The Senate subsequently limited ASP valuation to benzenoid chemicals and to the flexible tariff provision where "foreign valuation proves to be an uncertain basis for the levying of ad valorem duties." [1] The Congress was intensely aware that foreign prices provided a particularly uncertain basis of valuation for benzenoid chemicals because of the operation of the European chemical cartel, led by the Germans. The Committee reports and debates in 1922 and 1930 are replete with references to this cartel and its predatory pricing practices. In 1930 floor debates, Senator Goff pointed out:

> "Under *foreign valuation* the European dye cartel can make selective attack on the American coal-tar chemical industry and eventually drive American manufacturers out of business. *The cartel can fix the foreign valuation on any group of dyes so low that the American manufacturer will be unable to compete, regardless of how high the rates of duty may be.*" 71 Cong. Rec. 3011 (Feb. 4, 1930). [Italic added.]

Thus, the need for a certain and effective basis of valuation to deal with foreign pricing practices led to the establishment of ASP valuation for benzenoid chemicals. These same reasons require the retention of ASP valuation today.

Same reasons require ASP today

Prices uncertain.—The uncertainty inherent in the use of foreign export value as a method of valuation for benzenoid chemicals is manifest. There simply is no single foreign export value—and published lists are virtually non-existent. Foreign producers export at a wide range of prices—rationalization of production abroad allows them to do so and their dependence upon export markets requires it.

In connection with the Tariff Commission hearings on the converted rates, we were denied access to the prices at which foreign producers were selling benzenoid chemicals into the United States. Consequently, we had to obtain foreign export values from customs sources abroad. The result was a computer tabulation covering over 10,000 transactions which fully documented the wide disparity in the prices charged by foreign chemical producers in export sales. Prices for the same product from the same country varied as much as 100% in the same year. I would like to submit a copy of this computer tabulation for the record. [This material has been submitted for the Committee's file.]

In connection with the Tariff Commission's hearings to establish converted rates, the Department of Commerce tried in vain, via our Embassies abroad, to obtain foreign chemical prices. The embassies uniformly reported what we already knew: such prices were simply unavailable; there are no published prices. I would like to submit copies of these Foreign Service dispatches for the record. [The dispatches appear as Exhibit 3 at the end of this statement.]

Considering this lack of reliable information on export values, where will Customs be able to confirm these values, or do they just accept the word of foreign producers who already sell at a wide variety of export prices and who will, in most instances, be selling to their own U.S. subsidiaries? In this connection I should point out that the Tariff Commission found that sales by foreign manufacturers to their U.S. subsidiaries accounted for 56% of the value of all benzenoid imports in 1964.[2] In such cases, the price charged for the import would simply be a matter of whether the foreign company wanted to take the profit here or abroad—it would all be going into the same pocket anyway.

Cartels.—The European chemical cartel is still with us. Japan not only does not prohibit, but actually requires its chemical producers to rationalize production and divide markets. Neither the EEC nor the German cartel law prohibits rationalization of production, division of markets, or even price fixing in the export sales outside the EEC. Late last year the German Cartel Authority fined the principal German dye producers, the remainder of the old I.G. Farben trust, for conspiring with Swiss, English and French producers to fix prices.

The German Cartel Authority opinion deals only with that portion of the group's actions which related to German prices and therefore illegal under German law. Inasmuch as no issue of illegality under German law would be involved in rationalization of production, price fixing on exports, or other predatory practices affecting the U.S. market, such matters are not dealt with in the opinion—although it is a little difficult to believe these matters were not dealt with in

[1] Senate Committee on Finance, *Tariff Bill*, S. Rep. No. 595, Part I, 67th Cong., 2d Sess. 3 (1922).
[2] Tariff Commission Publication 181, p. 22 (July, 1966).