The Sherwin-Williams Co., 101 Prospect Ave., N.W., Cleveland, Ohio
Sun Chemical Corp., 750 Third Ave., New York, New York
Thomasset Colors Division, Sterling Drug, Inc., 120 Lister Avenue, Newark. New Jersey

EXHIBIT 1

COMPARATIVE ANALYSIS OF AMERICAN SELLING PRICE VALUATION AND OTHER METHODS OF VALUATION BASED UPON OBJECTIVE STANDARDS

Over the years the valuation of imported goods has proved to be a recurring tariff problem for the United States. Since our import duties are made up in major part of ad valorem duties, the effectiveness of our tariffs is largely a function of the reliability of our methods of valuation.

A. "EXPORT VALUE" AND THE PROBLEM OF UNDERVALUATION

At the present time, our valuation system is based principally upon "export value", pursuant to which imports are valued at wholesale price at which they are freely sold or offered for sale for export to the United States in the principal markets of the country of exportation. It is usually difficult, if not impossible, for Customs to ascertain with any reasonable degree of certainty the price at which any given product is being sold for export to the United States in the principal markets of any given country. Customs must therefore rely to a very considerable extent upon the prices listed in the invoices submitted by the importer.

Consequently, a clear opportunity exists for the foreign producer and the importer to avoid the payment of duty by submitting fictitious invoice values.—Moreover, even where the invoice value does reflect the actual price being charged in the transaction, the price itself may also reflect other relevant considerations, such as tied purchases, which result in an understatement of the export value.

Not only does the opportunity and a clear incentive for undervaluation exist, but the abiilty of Customs to check on the value claimed by the importer, increases the potential for undervaluation.—Customs simply cannot readily ascertain what the export value should be without making inquiries abroad, which may or may not assist in establishing the export value. Even where foreign inquiry is made, there still exists the possibility of claiming and supportng an artificial price as the export value.

That this is not only possible, but indeed likely, is evident from a recent report prepared by the Customs Bureau [1] which discussed the problem of determining whether or not to apply the export value on the basis of the price of the good f.o.b. foreign port or on the basis of an ex-factory price. The elimination of inland freight charges usually results in an export value three to five percent less than the f.o.b. price.

Under existing practice, the merchandise is appraised at the f.o.b. price unless the manufacturer furnishes an affidavit that he sells, or offers to sell, at an ex-factory price. The Bureau of Customs report points out:

> "That this can lead to fraudulent practices is obvious; to prove it is in most cases difficult, if not impossible. In Japan alone approximately 4,000 manufacturers have submitted affidavits that they sell at an ex-factory price. Because of this most of the merchandise coming out of Japan is appraised on an ex-factory basis. Yet those who profess to know claim that 95% of the merchandise imported from Japan is sold on an f.o.b. basis."

Because of this problem, the Bureau of Customs last year announced its intent to value all goods coming from Japan on an f.o.b. basis unless an affidavit is submitted *and* Customs has been able to confirm the fact that the goods are actually sold on an ex-factory basis. The actual implication of this proposed regulation is that the Bureau of Customs is unable to rely upon the sworn affidavits of foreign manufacturers that sell on an ex-factory basis. If we are unable to rely upon the sworn affidavits of foreign producers, at least as to the basis upon which they sell their goods where only three to five percent of the export value is involved and where Customs should be able to check, then one can only imagine the amount of undervaluation involved in the "export values" submitted to Customs where there is usually much more at stake and where Customs is in even less of a position to check the accuracy of the prices submitted.

[1] Bureau of Customs, *Evaluation of: Mission Organization Management* (December, 1964).