

(The following letter was subsequently received by the committee for inclusion in the record:)

VINSON, ELKINS, WEEMS & SEARLS,
Houston, Tex., May 31, 1967.

Re Imposition of countervailing duties on imports of Italian galvanized electrical transmission towers.

Mr. CHARLES B. GANNAWAY, Jr.,
Chairman, Ad Hoc Committee,
Galvanized Transmission Tower Fabricators,
Flint Steel Corp., Tulsa, Okla.

DEAR MR. GANNAWAY: On behalf of the Ad Hoc Committee, you have asked our opinion as to the advisability of and the procedure for contesting the Secretary of Treasury's decision to impose countervailing duties on the import of Italian electrical transmission towers only to the extent of \$20 per net ton under Italian Law 639 and to impose no countervailing duties with respect to Italian Law 570.

Before relating our detailed legal analysis of the problem, it seems appropriate to summarize, at the outset, our recommendations which are as follows:

(1) That the Secretary of the Treasury, or his delegate, be approached with a view to demonstrate that the amount of the countervailing duty as set forth in his Order filed April 20, 1967, should be increased because it underestimates the subsidy or bounty resulting from refunds pursuant to Italian Law 639 and does not reflect at all the subsidy or bounty resulting from refunds pursuant to Italian Law 570;

(2) That in the event the Secretary of the Treasury, or his delegate, does not accept such a position, we should request him to ask for the Opinion of the Attorney General of the United States as to the applicability of countervailing duties in the instant circumstances;

(3) That in the event the Secretary of the Treasury, or his delegate, refuses to so request the opinion of the Attorney General or in the event the Attorney General does not sustain our position, the procedural steps outlined in Section 1516(b), Title 19, of the United States Code, be complied with in order that the Customs Court may be petitioned to uphold our position and impose the desired countervailing duties; and

(4) That in the event the importers of Italian electrical transmission towers protest the imposition of the countervailing duties in the amount of \$20 per net ton and proceed to litigation in the Customs Court, an amicus curiae brief be filed in that action on behalf of the domestic fabricators.

OPINION

The statute which authorizes the imposition of countervailing duties on imports into the United States is Section 303 of the Tariff Act of 1930, as amended 19 U.S.C. § 1303. This section provides as follows:

Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this chapter, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall and levied and paid, in all such cases, in addition to the duties otherwise imposed by this chapter, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties.