Simplification and Consolidation of Tariffs: A Study in Method Applied to the United States Tariff

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By

Richard Edwin Shannon, A. B., M. A.

The Ohio State University
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Approved by:

[Signature]
Adviser
Department of Economics
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Chapter I
INTRODUCTION

In the entire field of economics few subjects have received the perennial attention that has been given to the tariff. Some of the topics have changed in importance: the theory of comparative position has declined, but others, such as the theory of incidence and valuation continue to be studied. One problem—the tariff classification of commodities—has grown in prominence. The increasing complexity in classification has stimulated a demand for simplification. The literature about simplification, and classification of commodities has been quite sparse.

1 Some writers have not overlooked this problem, though very few have given it much attention. Cf. T.E.G. Gregory, Tariffs: A Study in Method, 1921, devotes several chapters to the subject and is the one notable exception. L.W. Towle, International Trade and Commercial Policy, 1947, devotes several pages to the subject (pp. 256-281). Few other examples can be found.

A tariff consists of at least two basic things. First, there are the lists of goods which are dutiable and their respective rates of duty. Second, a tariff usually includes a list of items which are to be duty free (free list) and the necessary administrative provisions which are necessary in order to carry out the purposes of the act. The early United States tariffs, for example, were simple, short listings of a few basic items. One reason for this
simplicity was that the tariff was primarily a revenue act and not an act for protection at that time. In the years following the Civil War this situation was greatly changed. United States tariffs became predominantly protective measures.

One way to make a tariff more protective is to increase the general level of rates to be paid on dutiable imports. A second way to make a tariff more protective is to increase the number of items included as dutiable imports. As the number of items listed in a tariff increases, the problem arises of where to place those which are added to the dutiable list; and, the problem of classifying imports for tariff purposes emerges. This is perhaps the principal reason why the classification of commodities for tariff purposes as a specific area of study has been overlooked in the past by academic economists. For instance, the United Kingdom during sixty years prior to World War I imposed a few duties on imports of commodities not produced domesti-
cally, such as tea, in order to obtain revenue. All imports other than these few dutiable ones were free of duty. There was no problem of classifying the few dutiable items and the others were not listed specifically in a free list.

A modern tariff consists of various classes or schedules of goods which may be arranged in a variety of ways, and may be based upon several different principles or combinations of principles. The detailed task of developing general classifications for tariff purposes has been successfully approached in recent years. These general classifications, however, have not been applied to the United States tariff. One of the main objectives of this study is to examine such classifications from the viewpoint of applying them to the United States tariff.

A related but not identical problem is that of the classification of imported goods for statistical purposes. Import commodity classifications for compiling and presenting import statistics usually differ from tariff classifications. An examination of import classifications for statistical purposes will be made. The aim of this examination will be to evaluate the possibility and desirability of using similar, if not identical, systems of classification for imposing tariff duties on imported goods, and for providing
statistical information of the goods that are imported.

Several international attempts have been made to arrive at an acceptable uniform customs nomenclature which all countries could adopt. The term "customs nomenclature" means not merely the names of articles, but also the system by which they are arranged into groups and subgroups in a tariff law. While these attempts date back a century, little was accomplished toward getting nations to adopt similar nomenclatures until the 1930's. These various classification systems provide guides to the problems involved in goods classification and will serve as a foundation for parts of the study.


Prior to 1934 in the United States, tariff-making was performed by the Congress. Drafting a tariff law in this manner was at best a long, tedious process which consumed valuable legislative time and talent. In the last general revision of the tariff, for example, the Congress spent nearly eighteen months enacting the legislation (the Tariff Act of 1930). Hearings were held by the Ways and Means Committee of the House and the Finance Committee of the Senate. Over 20,000 pages of testimony were transmitted

\[4\] For a detailed presentation of the manner in which the Tariff Act of 1930 was written see: E.E. Schattschneider, Politics, Pressures and the Tariff, 1935. A more detailed presentation of the Tariff Act of 1930 is given in chapter IV below.
into the record. Thousands of pages of information were supplied to these committees by the Tariff Commission. Hundreds of amendments to the bill were offered from the floors of both houses. Hundreds of adjustments were made by the Conference Committee before the final act was completed. Needless to say, it was impossible for the Congress to consider adequately all of the trade items affected by such a tariff revision.

In the course of the past twenty-five years the Tariff Act of 1930 has been substantially modified. Beginning in 1934 and up to the present time many Reciprocal Trade Agreements have been concluded by the United States which have changed the rates of duty on thousands of items in international trade. Various import taxes and processing taxes have been imposed which must be considered a portion of the tariff. The use of quotas to prohibit or limit the importation of basic agricultural products has been added, beginning with section 22 of the Agricultural Adjustment Act of 1937. These changes and others have been added to the Tariff Act of 1930. Classification of some items in the United States tariff is uncertain, and thousands of classification cases have been heard as a result by the Customs Courts. The cases have frequently resulted in changes in classification of imported items for duty purposes.

As a result of all of these additions to the Tariff Act of 1930, the manner in which goods are classified has become
more complex and more detailed. Under the Trade Agreements Act, for example, items listed in the tariff have been subdivided into a number of subgroups when a given item has been subject to negotiation. This process of "specialization", as it is called, increases the complexity of the way in which goods are classified in the tariff. At the same time, however, such negotiations have resulted in substantial reductions in rates of duty on many items that are imported. It should also be mentioned that specialization is essential in tariff bargaining if the principal supplier rule is to be followed in the negotiations. But, the number of individual changes that have been made in the course of reaching such agreements has been very substantial. The complexity in the Tariff Act of 1930 that is the result of all of these additions and changes in the past twenty-five years is very great.

In view of the complexity of the present United States tariff it would be desirable for the tariff to be simplified and consolidated in some manner. Several benefits could follow as a result of a basic re-drafting of the present tariff law. One of these could be to bring the tariff law "up-to-date" in terms of the language used in the act, that is, use modern designations for commodities, particularly for new products. A second benefit could be to change the nature of the classification system for imported items so that the classification would be more logical and more
Various suggestions have been set forth recently to cope with some of these problems relative to the present tariff.

B. **Adverse Consequences of Tariff Complexity.**

There are many adverse effects of the complexity in the present tariff law. One of these is the extent to which classification cases are taken to the customs courts. When any item can be classified in more than one way under the Tariff Act of 1930 (similitude provision) the customs officials, in general, are required to place the item in that paragraph which has the highest rate of duty; i.e., they must protect the revenue of the Treasury. Such cases have been exceedingly numerous in the past. Also, manufactured articles of essentially the same character are classified in different paragraphs as a result of the extensive use of "chief value" provisions in the law for items not specifically enumerated. For new products in trade there is frequently a great deal of uncertainty as to where they will be classified for duty purposes. Such uncertainty is an added risk of great importance to persons engaged in the business of international trade. If this one major difficulty could be drastically reduced by means of a reclassification of goods for tariff purposes, the gains to international traders would be substantial. **Simplification of the tariff could be the means for lessening such restric-**
Another inevitable result of the complexity of the tariff is the very large administrative expense borne by the Government for carrying out the law. Four major departments of the Government (State, Treasury, Commerce, and Agriculture) as well as the Tariff Commission maintain large staffs to handle the problems involved in administering the tariff. Perhaps a large reduction in the number of employees needed for tariff administration could result from a basic simplification and consolidation of the present tariff into a more logical and certain form.

