEVENTH AVENUE, ROOM 504, NEW YORK, NY 10018 — (212) 921-2590
SOUTHWESTERN OFFICE: P.O. BOX 872, PLANO, TX 75074 — (214) 867-8200
WESTERN OFFICE: P.O. BOX 626, ALTA LOMA, CA 91701 — (714) 989-1998

(312) 346-3100 NATIONAL BULK VENDORS ASSOCIATION Suite 2323
135 South LaSalle Street
Chicago, Illinois 60603

PARTIAL LIST OF TAX RELIEF

There are many states which have recognized the special needs and problems of our industry and have enacted exemptions for sales through bulk vending machines. The essential ingredient to this special legislation is our definition of a bulk vending machine which sets us apart from the balance of the vending industry:

> "A non-electrically operated vending machine, containing unsorted confections, nuts or merchandise which, upon insertion of a coin, dispenses the same in equal portions, at random and without selection by the customer."

Our first statewide effort for this legislation was in Illinois and resulted in the passage in 1971 of an amendment to the Retailers Occupation Tax Act (sales act) which exempted sales through one cent bulk vending machines. Ill. Rev. Stats., Ch 120, §§ 440 and 439.2.

The states of Iowa, Connecticut and Kentucky among others, also exempt from licensing and/or sales tax any vending machine dispensing only ball gum or similar nonperishable snacks. Conn.-Conn. Gen. Stat. § 12-412(aa) (1979) [sales tax exemption for one cent vending machines, license fee required]; Iowa-Iowa Code Ann. § 191A.2 (West 1971) [license fee exemption, no sales tax exemption]; Ky.-Ky. Rev. Stat. §§ 139.470(6) and 217.811 (1971) [sales tax exemption for one cent vending machines, exemption from permit and fee requirements].

Regarding sales taxes, the following states have exempted from sales tax those sales priced below the specific amounts as indicated:

STATE	AUTHORITY	AMOUNT
Indiana	Ind. Code Ann. § 6-2.5-2-2(a) (Burns 1978)	15 cents or less
Maryland	Md. Ann. Code Art. 81, § 325 (1980)	19 cents or less
Ohio	Ohio Rev. Code Ann § 5739.02 (Page 1980)	15 cents or less
W. Virginia	W. Va. Code § 11-15-11 (1974)	15 cents or less
N. Dakota	N.D. Cent. Code § 57-39.2-03.3 (1972)	15 cents or less

EXHIBIT C

The above states exempted all sales at the indicated prices. The following states specifically exempt sales from vending machines from the sales tax with prices below a certain amount:

Idaho	Idaho Code § 63-3622(o) (1976).	15 cents or less
Nebraska	Neb. Rev. Stat § 77-2704(j) (1976)	Less than 15 cents
Texas	Tex. Tax Code Ann. Tit. 122A, § 20.04 (Vernon 1969)	16 cents or less
Virginia	Va. Code § 58-441.34 (1974)	10 cents or less

In Virginia, a tax of 4% of the wholesale cost of goods purchased for sale at retail is scheduled to replace the above exemption effected July 1, 1982.

At least one state exempts all vending sales of candy, nuts, chewing gum, etc. from sales tax:

Michigan Mich. Comp. Laws § 205.54(g) (1978)

At least five states give specific relief to operators of vending machines when the sales are priced at 10 cents or less and after certain other qualifications are met. The other qualifications usually involve the requirement that the retailer be primarily engaged in the business of making such sales and keeping records satisfactory to the local Tax Assessor or Tax Collector:

Maine	Me. Rev. Stat. Ann. Tit. 36, § 1760(34) (1978)	15 cents or less
Mass.	Mass. Ann. Laws ch. 64H, § 6(t) (Law. Co-op 1978)	10 cents or less
New Jersey	N.J. Stat. Ann. § 54:32B-8.9 (West 1960)	10 cents or less
New York	N.Y. Tax Law § 1105(d)(ii)(c) (McKinney 1975)	10 cents or less
S. Carolina	S.C. Code § 12-35-550(22) (1976)	10 cents or less

The states of Connecticut and Minnesota tax vending sales at special rates. Conn.-Conn. Gen. Stat. § 12-408(i)(b) (1979) [3 1/2% tax on sales of 7¢ or less instead of 7% general rate]; Minn.-Minn. Stat. Ann. § 297A.0_ (West 1972) [3% tax instead of 4% general rate].

McIlhenny Company
ESTABLISHED 1868
Avery Island, Louisiana 70513 / Telephone 318·365 8173
MANUFACTURERS OF
TABASCO
BRAND PRODUCTS

July 26, 1982

STATEMENT

RE: S-2705 - A BILL TO SUSPEND DUTY ON GROUND HOT RED PEPPER AND SALT

Our company has been growing a special variety of pepper for our use since 1868. Within the last eighteen years, in order to keep up with production of our pepper sauce, we have been forced to grow this pepper outside of the United States. The ripe red peppers are mixed with salt and are ground or macerated the day they are picked. The "mash" is then put in white oak barrels for aging. At that point, the peppers are ready for shipment to our plant in the United States. This mash is then aged in warehouses on Avery Island, Louisiana until judged by a member of the McIlhenny Company family to be properly mellowed and cured for use in TABASCO brand pepper sauce.

Only approximately 300 acres of these special variety of pepper which we use for our sauce is grown in the United States. We are growing 40 acres of that ourselves. These special pepper "mash" is not offered for sale in the United States by any individual or business entity. Our company stands ready to purchase any mash made with our special variety of pepper and which we judge to be a suitable quality and within reason as to price. We feel that the duty we are forced to pay on some of the pepper mash we import was not meant to protect this very specialized product and industry. The revenue loss this year, if we have an excellent crop in Mexico, would be approximately $10,000.

Edmund McIlhenny Jr.
EDMUND McILHENNY, JR.

