

imported goods and that the marking requirements would in the future be strictly enforced against that particular importer. To the best of our knowledge no marking duties were assessed and no penalties invoked against any of these importers. In fact, complaints from domestic manufacturers regarding unmarked imported goods being offered for sale in United States markets, have recently increased. Some foreign suppliers frankly state in their promotional material that their products are marked in such a manner that the marking can be easily removed after importation. It appears that in the absence of the strict enforcement of existing marking laws, through the imposition of penalties or of the additional 10% duty provided for unmarked goods, importers will be encouraged to continue to purchase and sell improperly marked goods such as industrial rubber products.

We believe that the best, if not the only way to effectively administer the marking laws is to have the import specialists—the officials responsible for determining whether imports of their particular line of commodities are properly marked—physically examine the imported merchandise. Where, as is the case with industrial rubber products, there have been confirmed complaints regarding importations of improperly marked goods, all future importations of such goods should have to be subjected to close scrutiny and examination by the Import Specialists involved. Such examination could be accomplished by legislation specifying the manner in which industrial rubber products should be marked or requiring an actual public stores examination of the imported merchandise by the Import Specialist. Unfortunately there is no existing procedure whereby domestic manufacturers or domestic industry can compel customs officers to strictly enforce the marking laws.

V. DOMESTIC INDUSTRIES AND MANUFACTURERS SHOULD BE AFFORDED A MORE EFFECTIVE REMEDY AGAINST UNFAVORABLE CUSTOMS ADMINISTRATION

Whenever an *importer* is aggrieved by Customs' administration of the marking laws—or by any other law—he can avail himself of a ready remedy by filing a protest (an appeal in the case of questions of value) against the action taken by the Customs officer. The protest is reviewable by the United States Customs Court. If the Court agrees with the importer the action taken by Customs is overruled and the imported merchandise (even if imported years before the Court's decision) is treated in accordance with the decision of the Court (favorable to the importer). No such effective remedy is available to a domestic manufacturer who is injured as a result of Customs' administration of the law in a manner which is contrary to the clear Congressional intent and meaning of that law.

The only recourse which an injured domestic manufacturer has against improper administration of the customs law is to utilize the so called American Manufacturers protest or appeal procedure provided for in Section 516 of the Tariff Act of 1930, as amended. Under the procedures set forth in Section 516 of the Tariff Act of 1930, as amended, the injured domestic manufacturer must formally request the Secretary of the Treasury to furnish him with the official position regarding Customs' treatment of designated imported articles. After receiving the Secretary's answer the domestic manufacturer may file a complaint which the Secretary in turn must answer. If still dissatisfied the domestic manufacturer has thirty days in which to file a notice of dissatisfaction and intention to protest. The Secretary must then publish his decision and thereafter give the domestic manufacturer notice of importations of the designated merchandise made after the Secretary had published his ruling. The domestic manufacturer is then notified of the first of such entries which is liquidated and has thirty days in which to file his protest. After the protest is filed it is sent to the United States Customs Court where it is set down on a future docket so that the domestic manufacturer can obtain judicial review of the alleged improper customs action. After the case is tried, the parties are usually allowed time for the filing of briefs and after a suitable lapse of time to enable the Court to adequately review the matter, a decision is rendered. During this entire procedure, which can easily and often does take two years, the law continues to be administered to the detriment of the domestic manufacturer. If the Court decides in favor of the domestic manufacturer the effect of the decision is only prospective; it does not affect the treatment of merchandise imported before the decision, even though such merchandise was imported after the domestic manufacturer commenced his proceeding under Section 516.