

If the product is not produced in the United States, the United States value or the so-called "export value" is applied. It is of course possible that U.S. production and sales of a given product may commence between the time an order is placed for import and the time the goods are actually exported to the United States. To the extent that this is a problem, it may readily be cured by providing that the American Selling Price will only be applicable to products which were produced and sold in the United States for a period at least, for example, 90 days, before the goods are exported. SOCMA recommended such a procedure both to the Bureau of Customs and to the Office of the Special Representative for Trade Negotiations on several occasions over the past three years.

b. *The American Selling Price of the product is readily ascertainable to importers, Customs and domestic producers.*—In addition to having the benefit of prices filed by domestic manufacturers and weekly price information from trade publications, Customs can quickly and easily confirm the American Selling Price through direct inquiries to domestic manufacturers and their customers.

It has been urged that an importer frequently does not have sufficient information as to what the American Selling Price of a domestic item actually is and therefore is unable to determine in advance what his duty will be. This is, of course, absurd. Before placing an order, any importer has to know the price at which the comparable domestic product is being sold in order to determine whether or not it would be profitable to import.

Because of the availability of information concerning the American Selling Price to all concerned, the chances of under or over valuation are virtually nonexistent. Both importers and domestic manufacturers are in a position to challenge any appraisement which may be out of line. Similarly, Customs is not in a position of having to accept the word of an interested party as to what the proper appraisement should be, since it is in a position to quickly confirm the ASP with U.S. consumers, and in the case of any dispute is able to subpoena the records of domestic manufacturers.

c. *ASP valuation is not subject to manipulation.*—Importers are unable to establish an artificial price where the exporter and importer are not dealing at arms length, such as an intra-corporate transaction or any other situation where the price of the goods is not the sole consideration of the transaction. Nor is ASP subject to manipulation by domestic producers. Competitive factors at work in the U.S. market, and certainly the United States antitrust laws, are a powerful deterrent to any manipulation by domestic producers.

More important, however, is the fact that there is no competitive advantage to be gained over imports by raising the American Selling Price.—For example, assume the American Selling Price of the product is \$1.00 per pound and imports of the same product can be sold in this country at \$0.99 per pound. Even at 40%, the highest ASP rate currently applicable, only 40% of any raise in the American Selling Price would be offset by increased duty. If the domestic manufacturer raised his price to \$1.10, it would result in 4 cents additional duty, which would raise the price of the import to \$1.03. Although the American manufacturer could by raising the ASP have increased the amount of duty the importer would have to pay by 4 cents, this would make little sense because he would actually be increasing the competitive advantage of the imported product from 1 cent to 7 cents.

d. *ASP valuation is consistent with the purpose of our tariff.*—The principal purpose of our tariff is to offset some of the disparity in costs of production here and abroad. Also a guiding principle is that of equal treatment to all of our trading partners. Yet the use of export value violates both of these principles by providing a tariff advantage to the lowest cost foreign producer on top of the significant cost advantages they already enjoy. Thus, where low production costs permit a low cost country to undercut the U.S. price of a product or the prices of other higher cost producers selling in this market, the application of a duty based upon export value actually increases rather than decreases the existing cost disparity.

By providing a tariff advantage on top of the substantial cost advantage already enjoyed, the use of export value actually subsidizes a widening of the cost disparity. Where a 30% duty is involved, the U.S. Government actually bears 30% of any reduction in the export value. This is, of course, clearly inconsistent with the theory of attempting to offset the production cost disparity. It does just the opposite.

ASP valuation, on the other hand, is consistent with the purpose of our tariff. Although it does not in any way diminish any existing cost advantage an import may have, unlike export value, it does not accentuate the cost advantage by pro-