C. Scope of the Study.

In the next chapter alternative theories of goods classification for tariff purposes will be presented. These theories, or methods, of goods classification will then be applied in two areas. First, these methods will be used to analyze the way in which the classification of goods developed since 1789 in the United States tariff. Second, these methods will be used to examine the efforts to achieve international uniformity in goods classification for tariff purposes which have been made. This will involve examining the Brussels Convention Classification of 1913, the Draft Customs Nomenclature of the League of Nations, and the Tariff Nomenclature that has been prepared under the auspices of the European Customs Union.
In chapter III, these methods of goods classification will be applied in a related area—the classification of imported items for the purpose of collecting and compiling import statistics. One problem in particular will be emphasized. That is the comparability between import statistics as collected and compiled, and the tariff classification system.

The second part of the study consists of two chapters. In the first of these (chapter IV) a description of the present United States tariff is presented. This will involve four major topics. The nature of goods classification in the 1930 tariff act will be analyzed. The effects of the operations of the Trade Agreements Program since 1934 will be shown. The import and processing taxes which have added complexity in the area of tariff policy will be described. And last, the complicating additions to United States import policy in the form of import quotas, the "escape clause", and the "peril point" provisions will be considered.

An analysis of the nature of law in the area of import policy is presented in chapter V. In this chapter the nature of the problem of uncertainty of goods classification, as a legal problem, is considered.

In the third part of the study three basic proposals are considered. First, two alternatives for simplification and consolidation of the tariff that have been published are
analyzed. Chapter VI contains an analysis of the Tariff Commission's 1955 Interim Report on tariff simplification. In chapter VII the section on "Simplification and Consolidation" of the Report to the President of the Public Advisory Board for Mutual Security is critically evaluated.

Second, an alternative to these two proposals will be offered. This alternative, presented in chapter VIII, is the Draft Revised Tariff Nomenclature of the European Customs Union. This classification system is examined from the point of view of adding certainty to the classification of imported items for tariff purposes.
Chapter II

THE THEORETICAL PROBLEM OF CLASSIFICATION IN TARIFF-MAKING

Some method of classification of commodities must be adopted in constructing any tariff. The method of classification adopted may be very simple or extremely complex. A simple revenue tariff, for example, could provide for but a single class: all goods imported at some single ad valorem rate of duty. Or the tariff can be so detailed as to include practically all trade items as individual classes. Some medium between these two extremes is generally the solution to the problem. In this chapter the primary problem of analysis is: What are the logical possibilities for classifying goods within a tariff act?

A. Theoretical Possibilities in Classification.

Tariff classification can begin from either of two positions. The rates of duty in the tariff may form the basis for the classification system, or the trade-goods themselves may be the basis for classification.

1 As an example, the Prussian Tariff Law of 1818 provided for a single tariff rate on all commodities, though goods were divided into a number of separate classes. See Gregory, op. cit., p. 94.

2 The following analysis of the different bases for classification is based on Gregory, op. cit., and Towle, op. cit. As far as this writer has been able to determine Gregory was the first to introduce this general outline into the subject.
Classification by rate.

For a multi-divisional tariff, classification by rate is perhaps the most simple method which can be adopted. The basis on which the tariff classes are constructed is simply the rate differences. The trade goods then are distributed among the various rates. Several examples of such tariffs have existed. The Walker Tariff of 1846 was an excellent example of the use of such a classification system in United States tariff history.

In the Walker Tariff eight schedules were provided which had corresponding rates of duty, as follows:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>100% ad valorem</td>
</tr>
<tr>
<td>B</td>
<td>40%</td>
</tr>
<tr>
<td>C</td>
<td>30%</td>
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<tr>
<td>D</td>
<td>25%</td>
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<td>E</td>
<td>20%</td>
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<td>F</td>
<td>15%</td>
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<tr>
<td>G</td>
<td>10%</td>
</tr>
<tr>
<td>H</td>
<td>5%</td>
</tr>
</tbody>
</table>

All dutiable imports were placed in one of the eight schedules. For example, schedule A (100% ad valorem) included principally brandy, other distilled spirits from grain, and other liquors. Schedules B through H included the other duty-paying import items in similar fashion. In quantitative terms, the great bulk of imported items fell into schedules C, D, E, and F. A separate schedule, I, listed goods exempt from duty. In addition, a rule was set forth that all goods not specifically mentioned in the act were to pay a rate of 20% ad valorem, or in effect were placed in schedule E. With the exception of the adminis-
trative provisions, this simple classification constituted a tariff act which, at that time, covered the majority of the goods which were then imported.


A second example of a tariff constructed on the basis of the rates of duty was the Ecuador Tariff of 1912.

The Ecuador Tariff of 1916 was of this type with 56 classes; see Towle, op. cit., p. 256; and, Kelly's Customs Tariffs of the World, 1921, London: Kelly's Directories, Ltd., 1921, p. 1285.

Thirty-eight classes were provided in the Act. The first group consisted of all articles the importation of which was prohibited. The second group was the free list. Then, the following 36 groups were provided for as follows:

Class 3. Articles subject to 1 Centavos per kilo,
4. Articles subject to 2 " " "
5. Articles subject to 3 " " "
and so on for 38 separate classes in all. Thus, classifying goods on the basis of the rate of duty can result in the construction of a rather complex tariff; and, the degree of complexity is determined primarily by the number of rates of duty imposed.

A major disadvantage of this type of tariff is that it is inconvenient for traders to use, since it is awkward
to find with certainty every particular item of trade. It should be pointed out that within each rate-class, goods must be classified by some method unless they are to be placed in only a purely random manner. As these methods can be the classification basis for the entire tariff, instead of merely for the grouping of items in any particular class, they will be considered separately.

As mentioned previously, the tariff classification can be based either on the rate or on the article. Most tariff classification systems are, in fact, based on the article in some fashion. The various classification possibilities which exist when the nature of the article is the basis for the classification system are considered next.

2. **Alphabetical.**

One way, superficially an easy way, to classify goods within a tariff is to arrange them in alphabetical order along with their assigned rate of duty. This method has been called the "formal" method of classification by article.