August 3, 1982

STATEMENT OF
THE INSTITUTE OF SCRAP IRON AND STEEL
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE
COMMITTEE ON FINANCE
U.S. SENATE
ON H.R. 4566

The Institute of Scrap Iron and Steel, Inc., 1627 K Street, N.W., Washington, D.C. 20006, a national trade association representing 1,500 processors, brokers and dealers of metallic scrap, and industry suppliers, urges favorable consideration of H.R. 4566, an omnibus tariff bill which passed the House of Representatives on October 13, 1981. Institute members process, ship, or otherwise handle approximately 90 to 95 percent of the iron and steel scrap purchased in the United States, and handle equally impressive percentages of the many other metallic scrap materials which are recycled in our economy.

Specifically, the Institute supports section 17 of H.R. 4566, which amends the U.S. Tariff Schedules by granting permanent duty-free treatment for certain imported metal waste and scrap. The existing tariff has been suspended on a nearly continuous basis for the past forty years, by way of "temporary" three year extensions which have been renewed as a matter of course since 1942. Because the latest duty suspension period was due to expire on June 30, 1981, Congressman Vander Jagt introduced H.R. 2479 earlier this session, which proposed to suspend the duties for an additional three years. In a hearing before the House Ways and Means Trade Subcommittee on June 15, 1981, the Institute appeared in support of the bill, and suggested an amendment which would provide for permanent duty-free treatment of metal waste and scrap; the Subcommittee subsequently approved such an amendment. Significantly, no witness from either the public or private sector appeared in opposition to the bill. When the full Committee considered the bill, in addition to approving the amended version of H.R. 2479, it also consolidated a number of miscellaneous tariff measures into one omnibus bill, which became H.R. 4566. The body of the scrap metal bill now appears as section 17 of H.R. 4566.

We feel that the reasons for eliminating the duty are compelling and of a continuing nature. The past forty years have demonstrated an established precedent and procedure that benefits all the affected parties and their nations, in a manner which damages no other interest. The Institute respectfully submits that a permanent duty-free status for these tariff items is certainly justified.

We believe that section of H.R. 4566 represents sound economic policy. First, if the existing duty suspension is not renewed, the added costs of the duty would make it more difficult for certain U.S. manufacturers to keep their overall costs in line. Second, the elimination of the duty would have no adverse impact on a domestic industry. On the contrary, it would assist segments of the U.S. steel and foundry industries.

Finally, the duty elimination will preserve the natural market flow between scrap sources and scrap users, ignoring national boundaries -- such access to supplies is particularly important in the trade in the northern part of the United States, since Canada has traditionally been by far the principal source of imports of iron and steel scrap into this country. Moreover, trade in iron and steel scrap between the U.S. and Canada flows in both directions; Canada recognizes the importance of permitting relatively unimpeded trade in iron and steel scrap between the two countries, and permits the entry of U.S. imports of such scrap duty-free. It is very much in our own interest that the U.S. provide similar treatment to Canadian imports.

For all of the above reasons, and in light of the absence of any opposition to the legislation by either Executive Branch agencies or the private sector, the Institute of Scrap Iron and Steel strongly supports section 17 of H.R. 4566, and urges favorable consideration by the Finance Committee.

Thank you.

Herschel Cutler

Herschel Cutler
Executive Director
Institute of Scrap Iron and Steel, Inc.
1627 K Street, N.W.
Washington, D.C. 20006

CANNED TUNA

August 3, 1982

The Honorable Robert Dole
2227 Dirksen Senate Office Bldg.
Washington, D. C. 20510

Dear Chairman Dole:

On behalf of the domestic tuna industry, we wish to respond to the supplemental testimony of the Association of Food Industries, Inc., which they filed following the hearing on July 21, 1982, with respect to H.R. 4566.

On July 21, 1982, Mr. Herbert Harris of Harris, Berg and Creskoff testified on behalf of the Association of Food Industries, Inc., which is a group of importers of foreign food products including canned tuna. These importers of foreign-produced food products seek to reverse the policy of U.S. Customs in order to increase the shipment of foreign-processed canned tuna to the U.S.

The supplemental testimony by the importers is mendacious in its perfidious representation of our position and the manipulation of facts. There is clear intent by the importers to mislead the Senate Finance Committee with respect to the impact of Section 2 of H.R. 4566. The simple facts are these:

- American Samoa is a special case; it is outside the U.S. Customs jurisdiction; it has special duty-free status because of U.S. policy as manifested in the 1956 Presidential Proclamation, 3128, Part II, and further predicated on U.S. Senate policy as provided in the Trade Act of 1974

- As part of U.S. policy to encourage the growth and development of the Island's economy, U.S. companies in the early 1950's were encouraged to assist in the development of a local fishing industry. In thirty years of struggle, the local fishing industry in American Samoa has survived and is today a viable part of its economy.

- It is a fact that if the American Samoan tuna pack is not included in the import quota calculations, more foreign-packed tuna can enter the U.S. market, where it competes at unfair advantages with the domestic product.

TUNA RESEARCH FOUNDATION, INC.

SUITE 603 · 1101 SEVENTEENTH STREET, N W · WASHINGTON, D. C. 20036 · (202) 296-4630

98-592 0 - 82 - 42

- There is a clear pattern of increased foreign imports. The U.S. Customs figures attached make clear this point. And the very reason the importers group in the U.S. seeks to reverse U.S. policy with respect to its treatment of the American Samoan product is to allow greater increase in imports, contrary to the purpose of a tariff rate quota system on canned tuna.

We restate our strong opposition to Section 2 of H.R. 4566 and submit that the supplemental testimony offered by the importer group is clearly a subterfuge to mislead the members of the Committee.

We respectfully urge the Committee to delete Section 2 of H.R. 4566.

