It is necessary to set the record straight concerning several claimed "setbacks" suffered by the U.S. producers. The domestics complain bitterly about a legislative sleight of hand which increased the duty on protective rubber footwear 300% from an ad valorem rate of 12½% to 37½%. It is inconceivable how anyone can complain that tripling of duty on your competition's goods is a "setback". The record will reveal that in 1962 the Treasury Department, after extensive analysis, issued a well-reasoned legal opinion determining that certain protective footwear should not be subject to American Selling Price by any fair reading of the specific language of the presidential proclamation extending ASP to certain rubber footwear articles. Following this decision the U.S. producers sought to have the Congress legislate an extension of ASP to this particular class of goods. When the Senate Finance Committee rejected any extension of the objectionable ASP duties, the American producers maneuvered an increase of the 12½% ad valorem rate to *sixty percent (60%)*. In conference, this Committee rebelled at the exorbitant 60% and upon your insistence the new duty was set at 37½%. It cannot be overlooked that the U.S. producers were a party to all these proceedings at every step. There were no hearings and no opportunity at any stage for the American importers to present their case for a reasonable tariff on these articles.

The next action which the domestics call a "setback" was the announcement in February 1966 by the Treasury Department of guidelines for determining the American Selling Price of rubber footwear. The U.S. producers argue that this amounted to "changing 30-year-old guidelines" and that the change was tantamount to a 35% tariff cut. These allegation are baseless. From the time that imports became a factor in the American market until 1962, rubber footwear had been improperly assessed ASP duties on the basis of the *highest priced* similar article produced and sold in the United States. Before 1966, there had never been any "guidelines" but, rather, only administrative practices which the Treasury Department and the Bureau of Customs have publicly stated were "clearly wrong". Following the prescribed procedures under the Administrative Procedure Act, the Treasury Department conducted an extensive three-year investigation in which all interested parties were given innumerable opportunities to present facts, views and arguments. The record will show a consistently complaining domestic industry, but one that would not provide the hard data that the government needed to reach an early and proper finding. In fact, after the regulations were proposed and before their adoption, the domestics held so many meetings with Treasury and made so many demands that the adoption was delayed for six months. Contrast these facts with the current charge that the guidelines were issued without any examination of the domestics' case. In order to set the record straight, it is useful to examine exactly what the Treasury Department, speaking through Commissioner of Customs Johnson, has said about the guidelines.

"Rubber-soled footwear is appraised on the basis of American selling price pursuant to a proclamation by President Hoover (T.D. 46158) in accordance with section 336 of the Tariff Act of 1930. That proclamation relied on a Tariff Commission finding that such valuation was necessary to equalize differences in costs of producing such footwear in competing countries with the cost of producing similar footwear in the United States. Although other merchandise appraised on the basis of American selling price, such as coal tar products, has always been compared to the most similar article bearing the closest American selling price, the practice developed (but without any published regulation or ruling to that effect) to appraise rubber-soled footwear on the basis of the highest priced similar article produced and sold in the United States.

"Customs has received many complaints over the period of several years that its practice of appraising rubber-soled footwear was unjustified, inequitable, and inconsistent with other appraisement procedures. On the basis of a full-scale investigation undertaken to determine whether reconsideration and revision of appraisement procedures in this area were warranted, it was concluded that the practice of using the highest priced United States products as our yardstick was clearly wrong and that we were not complying with the Presidential mandate that 'similar' articles offered in the United States' principal markets should be used as a basis for comparison. Judicial precedents clearly indicate that price is a factor to be considered in determining similarity for purposes of the customs