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Several possibilities are provided by this method. First, all commodities can be considered separately, and then enumerated alphabetically. If this basis is adopted,

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6 Many examples of this type of tariff have existed. Examples include Bermuda, Act of 1919; see Kelly's *op. cit.* p. 133-134; also the Specific schedule of the British
the principal problem consists of being able to find common agreement on the precise name of each trade item. Unless a legal name is formally assigned to each commodity, it is virtually impossible to have complete agreement on the name for every traded item. Another aspect of this problem is that the names of goods do change over a period of years. Hence, if goods are arranged alphabetically, one of two possibilities is apt to develop over a period of time. Either the tariff act will contain an ever increasing number of archaic terms, or the tariff act will have to be constantly changed and brought into line with current usage. Either possibility is to be considered undesirable since it results in introducing into the tariff a measure of uncertainty, and in creating an unnecessarily difficult area for administrative decisions. The problem of having many archaic terms remain over a period of time in a tariff act is amply illustrated by the tariff history of the United States. Many archaic terms are to be found in the present United States tariff.

Second, groups of similar articles can be classed together into a relatively small number of classes and then the classes can be arranged alphabetically (e.g., all chairs, beds, tables, etc., could be classified together as "furniture" or by some similar name). While this simplifies
the problem of finding common names for articles to a certain extent, it introduces the problem of where particular items should be placed in the classification when there is reasonable doubt as to which class they should logically belong. An example of the use of this type of classification system may be found in the Prussian Tariff Law of 1818. In this act all dutiable articles were divided into 67 groups and then these groups were listed alphabetically.

7 Gregory, op. cit., p. 94n.

Other examples include the Netherlands Tariff of 1924 and the Norwegian Tariff of 1927.

8 Towle, op. cit., p. 256.

One problem inherent in the alphabetical classification method is that when the tariff act is translated for the use of foreign exporters the rhyme and reason of the classification system usually disappears in the process of translation. In the modern world there seems to be no logical reason for using this method of classification for the major groups in a tariff act.

In spite of these problems in relying entirely upon the alphabetical method for a classification system, this method is employed usefully within a classification system based upon some other classification system. For example, one place where the alphabetical method can often be used in a
useful manner is in arranging the items to be listed within a particular class of a classification system. For instance, all agricultural raw materials could be listed in such a tariff class alphabetically. But even in this case quite frequently it is more useful to attempt to list the items in the tariff class in order of their relative importance in world trade, or in the trade of the country in question.

Another instance in which the alphabetical classification can be used is where the actual basis for classification is by "material origin" or by "actual content" (or any method of grouping by related items), and then such groups are arrayed in alphabetical order. These methods of classification are now considered.

3. **Grouping by related items.**

Another way that goods can be classified, on the basis of the article, is by classifying commodities on their individual attributes. (One such characteristic of course is the name of the article which was discussed in the previous section.) Goods differ from each other in many ways and these differences, inherent in the articles, can form the basis for the method of classification. Briefly, goods can be classified on (a) the basis of their material origin, (b) the basis of actual content (or on a basis of material of chief value), (c) their use or purpose, or (d) their degree of finish, or stage of manufacture.
a. Material origin.

All goods derived from the same raw material can be placed together in a tariff class. This basis can be used for including semi-manufactures in the same class with the raw material of which they are composed. For example, cheese and cheese products can be classified with milk; or, coke, coal tar and derivatives, and coal gases can be classified with coal. This principle is primarily useful when applied to goods which are only slightly transformed in the early stages of the productive process.

In the more advanced stages of the productive process, especially in manufacturing, the final product usually consists of a mixture of various primary products and it is difficult, if not impossible, to classify these items solely on a basis of the origin of the material which they contain.

b. Actual content (material of chief value).

Another method for classifying import goods by related items is to classify together all goods which are made of or contain the same material. More precisely, as some goods contain several component materials, an individual item is classified on the basis of the component of "chief value". For example, an electric light globe contains many materials, including glass, tungsten, and copper. If the
tungsten is the item of highest ("chief") value in the globe then it would be classified with other goods containing tungsten (unless it was specifically placed elsewhere in the tariff on some other basis).

While the use of the "chief value" method is subject to many disadvantages, especially when applied to goods which are highly manufactured, i.e. light globes, watches, books, etc., it must be borne in mind that this is not true of all goods. In fact, it has been estimated that this method of classification can usefully be applied to perhaps two-thirds of the items (by value) in all world trade. 10


There are, however, many disadvantages to using this method exclusively. First, this method results in a classification of commodities that is very awkward. Particular light globes, for example, may not have any tungsten in them, perhaps the filament is of silver or some other metal. These globes would be separated in the tariff from the other "similar" items, and would be classified with silver or other metal. Second, the classification of many items might be constantly changing if they contained more than one item which may be that of "chief value" in the event of changes in raw material prices. This would create a measure of needless uncertainty in such a tariff act. Third, as a result of the first and second disadvantages, the adminis-
trative problem of classification in many cases would be
difficult and at best imprecise, resulting in costly delays,
expensive examinations, and time-consuming litigation before
the customs courts. Fourth, the various divisions in the
classification would contain a changing group of items, and
hence, aggregative import data would not be comparable over
periods of time for analytical purposes. Fifth, in manu-
facturing many items it may be possible for exporters to
change the relative quantities of the component materials
(perhaps to the detriment of the item's quality) with the
result that the item in question receives a more favorable
classification from the duty-paying point of view. This
can result in perverting the purpose of the law, and at the
same time require constant reclassification of items by the
administrative personnel enforcing the act.

On this last point see Smith, R. Elberton, Customs
Valuation in the United States, Chicago: University of

Sixth, such a classification system groups raw mater-
ials, semi-manufactures, and manufactures in many cases in
the same section, and this results in all three stages of
manufacture being charged with the same rate of duty if each
section of the tariff law has a single rate of duty. If the
purpose of the tariff act is to increase the import cost of
certain manufactured goods, so as to give certain domestic
industries protection, the method employed results in
increasing the cost of raw materials and semi-manufactures at the same time. This can result in increasing the costs of the domestic manufacturer who was given the tariff protection against his foreign competitors in the first place. In such a case this is an ineffective and inefficient means to accomplish the end in view. Of course, different rates of duty could be provided for each class of goods within this section of the act to prevent this problem from arising. There would then be, however, a sub-classification within the section that would not be based upon actual content but would rather be by stage of manufacture. Since this last possibility is not the subject of this section, the problem does remain a real one when classifying by actual content alone.

The history of the use of this method of classification in the United States tariffs is long. The Tariff Act of August 10, 1790, first introduced this classification method to be used in only one case: "And all manufactures of which leather is the article of chief value, except such as are herein otherwise rated, . . . , seven and an half per centum ad valorem." The Tariff Act of March 2, 1791, made use of the chief value provision with respect to lead, and the Tariff Act of May 3, 1792, broadened the
use of the chief value provision to include items of iron, steel, tin, pewter, copper, or brass.