Very truly yours,

John P. Mulligan

John P. Mulligan
President

Attachment
JPM:jj

1979 CANNED TUNA IMPORTS

COUNTRY OF ORIGIN	POUNDS
Japan	28,366,349
Taiwan	12,282,144
Philippines	6,998,243
Thailand	4,843,885
Spain	336,283
Malaysia	291,736
Ghana	195,000
Peru	190,980
Maldive	62,347
Portugal	54,222
Azores	36,799
Korea	27,300
Italy	8,429
Hong Kong	4,988
Brazil	1,682
China	1,320
Israel	1,291
Ecuador	756
Netherlands	150
France	132

TOTAL 53,704,036 pounds

TSUS Number	Pounds
112.3020	14,729,464
112.3040	38,342,295
112.3400	4,988
112.9000	672,289

Source: Imports--IA 245X, annual 1979, U.S. Dept. of Commerce

SUMMARY
1980 CANNED TUNA IMPORTS

COUNTRY OF ORIGIN	POUNDS
Japan	24,793,694
Taiwan	15,946,576
Philippines	13,777,042
Thailand	6,404,581
Peru	1,125,308
Maldive	599,683
Spain	145,811
Fiji	143,850
Korea	127,176
New Zealand	93,765
Hong Kong	90,534
Malaysia	66,077
Azores	50,038
Portugal	37,354
French West Indies	32,419
Switzerland	29,250
Macao	29,250
Singapore	27,700
Cape Verde	18,265
China	6,584
Denmark	3,131
Israel	1,866
USSR	1,269
Germany	825
France	417
Netherlands	313
Canada	170
TOTAL	63,552,948 pounds

TSUS Number	Pounds
112.3020	16,522,256
112.3040	43,707,805
112.3400	2,877,096
112.9000	445,781

Source: Imports--IA 245X, Annual 1980, U.S. Dept. of Commerce

1981 CANNED TUNA IMPORTS

COUNTRY OF ORIGIN	POUNDS
Philippines	21,451,220
Japan	21,271,107
Taiwan	15,770,756
Thailand	10,314,799
Malaysia	696,109
Maldive	592,268
Spain	170,008
Indonesia	146,211
Hong Kong	66,957
Singapore	64,838
Australia	58,481
Azores	58,373
Peru	51,539
Trinidad	32,328
Korea	31,172
France	27,517
Portugal	24,420
Italy	15,876
Cape Verde	4,988
China	2,645

TOTAL: 70,851,612 pounds

TSUS Number	Pounds
112.3020	12,606,674
112.3040	46,332,399
112.3400	11,644,306
112.9000	268,233

Source: Imports--IA 245X, Annual 1981. U.S. Dept. of Commerce

STATEMENT OF
ROLAND R. RICHARD

BUSINESS UNIT MANAGER
SIMONDS CUTTING TOOLS
INTERVALE ROAD
FITCHBURG, MASSACHUSETTS 01420
(617) 343-3731

Simonds Cutting Tools strongly urges the Subcommittee on Trade of the Senate Finance Committee to recommend passage of H.R. 4566. This legislation would make permanent the reduction in duties on chipper knife steel.

Simonds relies heavily on foreign imports of chipper knife steel due to the high cost of this particular alloy from U.S. sources. These imports, however, when combined with other domestic knife manufacturers are less than two tenths of one percent of domestic specialty steel production as reported by the Machine Knife Association.

A large disparity has existed for many years where the rate of duty on chipper knife steel was approximately 13% and the rate of duty on finished chipper knives approximately 5%. Since chipper knife steel accounts for approximately 50% of the cost of producing chipper knives, this disparity on rates of duty placed Simonds at a serious disadvantage in competing against foreign knife imports, which were taking a large share of the domestic chipper knife market.

Since the temporary tariff reduction in December, 1980, Simonds has been able to reduce production costs and have, therefore, become more competitive with foreign chipper knife imports.

The approval of H.R. 2485 on September 16, 1981, by the Full Ways and Means Committee to make permanent the reduction in duties on chipper knife steel offered a great deal of hope for our business. It eliminates the disparity that existed for so long and permanently links the duty on chipper knife steel to the duty on finished chipper knives.

Passage of H.R. 4566 is essential to the future of our chipper knife business. We must be allowed to compete on an equal basis. A substantial loss of jobs in the manufacture of chipper knives has already resulted from the high duties on chipper knife steel. Unless the reduction in duties to parity is made permanent, the decline of our chipper knife business will continue to the point where there will be no industry left to purchase either imported or domestic chipper knife steel.

Therefore, we again strongly urge members of the Subcommittee on Trade of the Senate Finance Committee to recommend passage of H.R. 4566.

Respectfully submitted,

Roland R. Richard
Simonds Cutting Tools
Fitchburg, Massachusetts

baC/2

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July 21, 1982

The Honorable John C. Danforth
Chairman, Subcommittee on International Trade
U.S. Senate Committee on Finance
2227 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The Subcommittee on International Trade is conducting hearings July 20 and 21 on various tariff measures, including H.R. 4566. On behalf of the American Tunaboat Association (ATA), which represents U.S.-flag, long-distance tuna vessel owners, I wish to express opposition to this bill which would have a serious impact on the U.S. tuna industry and ask that this letter be included in the hearing record on H.R. 4566.

American Samoa, a U.S. territory, is the location of substantial tuna canning facilities, owned and operated by U.S. corporations, which are subject to U.S. wage, consumer and environmental laws. Exports of canned tuna comprise 99% of all exports from that insular possession. ATA member vessels deliver their tuna catches to canneries in American Samoa. Over the last three years, more and more of the U.S. tuna fleet has moved to fishing grounds in the Central and Western Pacific and therefore the competitiveness of tuna canned in, and stability of canning operations located in, American Samoa is of great concern to ATA.

For some time now, imported canned tuna in water has been subject to a tariff of six percent and then 12.5 percent when the amount imported in any year exceeds twenty percent (by volume) of the previous year's domestic production of canned tuna in water. Canned tuna from American Samoa is not subject to the tariff but the volumes imported are presently counted in determining when the tariff is increased to 12.5 percent. H.R. 4566 would reverse this practice and would exclude the volume of canned tuna in water processed in American Samoa from the calculation of when the quota is reached. The result will be expanded imports at a time when warehouses are glutted with canned tuna and U.S. fishermen are facing a 15 to 25 percent drop in prices. The 12.5 percent tariff has been an effective protective measure, although it is becoming less so. Enactment

The Honorable John C. Danforth
July 21, 1982
Page Two

of this bill would weaken this protective measure and would seriously harm the industry as it struggles through its worst financial crisis in over 50 years.

