vision authorizing countervailing duties, requires a showing that the importation of the products in question either causes or threatens "material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry". Section 303 of the Tariff Act of 1930 requires no such showing.

The most significant difference, however, is that Article VI of the GATT prohibits the imposition of countervailing duties where the exporting country has exempted "such product from duties or taxes borne by a like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duty or tax."

> [Ad Article XVI of GATT makes the distinction in this language: "The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy."]

This exception under GATT is commonly described as prohibiting countervailing duties as an offset to "indirect taxes". "Indirect taxes" is understood to mean those taxes assessed against the *product* itself as distinguished from a tax related to the *manufacturer*. There is no such exception, and surely no such distinction, either statutory or judicial, under the United States law.

When the United States became a contracting party to GATT, it entered into the agreement pursuant to a Protocol of Provisional Application. This Protocol provided, *inter alia*, that Part II of the GATT (Part II includes Article VI relating to countervailing duties) would not affect existing inconsistent domestic legislation of the Contracting Parties passed prior to October 30, 1947. Inasmuch as our domestic law relating to countervailing duties is part of the Tariff Act of 1930, it clearly falls within the ambit of the Protocol of Provisional Application. Consequently, it would not be violative of the GATT for the United States to impose countervailing duties pursuant to the standards of Section 303.

However, it may be that the delay we are experiencing in obtaining a decision on the rebate of the Italian transaction tax is prompted by a desire to follow the GATT "indirect taxes" exception when deciding whether to impose countervailing duties under Section 303. We submit that the distinction between direct and inidrect taxes and the tax incidence of each was unsound when formulated in GATT; that most economists today repudiate the rationale behind such difference in treatment under GATT. Most important, we emphatically contend that under our Countervailing Duty Law such distinction is totally irrelevant. The concept of a "subsidy" as enunciated by our courts is controlling; Treasury must recognize these judicial decisions which hold that *any* rebate of taxes would be a grant or bounty.

CURRENT STATUS OF ENFORCEMENT OF COUNTERVAILING DUTY LAW IN THE SALES OF IMPORTED ITALIAN STRUCTURAL UNITS FOR ELECTRICAL TRANSMISSION TOWERS

After almost ten months of investigation, the Treasury Department issued an order on April 21, 1967, that provided for an assessment commencing May 22 of a countervailing duty of $20.00 per net ton on galvanized frabricated structural steel units for the erection of electrical transmission towers imported from Italy. The Treasury Department is to be highly commended for taking this action against the refunds granted under Italian Law No. 639, and indeed we appreciate their attempt to deal with this trade practice. However, according to the judicial interpretation of a grant or bounty under our Countervailing Duty Law, we believe that an additional amount should have been assessed under Italian Law No. 639.

To date (almost two years since our complaint was filed) Treasury has not made a decision on the remission of taxes under Italian Law No. 570. We strongly feel that the full amount of 7.8% of the export value of fabricated steel units constitutes a grant or bounty under our statute and that countervailing duties in such an amount should be promptly imposed. The amount of subsidy involved in Italian Law No. 570 will vary with the export sales price. In the electrical transmission tower case, we are requesting countervailing duties that range from $14.00 to $22.00 per net ton.