Since the Act of 1792, the use of "chief value" provisions has been expanded greatly within United States tariff acts. Section 5 of the Tariff Act of October 1, 1890, not only expanded the use of this "rule", but also defined it as follows:

"'Component material of chief value,' wherever used in this act, shall be held to mean that component material which shall exceed in value any other single component material of the article; and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article." 15

The present tariff act, the Tariff Act of June 17, 1930, makes use of this rule in at least 144 of the duty-paragraphs in Title I of that Act. And, in the United States Tariff Commission publication, "United States Import Duties (1952)," the term "chief value" is used 328 times. The final paragraph of Title 1 of the act (Par. 1559) defines "chief value" as quoted above from the Tariff Act of 1890.
16 Author's count. The term "chief value" is found by schedule as follows:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Chief Value Par. in the U.S. Import Tariff Act of 1930</th>
<th>U.S. Import Duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>13</td>
<td>20</td>
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<tr>
<td>2</td>
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<td>12</td>
<td>31</td>
<td>127</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>328</strong></td>
</tr>
</tbody>
</table>

Note:
Schedules 5, 6, 7 do not contain any chief value provisions.

c. **Use or purpose.**

Another method of classifying goods according to related items is to classify goods by their use or purpose. Traditionally in economics, to classify economic goods by use or purpose has meant one of two things. First, goods can be classified as to what basic "want" they satisfy, for example, into such groups as food, clothing, shelter, recreation, education, and transportation. Second, economists have traditionally divided goods into groups determined by how close to actual "want satisfying" they are in the productive process, i.e. into such groups as "consumer's goods" and "producer's goods". Combining these two different bases for dividing economic goods, a classification by
use or purpose can be arrived at somewhat as follows:

I. Consumer's goods:
   1. Food
   2. Clothing
   3. Shelter
   4. Recreation
   5. Transportation

II. Producer's goods:
   6. Raw materials
   7. Goods in process
   8. Finished producer's goods

17 This division of producer's goods may be viewed according to stage of manufacture. However, it appears plausible to distinguish between these three groups on a basis of use.

One particular disadvantage in classifying goods by use is that many goods have more than one use, i.e. multiple uses of the same commodity.

Whereas classification according to the nature or origin of the basic material tends to break down in the case of more advanced commodities, classification according to use tends to break down in the case of raw materials and semi-manufactured products. The same raw material, elaborated in different ways, may serve widely different uses. 18

18 League of Nations. op. cit., p. 41.

There is at least a third possibility available in classifying goods by use or purpose somewhat closely allied to the two cases already presented. This is the purely theoretical possibility of classifying goods into "commodity groups" in terms of the concept of cross-elasticity of demand. First, the cross-elasticities of demand between all
goods would have to be determined. Second, all goods which, in terms of cross-elasticity of demand, could be classified as close substitutes would be grouped together. (Presum-

Of course the problem of defining what close substitutes are in terms of the measure of cross-elasticity would still exist.

ably if goods are close substitutes they can be said to satisfy either the same "want" or nearly so.) One particular problem would be that even after arranging goods into a scale as follows ---

not substitutes fair close complementary
(not related) substitutes substitutes goods

the problem of defining the fringe areas, the demarcation between groups, would still exist. And further, in terms of the concept of cross-elasticity of demand, multiple use goods would have to be classified by one use; and the problem of placing them in a particular group would still exist.

One significant disadvantage of this type of classification for tariff schedules would be its general inconvenience to merchants and others interested in finding a particular item in the tariff. It is much more convenient for these groups --- those who primarily use the tariff --- to have goods classified on a basis of their similarity as seen by the trader, not on their similarity in terms of economic want-satisfaction. From the standpoint of the convenience of traders, and as a means for facilitating trade, it would be impossible from a practical point of view
to defend such a classification system on the basis of its usefulness. A second major difficulty would be determining the actual cross-elasticities of demand between all trade items. Theoretically, this task is possible; but, from a practical point of view it would be as difficult as determining and solving all of the simultaneous equations necessary to describe in practical terms general equilibrium for an entire economy.

Also, in view of the dynamic changes which are constantly taking place in consumer demand it would appear that the processes of re-computation would be a never ending task. It should be emphatically stated that no classification system which is inherently a "full-employment act" for economists should be considered desirable. The significance of this study lies in the fact that the present United States tariff is in need of simplification and consolidation. Any method of goods classification that cannot help to achieve that end is to be viewed as undesirable per se within the scope of this study.

Most modern tariffs, and all international systems which have been adopted in this century, do make use of the principle of grouping on the basis of use or purpose in at least one outstanding case. Agricultural foodstuffs are generally classified as one group, or as several contiguous groups in the classification. Generally, they are divided as to animal products, vegetable products, and manufactures
of the food industries. Most modern tariff nomenclatures

20 This is classification not only by use, but also according to degree by stage of manufacture. This method is the subject of the next section and hence it is not elaborated on at this point. The various international systems adopted during this century are discussed in sections C and D of this chapter and hence are not enumerated at this time.

also use the method of classification by use for many manufactured products. As will be shown in several of the models presented, classification within a schedule by use or purpose does provide for an orderly classification nomenclature; but, the basis for classification by schedule is not on this basis as a whole.

d. Stage of manufacture.

A final method of classifying goods according to related items is to classify goods on the basis of their stage of manufacture, or their degree of finish. The simplest example of this would be a tariff divided into two sections: (1) crude materials; (2) processed materials. This classification is made only slightly more complex by the introduction of an intermediate class: (3) semi-processed materials. The selection of this method of classification, especially in the case of two classes, still leaves many problems to be settled. For example, international usage as to where such commodities as "raw" silk and pig-iron are to be placed has varied widely. Even where the third group was introduced the problem still existed in many cases, and especially with reference to the
division between raw materials and semi-manufactures.

"Some experts have suggested that this difficulty may be lessened by the introduction of still a fourth group. It is impossible, however, by any device to obviate the necessity of making a more or less arbitrary allocation in the case of some few commodities a certain fraction of which is used without further manufacture, while the remainder is subjected to additional processes of transformation." 21

21 League of Nations, op. cit., p. 41.

While stage of manufacture as a method is awkward for the entire tariff classification, for some purposes it is very useful. In cases where the methods of material origin or the method of actual content are used, it is frequently desirable to segregate the various items of the same material into several sub-classes on a basis of their stage of manufacture. This method of classification is extensively used for this purpose. For example, iron and steel products may be classified as follows:

Iron and steel:

1. Iron ore
2. Pig iron
3. Bar iron, blooms, loops, slabs
4. Castings
5. Steel bars and billets
6. Plates or sheets
   a. Iron
   b. Steel
7. Steel bands
8. Fence, rivet, screw and other iron and steel rods
9. Other iron and steel

Within a tariff with the classes arranged alphabetically, this type of classification system is very useful for
classifying the items within particular sections.

From the standpoint of statistical usefulness it is desirable to have a large percentage of trade items separable on a basis of stage of manufacture. One reason for this is that such data are valuable in analyzing the economic position of the country vis-a-vis the world. Second, trends within a country can be studied from such trade data. Third, it is important to be able to segregate "investment", or near investment items from those items which are primarily for direct consumption, from the standpoint of gaining useful statistical material for business-cycle analysis; and, it is also important to segregate finished goods items from goods in process for the same reason. These advantages, accruing from classification by stage of manufacture, are as apparent when this method is used only as a subsidiary method of classification as when it is the primary or sole basis of the classification system.