Imports of canned tuna (other than American Samoa) increased from 5.9 percent of the U.S. supply in 1977 to ten percent in 1981. During that same period, the share of U.S. fishermen's catch included in that supply of canned tuna declined from 35.5 percent to 31.2 percent. These are not positive trends for the U.S. tuna fleet. The industry faces even greater foreign competition because of today's high interest rates and operating costs (especially fuel costs) and a continuing serious economic recession.

Let me point out that U.S. tunaboat owners have rarely petitioned Congress for trade or tariff assistance or protections. The fleet has been highly competitive with foreign sources of fresh and frozen tuna for canning even with the requirement that U.S.-flag tuna vessels be built in U.S. shipyards, at least until recently. Foreign imports of fresh or frozen tuna (unlike canned products) enter the United States duty-free, and ATA has not sought protection against these imports. Furthermore, foreign-flag tuna vessels may land their catches in American Samoa and Guam, something they cannot do in Hawaii, Puerto Rico, or the continental United States because of the Nicholson Act. U.S. tuna vessel owners have accepted these exceptions as appropriate national policies for protecting the fragile economies of our Pacific insular possessions.

But as you can see from the statistics cited above, we face expanding foreign imports (valued in 1981 at $583 million). Our major competitors, the Japanese, are now converting to the purse seine method of tuna fishing, which our fleet pioneered to a level of high efficiency. Other nations have ambitious plans for developing their tuna fleets, often with substantial government assistance. While our fleet competes in a free and open market, our competitors are not always so devoted to that sort of competition. Foreign processing and harvesting activities often do not have to meet the same labor costs, consumer standards, and environmental quality requirements as the U.S. tuna industry does.

Consequently, we urge that you eliminate the provision in section 2 of H.R. 4566 that would prevent American Samoa-origin canned tuna imports from being counted toward the tariff quota which triggers the increased tariff on imports of canned tuna

The Honorable John C. Danforth
July 21, 1982
Page Three

from other countries. We urge Congress to continue its longstanding policies of assisting the U.S. fishing industry and U.S. insular possessions during these economically difficult times.

If the Subcommittee were to take any action, we would recommend that you eliminate the quota system and impose a tariff rate of 12.5 or even 15 percent on all imports of canned tuna packed in water, except of course those from American Samoa. At a minimum, the Subcommittee should strike section 2 from H.R. 4566.

Sincerely yours,

James P. Walsh
Washington Counsel
American Tunaboat Association

JPW:ko
cc: August Felando

Truck Trailer Manufacturers Association

1020 PRINCESS STREET ALEXANDRIA, VA. 22314

Utilizing TTMA Services may give you an Education; not using them will give you experience.

CHARLES J. CALVIN
PRESIDENT

(703) 549-3010

July 23, 1982

Senator John C. Danforth, Chairman
International Trade Subcommittee
Senate Finance Committee
2227 Dirksen Office Building
Washington, D. C. 20510

Re: S. 1717 and HR 4566 (Sec. 18)
<u>Repeal of Cargo Container Tariff</u>

Dear Senator Danforth:

The truck trailer manufacturers which also produce intermodal cargo containers urge your subcommittee to carefully consider the following comments regarding two proposals to prematurely end the tariff on cargo containers with a gross mass rating of at least 40,000 pounds. The result would be a severely damaged domestic transportation equipment industry.

We maintain:

- That the high inflation and interest rates have already depressed the trailer and container industry. The industry cannot withstand the setback that would be caused should the tariff be lifted.

- Since no foreign trading partner will benefit significantly, the cause of better international trade is not furthered by this bill.

- The domestic trailer manufacturers which provide the plant capacity and workers for container manufacture may well be supplanted by an influx of foreign competition.

Senator John C. Danforth July 23, 1982

THE STATE OF THE INDUSTRY

This year is another dismal year for the industry which produces van trailers, tank trailers, and containers. Three low-production years in a row have meant plant closings and lay-offs.

FOREIGN TRADE WILL NOT BENEFIT

Proponents of S. 1717 and the container section of HR 4566 contend they are burdened by unreasonable tracking requirements for intermodal cargo containers for which the tariff has not been paid. According to customs regulations, these containers may move from port to destination and back to the port by a "reasonably direct" route without incurring the tariff. Shippers wish to allow their containers tariff-free entry to eliminate this tracking. Yet the cargo and the container must still be tracked for corporate inventory purposes and all are managed easily through computers now standard in the industry. Virtually no savings can therefore be expected while American manufacturers bear the burden of possible inconvenience.

Most recent production of the class of containers addressed by the bills (those with a gross mass rating of at least 40,000 pounds) is concentrated in developing nations which are not now subject to the tariff due to their status under the Generalized System of Preferences. Rather, those nations who in the past decade provided most of the production are those covered by the 3.1% tariff and include such aggressive trading partners as Great Britain, Germany, and Japan. These "Most Favored Nations" do not need our special and unilateral concessions. In fact, the 1979 Multilateral Trade Negotiations settled the tariff question on containers with a declining percentage reaching 0% in 1987. Why the call for action now?

To protect American manufacturers, the trailer industry foresees the need, should this bill pass, for a heavy tariff of the type recently imposed on Japanese trucks. Our current 3.8% tariff is some protection. But, should that be lifted, the influx of foreign competition would certainly produce cries for the 25% tariff protecting the domestic truck industry.

FOREIGN INFLUX PREDICTED

The small tariff now protects American trailer manufacturers from substantial foreign penetration of trailer-like containers. The declining tariff arrangement provides for a gradual adjustment to international market realities by American manufacturers. Should the tariff be lifted in one step, the impact could be an influx of containers which could be converted to domestic highway use as a trailer or truck body. Some containers would merely be attached to container chassis while others would undergo modest refitting for running gear. Worldwide, there are several million containers. If only one percent were to enter this country, our domestic trailer and container industry would be gravely disrupted.

As foreign manufacturers became established selling and refitting containers in this country, setting up sales and service facilities throughout the country, the next obvious step would be the importation of truck trailers made specifically for the American market and complying with federal safety standards. Protective tariffs would be too late to save our industry.

