

The patent creates a legal monopoly for 17 years, under U.S. patent law, which, as a result, permits a foreign company to exclude U.S. companies from manufacturing, using or selling the patented invention (as stipulated in Title 35 of the U.S. Code) for the 17-year period. The use of a patented invention is required in many countries (this is often accomplished by increasing taxes each year for holding patents or by requiring compulsory licensing).

(3) Lack of detailed consultation and coordination of activities between the U.S. Government and the U.S. business community on foreign trade matters in particular (such as exists in many other countries).

(4) Lack of close coordination of U.S. fiscal and monetary policies with the activities of the U.S. business community (such as exists in many other countries).

(5) Numerous non-tariff barriers by other countries which restrict U.S. trade.

(6) Strong U.S. antitrust laws which are vigorously enforced by the Dept. of Justice which make it illegal for U.S. chemical companies to form cartels and monopolies (with the exception of Webb-Pomerene associations), while, in sharp contrast, many foreign governments not only permit the formation of cartels and monopolies, but often actively encourage and aid them in their formation and continuing operations.

(7) Lack of encouragement by the U.S. Government to the use of Webb-Pomerene associations by the U.S. business community. The Webb-Pomerene Act of 1918 is subtitled "An Act to Promote Export Trade" and provides limited exemptions from the prohibitions of the Sherman Antitrust Act, the Clayton Antitrust Act and the Federal Trade Commission Act. The limited exemptions from these U.S. antitrust laws is conditioned upon safeguard for domestic business competition and freedom to export by any domestic competitor. One of the main reasons why Congress passed the Webb-Pomerene Act was to make it possible for U.S. companies, particularly small companies, to compete with foreign cartels in the export market.¹³ The Department of Justice, however, has attempted to destroy even this last hope for U.S. companies to resist foreign cartels.¹⁴ As a result most U.S. companies have been afraid to form Webb-Pomerene associations. In sharp contrast, export associations of the European Common Market are specifically exempted from the antitrust provisions of the Treaty of Rome.

RECOMMENDATIONS

(a) Maintain the American selling price (ASP) system as a method of customs valuation for benzenoid chemicals and products.

(b) Propose that a panel of government officials, business leaders and labor leaders investigate in detail the effect which repeal of the ASP system would have on the U.S. trade balance, the overall U.S. balance-of-payments position, the U.S. gold drain and the present dollar crisis.

(c) Investigate the U.S. patent and trademark laws in the light of their effect upon tariff and trade policies.

(d) Carefully examine the marked growth in cartel activity, particularly in Western Europe and Japan.

(e) Request that a conference of the GATT-member nations, preferably under the auspices of GATT (the General Agreement on Tariffs and Trade) convene, as soon as possible, to discuss all non-tariff barriers to trade in detail. This should include border taxes, secret buying by foreign governments, export rebates, import quotas, tax-on-value-added (TVA) and other national taxation systems, cartels and the many other non-tariff barriers to trade.

(f) Make use of the OECD (Organization of Economic Cooperation and Development) Expert Committee on Cartels as a means of obtaining information on national and international cartels.

(g) Investigate, in detail, the effect of foreign cartels upon U.S. interests.

(h) Explore the possibility of having GATT, the United Nations or some other international body set up a special committee (similar to the *Ad Hoc* Committee on Restrictive Business Practices of the United Nations Economic and Social Council) which would have the power not only to investigate but to regulate the activities of cartels.

(i) Investigate specific modifications of foreign cartel laws which would protect U.S. interests against discrimination and other unfair business practices.

¹³ Webb-Pomerene Act, 40 Stat. 516 (1918), 15 U.S.C.

¹⁴ United States v. Minnesota Mining & Mfg. Co., 92 F. Supp. 947 (D. Mass. 1950); United States v. U.S. Alkali Export Ass'n., 86 F. Supp. (S.D. N.Y. 1949).