4. Other theoretical possibilities.

Other theoretical possibilities for classification of at least some items are available. However, these other possibilities are not useful for framing the entire tariff structure, but are only valuable for breaking particular groups into sub-groups. One example is classification by value brackets. This method is used in the United States Tariff in classifying razors (Par. 358), rifles and shotguns (Par. 365), woolen fabrics (Par. 1108), and other items.
Another example is classification by physical size. Watch movements (Par. 367) are classified by inches in width; gloves are classified, in part, by inches in length (Par. 1532a). These methods of sub-classification are based, however, on the nature of the particular article in question and are not a common attribute of all articles which can form the basis for a useful classification.

One principal fact emerges from this discussion of the bases of classification. No single basis of classification can be used satisfactorily alone in framing a modern tariff nomenclature. If classification is by rate, then some other method of classification must be adopted to group commodities within each rate class. If goods are classified on any one of the four bases of grouping by related items, the classification system inherently breaks down at some point. If items are classified on the basis either of material origin or of actual content, for instance, then the system breaks down when it is applied to manufactured goods. If the basis of classification is use or purpose, then the system breaks down when being applied to raw materials or slightly manufactured commodities. Last, if stage of manufacture is the basis chosen for classifying tariff commodities, there is no way in which this method can be applied internally in each of the major sections of the classification system, i.e., (1) crude materials, (2) processed materials. A tariff classification system must satisfy many
and diverse needs; and, no single basis discussed can satisfy adequately all of these needs.

B. Methods of Classification which have been used in the United States Tariff.

In this section an attempt will be made to assess the use to which the previously enumerated methods of classification have been used in the United States in forming tariff laws. An effort will be made to cover the scope of this subject without analyzing in depth the use of each method in past legislation. At the same time the Tariff Act of 1930 will also be analyzed on the basis of methodology, but no detailed presentation of the present United States tariff will be given in this section. It is the subject matter of Chapter IV.

The Tariff Act of July 4, 1789, included what appeared to be a heterogeneous grouping without order of commodities which would bear various rates of duty. On closer examination, however, section 1 which included the dutiable items did possess some degree of order. All items upon which were levied specific duties appeared first in the Act. Following these, all items upon which were levied ad valorem duties then were listed. The ad valorem group was subdivided into five groups on a basis of the rate of duty. The rate-classes in their respective order were: $12\frac{1}{2}\%$, $10\%$, $7\frac{3}{4}\%$, $15\%$, and, $5\%$. Following this simple ad valorem classification, a rule was given for classifying those commodities not
specifically mentioned. Briefly, the rule stated that all commodities not specifically provided for were to be charged with a 5% ad valorem duty, and hence, were placed in that group. At the end of this Tariff Act appeared a brief free list.


The method of classification was first, by type of duty and second, by rate-classes for the dutiable goods. In general the tariff acts of the United States down to the Tariff Act of April 27, 1816, followed this same general outline with some slight deviations. As mentioned earlier, beginning with the Tariff Act of 1790 and expanded in the Tariff Act of May 2, 1792, the use of "chief value" was introduced relative to several materials: chiefly, with reference to leather (1790); iron, steel, tin, pewter, copper, and brass (1792); then, in the Tariff Act of June 7, 1794, the "chief value" rule was added for cotton and wood.

23 Ibid., p. 34-35.

The Tariff Act of April 27, 1816, changed the classification of commodities substantially. The dutiable list, section 1, was divided into six parts as follows:
Part 1  7½% ad valorem
2   15% ad valorem
3   20% ad valorem
4   25% ad valorem
5   30% ad valorem
6   the specific list

The free list was given as section 2.

In part 2 of section 1, it was provided that all goods not especially provided for were to pay 15% ad valorem. In part 4 the "chief value" rule was applied to wool and to wool products; and, in the case of cloth, provisions were added to value cloth at not less than twenty-five cents per square yard as the basis for determining the amount of the duty to be collected upon importations into the United States. In general, related items were placed in the same part (or class). The principle adhered to in classifying by related items (other than using and extending the use of "chief value") was that of use or purpose. As in the first


tariff act of the United States, the principal method of classification was by rate.

Virtually no consistent classification methodology appears to have been followed in writing the Tariff Act of May 22, 1824. Section 1, the dutiable list, contained four enumerated paragraphs with varying ad valorem rates on fibers and materials made of fibers; and then, this section had a fifth paragraph which included japanned and plated
wares and manufactures of brass, iron, steel, pewter, lead and tin. Next, in section 1, was a listing of articles most of which bore a specific duty, but intermixed in this listing appeared a few items which had ad valorem duties. No logical method appears to have been followed in enumerating the items. Also, no free list was provided for in this act.


Goods were classified in a more orderly manner in the Tariff Act of May 19, 1828. Sections 1-7 comprised the dutiable list. The first section of the dutiable list contained 8 parts, the first 7 of which provided for iron and steel in various forms. With the exception of the sixth part (which provided for an ad valorem duty on most manufactures of iron) all of the other parts of section 1 had specific rates of duty. The eighth part of this section, that otherwise included only items derived from iron or steel, provided for lead and lead products.

26 Except for section 4 which disavowed drawbacks on certain items.

The second section of the act also had 8 parts for wool and manufactures of wool in their various forms. The first two parts had compound duties (i.e. both specific and ad valorem duties); the third through the seventh parts used only ad valorem rates of duty; and, the eighth part had
specific duties.

With reference to the coverage of commodities in the six parts of the third section, the first five applied to such items as unmanufactured hemp and flax, sail duck, molasses, and spirits. These commodities had specific duties. The sixth part (silk) had an ad valorem duty. The second part of this section of the act of 1828 provided for a duty of $35.00 per ton on unmanufactured flax. This duty was to be increased by $5.00 per ton annually until a duty of $60.00 per ton was reached. Oddly enough, this maximum rate of $60.00 per ton was to have been imposed from June 30, 1833. The Tariff Act of July 14, 1832, however, placed unmanufactured flax on the free list. This appears to be a classic example of moving from the position of extreme protection for a commodity to no protection in a very short period of time. And only nine years later, unmanufactured flax was placed back on the dutiable list and with a duty of $20.00 per ton.

Window glass, slate, and cotton cloth were provided for in sections 5, 6, and 7 respectively.

On the whole in the Tariff Act of 1828, similar items were grouped together. The basis for grouping related items basically was that of material origin. To a limited extent, in sections 1 and 2, stage of manufacture was the primary
basis for sub-dividing items within a given section.

The Tariff Act of July 14, 1832 followed the Act of 1828 in terms of method. Section 2, the dutiable list, contained 25 parts. Wool and manufactures of wool were provided for in the first four parts of the act. Parts five through thirteen applied to iron and steel, and manufactures thereof. While both types of duties were used the majority of them were specific on the items listed in these parts of the act. Parts fourteen to twenty-four covered hemp, silk, sugars, salt, scrap lead, tea, slate, glass, olive oil, French Wines, and Miscellaneous enumerated items. Part twenty-five included items not specifically provided for which were made dutiable at 15 per cent ad valorem. Section 3 of the act extended the free list of the Tariff Act of 1828.