TTMA SUPPORTS THE INTERNATIONAL INTERMODAL CARGO CONTAINERIZATION MOVEMENT

Our association was the first to sponsor and develop seminars on the new containerization movement in January 1956. For many years we worked to develop securing device standards now in use throughout the world. But, we are unable to support bills which would allow these containers to remain in this country for domestic transportation use. As Instruments of International Traffic, they should continue to move freely between countries but not be used for domestic purposes.

The Truck Trailer Manufacturers Association urges the Subcommittee on International Trade to reject both the House-passed version (Section 18 of HR 4566) and S. 1717.

Sincerely yours,

Daniel R. Miller
Government Relations Counsel

DRM/ajb

SUPPLEMENTAL STATEMENT
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE, U. S. SENATE
RELATING TO THE TARIFF TREATMENT OF TUNA
PACKED IN AIRTIGHT CONTAINERS

By
Richard Sullivan, Executive Director
Association of Food Industries, Inc.

Current market disruption in the tuna industry is directly related to the imports of two U. S. packers with plants in American Samoa, and to a change in Customs practice in 1978 to classify Samoan tuna in TSUS 112.30, a tariff rate quota classification.

The facts are simple:

- Tuna in brine, classified under TSUS 112.30, is the only tuna regulated under the quota. This is the only tuna addressed by H. R. 4566, Section 2.
- Two U. S. firms produce all the tuna fish in American Samoa.
- They import this production into the United States, where it is counted against the tariff rate quota.
- These imports are not controlled by the quota. No duty is assessed on them. There is no restriction on them, before or after the quota is filled.
- By filling a substantial portion (approximately 40%) of the import quota with American made product from American

Samoa, these firms help close the quota and trigger double duties on foreign imports.

- It is contrary to constitutional thought to give to interested private parties substantial power to close a quota for others, but not for themselves, and to trigger double duties on others and not for themselves.

The levying of duties is a function of government, not of private industry. H. R. 4566, Section 2 protects this governmental function. The logic of H. R. 4566, Section 2, is indisputable. Imports from the U. S. insular possessions which are not subject to the duty on tuna and not controlled by the quota on tuna, should not be charged against the quota. That is all that H. R. 4566, Section 2 accomplishes.

Until the July 21, 1982 public hearing of the Senate Finance Committee's Subcommittee on International Trade, the Tuna Research Foundation indicated that it would not oppose H. R. 4566, Section 2.

The Association of Food Industries, Inc. submits that the reasons given by the Tuna Research Foundation for opposition to Section 2 of H. R. 4566 relative to the classification for tuna in brine are misleading and without merit.

* * * *

> The contention that the elimination of American Samoan tuna from the import quota would permit more imported product to enter the U. S. market is misleading.

* * * *

* * * *

From 1956-1978 U. S. Customs classified little or no Samoan tuna under the import quota. Furthermore, U. S. packers in Samoa did not classify their tuna under the quota classification when they imported it into the U. S.

It is a matter of concern that both the U. S. Customs Service and the U. S. packers of tuna in American Samoa persisted in their misclassification error for so many years.

To say the very least, it is difficult to understand why these same packers would now assert that the elimination of Samoan tuna from the import quota would permit more imported product to enter the U. S. market. They are bringing in more and more imports from American Samoa, at the expense of operations in California and Puerto Rico, as is demonstrated by the table below.

IMPORTS OF TUNA IN BRINE FROM AMERICAN SAMOA

1971	17,443,708	1977	15,386,920
1972	25,344,060	1978	32,958,165
1973	24,316,532	1979	28,481,377
1974	16,780,707	1980	51,031,000
1975	10,525,217	1981	67,144,000
1976	15,235,217	1982	31,500,000 *

* January - July 15, 1982.

* * * *

The contention that increased levels of imported canned tuna will be contrary to long-standing Congressional interest to develop and strengthen our domestic fishing industry is also misleading.

* * * *

U. S. tuna packers import far more fresh and frozen tuna from foreign sources than they obtain from domestic landings. <u>There is no evidence, as the following table shows, that the domestic tuna canning industry has done anything to improve the lot of the domestic fishing industry in recent years</u>. They favor foreign fishing over domestic fishing by 58.8% to 31.2%. Also, you will note that U. S. pack from imports of fresh and frozen tuna dwarfs the pack imported from foreign sources by a margin of almost 6 to 1.

U.S. SUPPLY OF CANNED TUNA, 1972-81
(Canned weight)

Year	U.S. pack from domestic commercial landings (1)		U.S. pack from imported fresh and frozen tuna (2)		Total	Imported canned		Total supply
	Thousand pounds	Percent	Thousand pounds	Percent	- Thousand pounds -		Percent	Thousand pounds
1972. . .	234,000	34.6	385,796	57.0	619,796	56,513	8.4	676,309
1973. . .	224,130	33.2	411,719	61.1	635,849	38,626	5.7	674,475
1974. . .	249,803	35.0	410,542	57.6	660,345	52,746	7.4	713,091
1975. . .	260,785	44.9	268,618	46.2	529,403	51,671	8.9	581,074
1976. . .	*287,003	43.6	312,188	47.4	599,191	58,893	9.0	658,084
1977. . .	248,805	36.5	399,204	58.6	648,009	34,631	5.1	682,640
1978. . .	257,166	34.0	*447,627	59.2	*704,793	51,781	6.8	*756,574
1979. . .	218,493	32.4	401,740	59.6	620,233	53,703	8.0	673,936
1980. . .	214,569	32.2	387,497	58.2	602,066	63,543	9.6	665,609
1981. . .	221,500	31.2	417,527	58.8	639,027	70,851	10.0	709,878

(1) Includes pack from landings by U.S.-flag vessels in Puerto Rico and American Samoa. (2) Includes tuna canned in American Samoa from foreign-caught fish. *Record.

These statistics do not support any contention that U. S. tuna canners are increasing their modest purchase from the domestic fishing industry.

Foreign tuna shipping vessels are not permitted to offload tuna fish at U. S. ports, but they are permitted to offload it in Samoa. If the two largest U. S. packers of tuna fish are concerned about our domestic fishing industry, why have they expanded tuna packing in American Samoa which favors foreign tuna fishing interests?

The tariff quota established in 1956 for tuna was set at 20% of U. S. pack. Obviously, such an import quota is not designed to apply to American made product from Samoa. Samoa can ship to the U. S. all the tuna the market will bear without duty.

