

placed "standard newsprint paper" on the duty-free list.¹ The trend toward unimpeded flow of newsprint was predicated on the recognition that America's woodlands and paper-making capacity could not supply U.S. publishers with the necessary requirements of newsprint paper.

Imposition of a tariff, a border tax or other trade restriction on newsprint imports runs counter to the historical policy of the United States to promote trade and to bolster the mutual economies of the United States and Canada. The most recent example of that policy is the exemption granted by the Office

¹ At the turn of the century, newsprint imported into the United States was a dutiable item. The Tariff Act of 1894 taxed all printing paper *ad valorem*, 15% of the value of the paper. As newsprint consumption increased, the limited American softwood forests were threatened with depletion and attention was focused on the vast Canadian forest reserves of wood especially adapted to pulping for newsprint manufacture. To increase use of Canadian pulpwood and Canadian newsprint, the then applicable duties had to be reduced and were reduced gradually, first on pulpwood and then on newsprint paper.

Initially, the reduction of the tariff barriers was effected through the valuation method. The Canadian Reciprocity Act of 1911, which for the first time gave specific treatment to newsprint paper, placed newsprint valued at not more than 4 cents per pound on the free list. The 1913 Tariff Act placed on the duty-free list printing paper which was "suitable for the printing of books and newspapers" and valued up to 2½ cents per pound. As the price of paper increased, the tariff exemption was modified accordingly: in 1916, the maximum nondutiable value was raised to 5 cents and in 1920, to 8 cents per pound.

As newsprint prices reached new highs after World War I, the valuation method of effecting duty-free entry became impracticable. In 1922, when a thorough revision of the tariff laws was enacted, valuation was abandoned and the tariff description "standard newsprint paper" was created to designate duty-free paper.

Congress assumed that this term was well known to the trade as describing the kind of paper actually used by newspapers. However, when it soon became apparent that no defined sheet was regarded as "standard", various attempts were made to determine the specifications of the various grades of newsprint sheets.

This recognition of the intent of Congress was clearly apparent in one of the first implementing regulations promulgated by the Customs Bureau under the 1922 Act, which provided that:

"... unless there are circumstances connected with a particular importation or an inspection of the same raises the question whether the paper is within the limits of the above definition, no samples should be taken and there should be no delay in the delivery of such paper when consigned to newspapers, agents of newspapers, or those dealers whose business it is to furnish such paper to newspapers. However, paper invoiced or entered as standard newsprint paper consigned to firms or individuals who are not known to be furnishing paper to newspapers should be carefully examined and if deemed necessary samples taken for the purpose of determining its proper classification." (T.D. 40996) emphasis added)

The Customs Bureau guidelines clearly recognized the primary legislative intent of Congress, i.e., "To free list that class of papers upon which newspapers are printed. . . ." *Crown Williamette Paper Co. v. United States*, 16 C.C.P.A. 431 (1929).

Thereafter, under the Tariff Act of 1930, Congress by re-enacting the 1922 provisions, verbatim, confirmed its desire to continue its previous tariff treatment of newsprint paper. The implementing regulations issued by the Customs Bureau in relation to newsprint paper reflected this Congressional intent, and in a letter dated January 11, 1932, the Bureau stated:

"You will also note that the collector has been authorized to pass rolls of newsprint paper without sampling if consigned to the newspapers, agents of newspapers, or dealers who furnish such paper to newspaper publishers."

Subsequent pronouncements of both the Congress and the Courts have periodically reaffirmed and explained these expressions of Congressional policy.

Accordingly, it was held that the "Obviously . . . intended purpose of free-listing 'standard newsprint paper' was to lower the price to the newspaper owner and possibly the price of the newspaper to the reading public, and for the additional purpose of conserving our natural resources." *United States v. C. J. Tower & Sons*, 29 C.C.P.A. 1 (1938).

Congressional policy was interpreted as not intended to prevent newspaper publishers from improving the quality of their papers. . . . *F. W. Myers & Co. v. United States*, T. D. 49254 (1937), 29 C.C.P.A. (Customs) 464 (1937):

"It is obvious that the slight or inconsequential change in 'Standard newsprint paper', made subsequent to the passage of the act, might not take it out of the class of paper known as 'Standard newsprint paper', notwithstanding the fact that it could be said that no paper like the newspaper was in existence at the time of the passage of the act. These changes or differences might not change its character so as to take it out of the class of paper which existed prior to the passage of the act."

Congressional policy was interpreted to have broad reach and unduly restrictive interpretations of the free-listing of newsprint were held to ". . . penalize the improvements and progress in the newspaper industry . . ." and were thus considered to be ". . . contrary to the plain intent of the Congress as indicated by the legislative history." *J. Fred Larsen & Co. v. United States*, T. D. 49254 (1937) (concurring opinion).

In 1953, the special Antitrust Committee of the House Judiciary Committee reconfirmed these statements of Congressional policy by referring with approval to ". . . the policy enunciated by Congress for over 40 years that paper entering the country for use in printing newspapers should be exempted from tariff imports."

In summary, the Congressional policy recognizes that an adequate supply of standard newsprint paper is the essential ingredient of the newspaper business. It also recognizes and is predicated on the fact that United States newsprint producers cannot supply the tremendous newsprint tonnage requirements of United States newspapers.

The tariff policy of the United States reflects an awareness that this tonnage must flow in an uninterrupted stream across our borders, since few newspapers are able to maintain inventories of newsprint sufficient to cover more than a relatively few days of publication.