It appears that again most items were listed by material origin, and perhaps it would be safe to say that the more important groups of items in trade, at that time, appeared first. No other form of logical structure is present in the ordering of items presented in this act. Nor was order present within the free list. Items, apparently, were listed purely at random.

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The Tariff Act of August 30, 1842, was very similar in method of classification to that of 1832. Sections 1 -- 8 comprised the dutiable list. Section 9 was the free list, and section 10 provided a 20 per cent ad valorem rate for items not specifically provided for. This was an increase from the 15 per cent rate of the act of 1832.


Wool and wool manufactures were listed in the 9 parts of section 1. Section 2 dealt with cotton and contained three parts. Section 3 covered silk, hemp and floor cloths (principally). It contained four parts or paragraphs. Section 4 with 10 parts covered iron, steel, lead, tin, and coal. Primarily included in section five were glass, china, leather, furs, manufactures of wood, marble and sundry other miscellaneous items. Section 6 dealt with lead and lead products. Section 7 included paper and printed matter. Section 8 contained sugar, spices, olive oil, salt, brandies and this section had 5 separate parts.

In general, the items were grouped by material origin in classifying by the major sections. Two methods of classification appeared within the sections. The first two sections which provided for wool and cotton respectively were sub-divided largely on the basis of stage of manufacture. The other sections were sub-divided by material origin with a few minor exceptions. These exceptions were classification by stage of manufacture.

The Tariff Act of June 30, 1846, better known as the Walker tariff, served as an example in the initial analysis. It need not be analyzed again at this point. However, this tariff act was noteworthy because of its use of the method of classification by rate; providing for schedules A -- H
for dutiable items, and a schedule I for a free list. This is one example in American tariff history where the law was based almost entirely on one single method of classification in terms of its over-all arrangement.

31 See section A.I. chapter II, above.

Within the schedules of the Walker Tariff similar items were grouped together and separated by commas. These similar groupings were then arranged largely on an alphabetical basis and separated by semicolons. The following example is representative of the method used.

Schedule B, for example, included

Alabaster and spar ornaments; almonds; anchovies, sardines, and all other fish preserved in oil; camphor refined; cassia; cloves; composition tops for tables, or other articles of furniture; comfits, sweetmeats, or fruit preserved in sugar, brandy, or molasses; currants; dates; figs; ginger root, dried or green; glass, cut; mace; manufactures of cedar wood, granadilla, ebony, mahogany, rosewood, and satin wood; nutmegs; pimento; prepared vegetables, meats poultry, and game sealed or enclosed in cans, or otherwise; prunes; raisins; scagliola tops for tables, or other articles of furniture; segars, snuff, paper segars, and all other manufactures of tobacco; wines, Burgundy, champagne, claret, Madeira, Fort, sherry, and all other wines and imitations of wines.32

32 Ibid., pp. 122-123. The underlining of letters was added to illustrate the basis of alphabetical listing.

The Tariff Act of March 2, 1861, was much more detailed than any prior tariff act of the United States. In terms of the method of classification used, the act was a hybrid
form of both the Act of 1832 and the Act of 1846. Sections 5 through 22 formed the dutiable list. For purposes of analysis these sections formed two logical parts: sections 5-18 and 19-22.

Sections 5-18 were similar in form to the Act of 1832. In general, related items were placed together, usually on a basis of material origin. However, sections 10 and 11 were based more upon the method of use or purpose.

Sections 19-22 classified goods on the basis of the rate of duty, as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Rate of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>10% ad valorem</td>
</tr>
<tr>
<td>20</td>
<td>20% ad valorem</td>
</tr>
<tr>
<td>21</td>
<td>5% and 25% ad valorem</td>
</tr>
<tr>
<td>22</td>
<td>30% ad valorem</td>
</tr>
</tbody>
</table>

Section 21 (5% and 25%) was the only one of these sections (i.e., 19-22) in which the individual items were not arranged in alphabetical order. The rate division in section 21 was on the basis of stage of manufacture. The five percent rate was applied to unset precious stones; and, the 25 per cent rate of duty was applied to precious stones if they were set. Hair and hair manufactures not otherwise provided for in the act were also included in this section and were dutiable at the 25 per cent duty rate.
Section 23, the free list, was also arranged alphabetically. Items unenumerated in the tariff were provided for in section 24 of the act. These unenumerated items were to pay duty at a 10 per cent rate; except, all manufactures not specifically provided for were to bear a 20 per cent rate of duty.

Thus, all of the various methods of classifying goods for tariff purposes were used in the Tariff of 1861. The type of alphabetical system used in sections 19-23 was the same as that found in the Walker Tariff. Similar items were listed together and then these small groups were arranged alphabetically. The methods of material origin, use or purpose, and stage of manufacture were used in the other sections of the dutiable list.

While not mentioned here specifically, "chief value" provisions (beginning in 1790) have been used in all tariff acts of the United States down to the present time.

The Tariff Act of July 30, 1864, continued, in general, the form of the first portion of the Act of 1861. Items were grouped in the first 9 sections on a basis of material origin. Sections 10, 11, and 13 contained miscellaneous items arranged without apparent order. Section 12 contained groups of items at 50 per cent ad valorem, and these few items were arranged alphabetically.

The Tariff Act of July 14, 1862, was very similar to this Act, the principal difference being that the Act of 1862
contained no free list. Since it was basically the same, from a methodological point of view, no analysis is here included. The other minor tariff acts from 1864-1866 have also been excluded for the same reason.

The Tariff Act of March 2, 1867, introduced a classification of wool. Wool was broken down into three classes with individual rates of duty for each class. These three classes (clothing wool, combing wool, carpet wool) were defined largely on a basis of their use or purpose. The remainder of this tariff act from the classification point of view was largely unchanged from the preceding act.

The Tariff Act of March 3, 1883, began the classification system largely used at the present time. Since a few of the titles of the sections were altered in the following major revision, the Tariff Act of October 1, 1890, (and a few other small structural changes were made) this latter act will be used as the basis for describing the method of classification. Differences between the Act of 1890 and the Act of 1883 will be noted in accompanying footnotes. Also, since the Tariff Acts of 1894 and 1897 used this same system of classification with only minor alterations these minor alterations will also be noted in accompanying footnotes.

The Tariff Act of 1890 contained 14 sections largely based on material origin which were called schedules.

The term schedule first appeared in the act of 1883, ibid.