ERRORS OF FACT IN TESTIMONY OF TUNA RESEARCH FOUNDATION

* * * *

> It is asserted that imports of foreign canned tuna have grown steadily.

* * * *

A comparison of imports against quota shows that imports increased only after it became public knowledge in 1980 that U. S. Customs had changed its classification practice for tuna imports from American Samoa, counting them against the quota. Note also how imports of tuna have increased from American Samoa.

	QUOTA	IMPORTS FROM FOREIGN SOURCES	IMPORTS FROM AMERICAN SAMOA
1971	77,296,000	55,638,000	17,443,708
1972	78,532,000	54,474,000	25,344,060
1973	109,809,000	36,973,000	24,316,532
1974	112,176,000	52,172,000	16,780,707
1975	102,740,000	48,847,000	10,525,217
1976	98,125,000	56,409,000	25,235,217
1977	111,246,000	33,913,000	15,386,920
1978	101,407,000	50,031,000	32,958,165
1979	125,813,000	53,736,067	28,481,377
1980	109,074,000	63,107,000	51,031,000
1981	104,355,000	70,583,000	67,144,000
1982	109,742,200	55,000,000 *	31,500,000 *

* January to July 15, 1982

The Tuna Research Foundation stated that 80 million pounds of tuna were entered as of July 7, 1982, but failed to state that 30 million pounds of it came from American Samoa. Furthermore, a 2-1/2 year period does not indicate a pattern of increased imports. The record shows fluctuations in year to year imports. There is market disruption in the current year because tuna canned in American Samoa is quickly filling a substantial portion of the quota, and importers must rush to enter product before the quota closes.

* * * *

> It is asserted that foreign produced canned tuna is not packed under the same quality and safety standards as our own domestic products.

* * * *

Tuna is a low-acid canned food. All foreign packers of tuna must register their plants and file their processes with the U. S. Food and Drug Administration. The FDA enforces food and safety requirements on all imported tuna. U. S. tuna packers during the current year have themselves imported foreign packed tuna, and for many years have been, with one exception, substantial importers of foreign packed tuna. It is indeed ironical that this allegation should be made at this time, when one of the domestic packers has just recalled forty million cans of tuna because of the danger of botulism. No one rejoices in that misfortune. Everyone in the industry suffers because of it.

* * * *

> It is asserted that "importers of foreign processed tuna have taken advantage of the tuna indusry's economic crisis and have accelerated their importation of tuna products into the U. S. market...".

* * * *

This charge defies economic realities. One does not make profit in a declining market. When prices are rising, everyone makes money. When they are declining, everyone loses, be he a domestic processor, a foreign processor, or an importer.

* * * *

> It is asserted that if canned tuna from foreign countries is allowed to enter the U. S. in increasing proportions, the industry will be substantially reduced in American Samoa and Puerto Rico.

* * * *

This is a complete distortion of what H. R. 4566, Section 2 attempts to do. It attempts to restore the integrity of the Presidential Proclamation of 1956 which established the tuna quota at 20% of U. S. pack for foreign countries. The quota was applied strictly to foreign countries until sometime in 1978, when U. S. Customs suddenly began to classify Samoan tuna in the quota. The import industry is not seeking to disrupt the tuna industry in Puerto Rico or in American Samoa, nor does it see imports from foreign countries as a threat to either. It does note that the U. S. industry's expansion of production in Samoa has an adverse impact on its operations in Puerto Rico, and reduces the quota for imports. The better the production is in Puerto Rico, the higher the quota will be for imports. Importers want high production of U. S. pack, not small.

* * * *

> It is asserted that excluding the American Samoan pack from the import quota could, in effect, allow greater foreign penetration of our domestic market.

* * * *

This assertion flies in the face of the historical record. When imports from foreign sources are examined from 1970 to the present, as shown previously, there is no pattern of import growth.

In summary, we are dismayed that the assurances made by the Tuna Research Foundation, on behalf of the domestic industry, that it would not oppose the tuna provisions in H. R. 4566, Section 2 have not been adhered to. Its actions have made a good consumer bill, a non-controversial bill, a matter of unnecessary controversy.

There is no attempt to seek unfair advantage over the domestic industry. It has a 6% ad valorem duty in its favor on all imports of tuna, except those it brings in itself from American Samoa, and a 12.5% ad valorem duty in its favor when foreign imports exceed the quota. The quota is set at 20% of U. S. pack, excluding pack in American Samoa. H. R. 4566, Section 2 would restrict the 20% quota to foreign imports, and would recognize the reasonableness of U. S. Customs practice from 1956 to 1978 in not generally classifying Samoan tuna against the quota.

With passage of H. R. 4566, Section 2, U. S. tuna packers in American Samoa will still enjoy the unique competitive advantages offered by this insular possession: tax benefis; low wage scales in comparison to the domestic industry in California and Puerto Rico; freedom of foreign tuna fishing vessels to offload tuna in Samoa; and access to the U. S. market without paying any import duties.

Section 2 of H. R. 4566 benefits the American consumer. It assures that competition will survive in the tuna industry.

MACHINE KNIFE ASSOCIATION 3451 W CHURCH STREET • EVANSTON (SKOKIE), ILLINOIS 60203 • (312) 679-3600

MEMORANDUM IN RESPONSE TO
THE TESTIMONY IN OPPOSITION TO
SECTION 4 OF H.R. 4566
RE CHIPPER KNIFE STEEL

On July 21, 1982, representatives of the Machine Knife Association and executives of American manufacturers of chipper knives testified before the International Trade Subcommittee of the Senate Finance Committee in support of Section 4 of H.R. 4566, which would permanently extend the reduction of duties on chipper knife steel that Congress enacted in 1980.

At the same hearing a representative of Guterl Special Steel Corporation, on behalf of the Specialty Steel Industry of the United States, testified in opposition to this legislation.

Since the witnesses in favor of H.R. 4566 did not have an opportunity at the hearing to rebut the misleading testimony by the specialty steel representative, we have instead submitted this memorandum as a form of rebuttal.

