

Examination of the actual workings of the final list will certainly reveal that it gives very little protection to American industry except where it leads to unconscionably unrealistic valuations. The basic concept adopted by the Congress, in refusing to apply the Customs Simplification Act of 1956 where it would lead to lower duties by more than 5 per cent, was erroneous because it assumed that American industry was somehow entitled to the precise level of protection that was then in effect. The protection actually afforded came about accidentally rather than by design. If there is any basis to the claim for such protection, then it is the rate itself that should be adjusted and defended.

Both ASP valuation and the "final list" are under attack by America's trading partners. The impending negotiations offer a splendid opportunity to rectify these arbitrary methods of valuation not only in the interest of successful negotiation but also in the interest of U.S. import trade.

CONCLUSION

Problems in international trade are inevitable as long as we have separate economies, languages, legal systems, currencies, balance of payments problems—in short, separate sovereignties. But trade is the life blood through which greater freedom and well-being can be achieved for all peoples. The barriers are being broken down through a multitude of efforts and international arrangements. It is hoped that this paper may make a contribution to an understanding of some of the U.S. barriers that require attention.

NOTES

The valuation provisions of the Tariff Act are §§ 402 and 402a, 19 U.S. Code §§ 1401a and 1402. They are conveniently reprinted with explanations in a pamphlet published by the National Council of American Importers, *United States Customs Valuation Procedure*, which also contains the "Final List" (T.D. 54521). Valuation invoicing etc. are explained in the Customs publication, *Exporting to the United States*, cited above, and the Final List is set forth here also. For historical background, prior to 1956, see R. Elberton Smith, *Customs Valuation in the United States* (1948).

The legislative history of American selling price valuation and other details are set forth at length in an address by Noel Hemmendinger before the National Council of American Importers, *The Need for a New Customs Simplification Act*, February 7, 1963. Copies are available from the United States-Japan Trade Council.

The elimination of American selling price duties by converting to the equivalent duties on the usual valuation basis was proposed by the Administration in H.R. 1535, 82nd Cong., 1st Sess., See Ways & Means Committee Hearings, Simplification of Customs Administration, August-September 1951.

It is believed that the President is authorized to negotiate the elimination of ASP valuation and perhaps also the "Final List" under the Trade Expansion Act of 1962. The relevant sections are 201(a)(2), authorizing modification of "any existing duty or other import restriction"; Section 405(2) defining "duty or other import restriction" to include "(A) the rate and form of an import duty, and (B) a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports," and Section 405(6) providing: "The term 'modification', as applied to any duty or other import restriction, includes the elimination of any duty." Without question, the President would have power to convert the present duties to specific duties in the course of trade negotiations, staying within the limitation that rates not be reduced below 50 per cent of the July 1, 1962 rate. Presumably, this would require as an initial step the conversion of present duties to average specific equivalents.

Imports of coal tar chemicals that actually were assessed on the American selling price of competitive American products had a foreign value of about \$18 million in 1962. *Imports of Coal-tar Products, 1962*, U.S. Tariff Commission Publication 98.

FOB values of imports of rubber footwear in 1962 paying ASP duties are estimated by the writer at about \$25 million (based on U.S. Census Bureau, FT 110, Nos. 2031010, and 2032100). Many other items of footwear have not actually incurred ASP duties, largely because there is no like or similar American product. Imports of canned clams paying ASP were valued in 1962 at about \$860,000 (FT 110, No. 0081500).

A sampling by the Customs Bureau in 1960 showed about 17 per cent of import shipments to be "final list" items (see Masson and English, p. 7); but the Bureau advises that this contained an unusually high number of automotive parts paying duty on the basis of foreign value. ASP items were statistically negligible. This shows the limitations of statistics for determining problem areas.

(The following was included at the request of Chairman Boggs:)

NATIONAL CHAMBER CALLS FOR NEW FLEXIBILITY TO "MOST-FAVORED-NATION" WORLD TRADE PRINCIPLE

WASHINGTON, July 9.—The Chamber of Commerce of the United States today called for continued adherence to the "most-favored-nation" principle in world trade, but said there should be added the element of flexibility to permit limited departures from the principle "in the interest of developing more world trade."