These schedules were designated by letter as follows:

Schedule A. Chemicals, Oils and Paints

B. Earths, Earthenware, and Glassware

C. Metals and Manufactures of

D. Wood and Manufactures of

E. Sugar

F. Tobacco and Manufactures of


H. Spirits, Wines, and Other Beverages

I. Cotton Manufactures

J. Flax, Hemp, and Jute, and Manufactures of

K. Wool and Manufactures of Wool

L. Silk and Silk Goods

M. Pulp, Paper and Books

N. Sundries

39 Simply "Chemical Products" in the Act of 1883.
40 In the Act of 1897, Schedule E was changed to "Sugar, Molasses, and Manufactures of".
41 Simply "Liquors" in the Act of 1883.
42 This was "Cotton and Cotton Goods" in the Act of 1883.
43 This was "Hemp, Jute, and Flax Goods" in the Act of 1883.
44 "Wool and Woolens" in the Act of 1883.
45 "Books, Papers, Etc." in the Act of 1883.
Items were also numbered for the first time in the Act of 1890. The numbering went consecutively beginning with schedule A and going through the free list. A total of 761 items were numbered; numbers 1-472 being dutiable, the remainder of the items were the free list. Items not especially enumerated were to be placed in that numbered section to which they were most nearly similar. This "similitude rule" was provided in section 5 of the act; the basis of classification was that of "chief value" in the case of all goods which were manufactured. The similitude rule also provided that if an article was "similar, either in material, quality, texture, or the use to which it may be applied" to any article specifically listed then it was to be placed with that article in determining the import duty.

In general, items within the schedules were grouped together by paragraph on the basis of their material origin. Items of the same material origin but in different stages of manufacture were placed in the same schedule in adjacent paragraphs. Although the basic method of classifying commodities was by material origin in this tariff law, these
commodity groups were sub-divided into paragraphs largely upon the basis of stage of manufacture.

Items in most of the schedules were grouped under general headings and these headings were arranged usually in alphabetical order. For example, schedule G — Agricultural Products and Provisions — contained the following sub-headings (in their respective order): animals, live; breadstuffs; dairy products; farm and field products; seeds; fish; fruits and nuts; meat products; miscellaneous; and, salt. With one exception (seeds) all of these major groupings are in alphabetical order. This same general situation is true of schedules A, B, and C. The items in the free list, section 2, were also basically arranged in alphabetical order.

The Tariff Acts of 1909, 1913, 1922, and 1930 used this same general classification system. The Act of 1922 changed the lettering of schedules to their present Roman numerals. The Tariff Act of 1930 added a new schedule (Manufactures of Rayon or other Synthetic Textile) which was placed between the silk and the paper and books schedules.

The number of items both dutiable and the total listed in these four tariff acts changed as follows:

<table>
<thead>
<tr>
<th>Tariff Act</th>
<th>Dutiable Par.</th>
<th>Total Par.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1909</td>
<td>481</td>
<td>718</td>
</tr>
<tr>
<td>1913</td>
<td>386</td>
<td>657</td>
</tr>
<tr>
<td>1922</td>
<td>495</td>
<td>705</td>
</tr>
<tr>
<td>1930</td>
<td>517</td>
<td>731</td>
</tr>
</tbody>
</table>
The increase in the number of separate items listed in 1922 over 1913 reflects the increase in tariff complexity following World War I. However, the method used for classification of goods has not changed for approximately the past three-quarters of a century.


The Tariff Act of 1930, the existing act as amended, contains four titles or major sections. The first title is the dutiable list and Title II is the free list. The other two titles are concerned with the administrative features of the tariff act. Titles I and II contain 16 separate schedules which appear in the following form:

Title I

Schedule 1. Chemicals, Oils, and Paints
2. Earths, Earthenware, and Glassware
3. Metals and Manufactures of
4. Wood and Manufactures of
5. Sugar, Molasses, and Manufactures of
6. Tobacco and Manufactures of
8. Spirits, Wines, and Other Beverages
9. Cotton Manufactures
10. Flax, Hemp, Jute, and Manufactures of
11. Wool and Manufactures of
12. Silk Manufactures
13. Manufactures of Rayon or other Synthetic Textile
14. Papers and Books
15. Sundries

Title II
16. Free List

As noted above in the development of this classification system, the principal method was that of material origin. Only schedules 7, 8, 14, 15, and 16 deviate from that principle as a general rule. On the basis of material origin, as well as use or purpose, schedule 8 should have been a sub-division of schedule 7, agricultural products and provisions. Such was not the case, however, and one principal reason for this was that traditionally in the tariff alcoholic beverages have been separated from food-stuffs beginning with the first tariff act of the United States. The method employed in placing items in schedule 8 would appear to be that of use or purpose. The material-origins of the various items included, range from sundry cereals to various fruits, and even include such chemical items as mineral waters. Since all of these beverages are not alcoholic, perhaps a more descriptive title would have been: imported liquids for direct human consumption.

Only a few such liquids appear elsewhere in the Act such as cider (par. 738), milk (par. 707), cod-liver oil (par. 1730).

It is also interesting to note that none of the beverages
The one exception to this rule is cod-liver oil, which is hardly a beverage in the usual meaning of that term!

Schedule 7, agricultural products and provisions, also is not based on material origin. Largely all items which comprise the products of agriculture and of the food industries are included in this schedule. The method of classification is that of use or purpose.

Papers and books, schedule 14, on the basis of material origin should appear as a sub-division of schedule 4, wood and manufactures of. It was logical, however, to segregate the items included in schedule 14 from schedule 4 on a basis of use or purpose, as well as that of stage of manufacture.

Schedule 15, sundries, contains all the dutiable items which are specifically enumerated that do not appear in the prior 14 schedules. Many of the items in this schedule could have been classified with one or another of the prior schedules on the basis of material origin. No logical method appears in the over-all arrangement of the items in schedule 15. Closely related items are kept together either within the same paragraph, or are in paragraphs which are adjacent to each other. Sometimes the basis of "relation" is, in a particular paragraph, use or purpose, at other times material origin, and at still other times it is "chief value". In all aspects it is truly a "sundries schedule."
The method of classifying most items not especially provided for in the Tariff Act of 1930 is the method of "chief value". It was pointed out above that at least 144 of the paragraphs of the tariff make use of "chief value" as the means of classifying items within that paragraph which are not especially enumerated either there or elsewhere. The "chief value" rule is found in paragraph 1559 of the 1930 Tariff Act. This paragraph also contains the "similitude rule" mentioned earlier. This rule calls for the classification of all unenumerated articles which are similar "either in material, quality, texture, or the use to which (they) may be applied to any article enumerated in this Act as chargeable with duty, shall be subject to the same rate of duty which is levied on the enumerated article." If an article is similar to two or more articles in different paragraphs then it is to be placed in that paragraph which has the highest duty. If the article is composed of more than two materials and cannot be classified by similitude, then it is to be classified strictly according to the principle of "chief value".

In summary, the principal method of classification by schedule in the Tariff Act of 1930 is that of material origin. Substantial portions of the Act, however, are based on some sub-form of classification by related items; and,
items not especially provided for are classified on the basis of "chief value".