1. The Reduction of Duties on Chipper Knife Steel Does Not Threaten the Vitality of the Domestic Specialty Steel Industry.

H.R. 4566 does not threaten the vitality of the specialty steel industry since chipper knife steel imports are so small (approximately 2/10 of 1 percent) relative to domestic specialty steel production.

The circumstances which compel American knife manufacturers to rely upon imported chipper knife steel are rather unique and do not prevent them from buying large quantities of other grades of specialty steel from domestic companies, which in fact they do.

2. Arguments that Sweden Subsidizes Its Steel Exports Are Irrelevant Since Little If Any Chipper Knife Steel Is Currently Imported From Sweden.

Relying upon a study prepared in 1977, the steel industry focuses its attack upon allegedly subsidized specialty steel imports from Sweden. Such arguments are largely irrelevant since American chipper knife manufacturers do not presently import and have not recently imported any substantial quantity of chipper knife steel from Sweden.

3. The Specialty Steel Industry's Allegation That It May File An Antidumping Petition Against German Alloy Tool Steel Is A Misleading Smoke Screen.

The opposition to H.R. 4566 suggests that the Finance Committee ought consider an antidumping petition against German alloy tool steel that has not yet even been filed. Not only is such a suggestion premature -- since it cannot be determined what the petition will actually allege -- it is misleading since the petition, if it is filed, will be no more than allegations, not evidence.

This Committee should consider that the last time the specialty steel industry sought and obtained general import relief, chipper knife steel was specifically exempted -- after thorough investigation -- by Presidential proclamation from the quotas then imposed on alloy tool steel. A copy of this Presidential proclamation is attached to this memorandum as Attachment A. Furthermore, the Tool and Stainless Steel Industry Committee actually joined in suggesting this special exemption for chipper knife steel. A copy of the 1977 statement in which the domestic specialty steel industry supported special treatment for chipper knife steel is attached to this memorandum as Attachment B.

Therefore, regardless of whether the domestic specialty steel industry files an antidumping petition against alloy tool steel imports in general, questions would remain:

(1) whether such a petition would be accepted by the Commerce Department, specifically as to chipper knife steel;

(2) whether the Commerce Department would find that foreign chipper knife steel is being dumped; and

(3) perhaps most important, whether the domestic specialty steel industry has been injured by such alleged dumping.

Based on recent past experience, it is unlikely that the domestic specialty steel industry could successfully seek antidumping relief specifically against chipper knife steel.

4. The Recent 40 Percent Drop in Imports of Finished Chipper Knives, Alleged by the Steel Industry, Merely Demonstrates the Benefits of the Temporary Duty Reduction Passed in 1980 and the Importance of H.R. 4566 to the Future of the American Knife Industry.

The specialty steel industry's allegation that chipper knife imports have decreased by more than 40 percent between 1979 and 1981 merely demonstrates the benefits of the temporary duty reduction on chipper knife steel passed in 1980. Indeed, a principal reason that the American knife industry sought the temporary duty reduction legislation in 1980 and permanent legislation in the Congress is to enable it to regain its markets from imported foreign knives. The steel industry's figures only prove the knife industry's point that if given the opportunity to compete on equal terms with foreign imported knives, *i.e.*, with equal duties on the raw material and the finished product, the American knife industry can regain its markets and put Americans back to work.

Incidentally, American knife manufacturers have been able to regain their markets by passing along the benefits of the reduction of duties on chipper knife steel to their customers in the paper, pulp and forestry industries.

5. The Specialty Steel Industry's Suggestion that the Knife Industry Pursue "Other Legal Avenues" Is A Diversionary Ploy Intended to Obscure The Fact That The Discrepancy Between The Rates of Duty on Chipper Knife Steel and Chipper Knives Has Been A Substantial Disadvantage to American Knife Manufacturers.

The domestic specialty steel industry would prefer that knife manufacturers follow its example by filing unfair trade practice cases against foreign knife imports, rather than seeking equal treatment under U.S. Tariff Schedules.

However, the fact is that over the 15-year period since the Kennedy Round of tariff reductions -- during which time the rate of duty on chipper knives fell substantially while the rate of duty on chipper knife steel remained stable -- American chipper knife manufacturers lost the major portion of their markets. American knife manufacturers strongly believe that the development of a tariff structure in which the duty on their raw material -- chipper knife steel -- became two-and-one-half times as large as the duty on the finished product -- chipper knives -- against which they compete was a major cause of their problems in recent years. The fact that chipper knife imports have dropped since the reduction of duties on chipper knife steel merely confirms those beliefs.

* * *

In sum, the Machine Knife Association and American chipper knife manufacturers believe that nothing stated at last Wednesday's hearing has contradicted the basic premise of their agrument that unless H.R. 4566 is enacted, they will be damaged in their ability to compete against foreign-manufacturered knives, with no corresponding benefit to the domestic specialty steel industry.

We urge the Committee, once again, to take swift affirmative action to approve Section 4 of H.R. 4566 in the form passed by the House of Representatives.

Attachments

[3195-01]

Proclamation 4559 April 5, 1978

Modification of Temporary Quantitative Limitations on the Importation into the United States of Certain Articles of Alloy Tool Steel

By the President of the United States of America

A Proclamation

1. Proclamation No. 4445, of June 11, 1976, as modified by Proclamation No. 4477 of November 16, 1976, and Proclamation No. 4509 of June 15, 1977, imposed quantitative restrictions on the importation of certain articles of specialty steels. Section 203(h)(4) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2253(h)(4)) permits the President to reduce or terminate any such relief if, after taking into account advice received from the United States International Trade Commission (USITC) and after seeking advice from the Secretaries of Commerce and Labor, the President determines that the reduction or termination is in the national interest.

2. I have sought and received advice from the USITC and from the Secretaries of Commerce and Labor concerning the effects of reducing or terminating import relief provided by Proclamation No. 4445, as modifed by Proclamation No. 4477 and Proclamation No. 4509, on steel provided for in item 923.26 of the Tariff Schedules of the United States (TSUS). I have determined, after considering that advice, that the exclusion of certain steels provided for in item 923.26 of the TSUS, known as chipper knife steel and band saw steel, from such quantitative restrictions is in the national interest.

3. Accordingly, the purpose of this proclamation is to terminate in part Proclamation No. 4445 of June 11, 1976, as modified by Proclamation No. 4477 of November 16, 1976, and Proclamation No. 4509 of June 15, 1977, so as to exclude so-called chipper knife steel and band saw steel provided for in item 923.26, TSUS, from the present quantitative restrictions for the remainder of the restraint period which began on June 14, 1977 and the entire restraint period beginning on June 14, 1978, and to make an appropriate reduction in the quota quantities for item 923.26, TSUS, applicable to the European Economic Community and Sweden for the restraint period beginning June 14, 1978 to reflect the exclusion of so-called chipper knife steel and band saw steel. The authority for this action is set forth in section 203(h)(4) (19 U.S.C. 2253(h)(4)), and section 125(b) (19 U.S.C. 2134(b)) of the Trade Act.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 125 and 203 of the Trade Act (19 U.S.C. 2135 and 2253, respectively), do proclaim that—

A. Subpart A, part 2, of the Appendix to the TSUS (19 U.S.C. 1202) is modified as follows:

(1) by modifying headnote 2(a)(iii) to read as follows:

"(iii) The term "*alloy tool steel*" in item 923.26 refers to alloy steel which contains the following combinations of elements in the quantity, by weight, respectively indicated:

not less than 1.0% carbon and over 11.0% chromium; or
not less than 0.3% carbon and 1.25% to 11.0% inclusive chromium; or
not less than 0.85% carbon and 1% to 1.8% inclusive manganese; or

0.9% to 1.2% inclusive chromium and 0.9% to 1.4% inclusive molybdenum; or
not less than 0.5% carbon and not less than 3.5% molybdenum; or
not less than 0.5% carbon and not less than 5.5% tungsten;

but does not include the three following types of alloy tool steel which contain, in addition to iron, each of the specified elements by weight in the amounts indicated:

(1)	carbon:	not less than 0.95 nor more than 1.13 percent;
	manganese:	not less than 0.22 nor more than 0.48 percent;
	sulfur:	none, or not more than 0.03 percent;
	phosphorus:	none, or not more than 0.03 percent;
	silicon:	not less than 0.18 nor more than 0.37 percent;
	chromium:	not less than 1.25 nor more than 1.65 percent;
	nickel:	none, or not more than 0.28 percent;
	copper:	none, or not more than 0.38 percent;
	molybdenum:	none, or not more than 0.09 percent; or
(2)	carbon:	not less than 0.48 nor more than 0.55 percent;
	manganese:	not less than 0.20 nor more than 0.50 percent;
	silicon:	not less than 0.75 nor more than 1.05 percent;
	chromium:	not less than 7.25 nor more than 8.75 percent;
	molybdenum:	not less than 1.25 nor more than 1.75 percent;
	tungsten:	none, or not more than 1.75 percent;
	vanadium:	not less than 0.20 nor more than 0.55 percent; or
(3)	carbon:	not less than 0.47 nor more than 0.53 percent;
	manganese:	not less than 0.60 nor more than 0.90 percent;
	sulfur:	none, or not more than 0.015 percent;
	phosphorus:	none, or not more than 0.025 percent;
	silicon:	not less than 0.10 nor more than 0.25 percent;
	chromium:	not less than 0.90 nor more than 1.10 percent;
	nickel:	not less than 0.50 nor more than 0.70 percent;
	molybdenum:	not less than 0.90 nor more than 1.10 percent;
	vanadium:	not less than 0.08 percent nor more than 0.15 percent;"

clipper knife steel

(2) by inserting "3,167" and "8,295" in lieu of the existing quota quantities applicable to the European Economic Community and Sweden, respectively, in the quota quantity column headed June 14, 1978, for item 923.26.

B. The modifications of subpart A of part 2 of the Appendix to the TSUS, made by this proclamation, shall be effective as to articles entered, or withdrawn from warehouse, for consumption on and after the second day following the date of publication of this proclamation in the FEDERAL REGISTER.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-9408 Filed 4-5-78; 12:04 pm]

Attachment B

November 25, 1977

The President
The White House
Washington, D.C. 20500

Re: Specialty Steel Quotas
TA-203-3

Dear Mr. President:

On behalf of the Tool and Stainless Steel Industry Committee (TSSIC) and Michigan Knife Co., we urge you to consider the following in making your determination with regard to continuation of the quotas on specialty steel products.

1. The Tool and Stainless Steel Industry Committee was the original petitioner before the International Trade Commission with respect to specialty steels. TSSIC was also the sole representative of the domestic industry before the ITC with respect to reconsideration of the quotas which you had requested and is the spokesman for the American specialty steel industry.

2. Michigan Knife Co. is a manufacturer of chipper knives. It appeared at recent hearings before the ITC and urged that chipper knife steel be excluded from the quotas on specialty steel.

3. Chipper knife steel is currently covered by the quotas under the definition of alloy tool steel.

4. The Tool and Stainless Steel Industry Committee and Michigan Knife Co. jointly urge you to exclude chipper knife steel (as defined in Appendix A attached) from the quotas on specialty steel products. We also urge that there be a reduction in the balance of the quotas for alloy tool steel commensurate with historic shipments of chipper knife steel.

5. We estimate that imports of chipper knife steel for the past several years have been approximately 2,500 tons per year. These imports have been divided on the average between Sweden (1,725 tons) and the European Economic Community (775 tons). We urge, therefore, that the alloy tool

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steel quota for Sweden be reduced by 1,725 tons and for the EEC by 775 tons to compensate for the removal of chipper knife steel from the existing quotas.

This action would benefit all parties concerned. The Michigan Knife Co. and other United States chipper knife manufacturers would have increased access to raw materials they require. The United States specialty steel industry would be protected from a flood of tool steel imports which might occur and the Europeans would be able to increase their exports of this product while not suffering any effective reduction in other tool steel lines. We urge you to incorporate these changes in any announcement you make regarding continuation of the quotas.

Sincerely yours,

Donald E. deKieffer
Counsel
Tool and Stainless Steel
Industry Committee

Lewis A. Engman
Counsel
Michigan Knife Co.