This relatively brief review of the nature of goods classification in the tariff history of the United States has been for but a single purpose. That purpose has been to show the structural development of the tariff. The present way in which goods are classified in the United States tariff is the result of a lengthy process of development. As has been shown, the simple early beginnings of the tariff in terms of the arrangement of commodities culminated in the schedule-form in 1883. Since that time no major changes in the way in which goods were classified has taken place.

In considering the problems involved in the simplification and consolidation of the present tariff of the United States the starting place for reform must be with existing law, the Tariff Act of 1930, as amended. One possible basis for reform would be to begin with the present structure and retrace the steps from the present complexity to an example of greater structural simplicity. It may indeed be that this is the most practical way for tariff reform to take at the present time. At least, in view of the historical development of the tariff it is an avenue of reform that practical reformers with an eye to the historical perspective of the political problems involved will not overlook. In addition, legislation before the 83rd Congress of the
United States for the purpose of simplifying customs tariff schedules was based upon this general idea. In H.R. 10009 the proposal was adopted to maintain the current schedule structure and to classify commodities within that framework. However, less emphasis was indicated concerning the method of "chief value", and more emphasis, especially for the nonenumerated items, upon the methods, first of use or purpose, and second of material origin. This method of tariff reform will serve as the basis of one of the models analyzed later in the study.

C. Presentation and Analysis of Various International Customs Nomenclatures.

1. Efforts to achieve uniformity in customs nomenclature prior to the League of Nations.

The attempts to gain uniformity of nomenclatures for customs purposes have largely been centered in Belgium. As early as 1853 an International Statistical Conference held in Brussels attempted to achieve the unification of customs schedules, so that for purposes of statistical analysis comparable data would be available. Various resolutions have been passed at international conferences since that time recommending the establishment of a uniform nomenclature for customs tariffs.

51 The International Trade and Industry Congress held in Paris, 1889, and the Congress of the International Chamber of Commerce at Milan in 1906 are two such cases. See, Ernst Trendelenburg, Customs Nomenclature and Customs Classification, League of Nations. II.1927.24., p. 15.
In 1910 and again in 1913 international statistical conferences were held in Brussels. On the basis of resolutions adopted at these conferences a "Convention respecting the Compilation of International Commercial Statistics" was signed on December 31, 1913. The principal part of that agreement was the establishment of a "common nomenclature of merchandise" which all countries signing the agreement would use in reporting international trade statistics.


This nomenclature, since known as the Brussels Convention Classification of 1913, contained five major divisions:

I. Live animals
II. Food and beverages
III. Materials, raw or simply prepared
IV. Manufactured articles
V. Gold and silver, unworked, and gold and silver coin.

53 Ibid., p. 9-15. See also Appendix A for the complete nomenclature.

These five major divisions were further divided into 186 chapters, or major headings numbered consecutively. Classification by use or purpose was employed in distinguishing between the first two divisions. Live animals, the first
division, included livestock. This division was subdivided into seven major chapters by the names of the major livestock groups: i.e. horses, cattle, sheep, goats, swine, poultry, and others. This division by animal groups does not readily adapt itself to the formal classification methods presented earlier. It can best be termed classification by material origin; that is, recognizing each animal class as a given material.

The second division included all food products, with the possible exception of sugar beets which were classified as a non-food raw material. This represented segregating all of these items from the rest of the nomenclature on the basis of use or purpose. Within this division the classification by chapters was on the basis of material origin. In general, primary items such as milk, eggs, and wheat served as chapter headings and items not specifically mentioned were classified also on the basis of material origin. Thus, cornflakes, a manufactured corn product, was to be classified in chapter 24, maize. This second division contained chapters 8-49, or 42 individual chapters.

The basis for separating the items in the third and fourth major divisions was the method of stage of manufacture. División III, materials, raw or simply prepared, included all raw materials other than food products. Within division III the chapters are provided on the basis of material origin. Use was made, in part, of the method
of stage of manufacture. The major metal bearing ores, for example, are separated from the major raw metals. Thus, both chapter 69 and chapter 77 are "copper"; the former being copper ore, the latter the raw metal. This same rule of stage of manufacture was applied to iron, lead, and zinc within this major division.

54 Chapter 151 in the next major division, manufactured articles, is also copper.

Manufactured articles, Division IV, were classified into chapters within this division on the basis of grouping by either of two methods: material origin or use or purpose. For example, all yarns were grouped into six consecutive chapters, the types of yarn then being divided by material origin. The same was true of "tissues" (fabrics). In this last case, however, (which included 16 chapters) after using the method of material origin in the first five and the last three chapters, the remaining eight chapters were on the basis of use or purpose. Thus, throughout this major division, two different methods were simultaneously employed. The reason for this was that while the primary basis of classification was that of material origin, it was necessary to divide major groups of items made of the same raw material into several chapters in order to provide an adequate amount of detail. For example, manufactures of
leather included several major groups of items important in world trade. These were recognized in the framework as prepared peltry, prepared hides, boots and shoes, gloves, and other leather products. Such sub-division of the major groups of items provided necessary detail in a nomenclature that tried to recognize individually the major commodity groups in terms of the commodity divisions recognized by the traders of the world.

Those who frame a usable nomenclature must of necessity constantly compromise between two positions. On the one hand, simplicity is highly desirable. The fewer the groups of commodities individually recognized the better it is, if commodities are to be classified with the maximum amount of certainty and the minimum amount of confusion. On the other hand, if the data to be collected on the basis of the classification system are to be widely usable, then enough detail between the major commodity groups must be provided for or such detail is lacking. The problem is thus basically one of including as separate groups only those trade items that if not provided for separately would have the result of being a greater handicap in using the data collected, than if included as separate groups; and, at the same time increasing the problems of classifying items between the separate groups all of which have the same material origin.

The last half of the division, chapters 150-182, were manufactures of metals, (as opposed to manufactures of
fibers, paper, leather, etc.), the first six of these chapters were on the basis of material origin: i.e., aluminium, copper, tin, nickel, lead, and zinc. The remainder of the chapters were arranged on the basis of use or purpose, combined with the idea of "industrial affinity". Thus, electrical goods were kept together on the basis of the type of power they used (chapter 160). Other types of machinery were segregated on the basis of use or purpose (textile, sugar factory, agricultural, etc.). "Works of art and trophies, etc., for collections" was the final chapter in this division. These items were classed as manufactures apparently for the reason that there was no other more logical place to put this group of related items without providing a separate division for them in the nomenclature.

The final division (V) contained four chapters for gold and silver. Each metal was provided for separately, and unworked gold was kept separate (chapter 183) from gold coin (chapter 185). This same rule was applied to silver. Items manufactured of these metals for other purposes, for example, jewelry, were accounted for within Division IV (manufactures) in two of the chapters, 156 and 157.

The signatory nations supplied the "Bureau international de Statistique Commerciales" with trade statistics based upon this nomenclature in the years following the convention. This international bureau was established as a portion of the agreement as the agency which was to pub-
lish yearly the statistical material supplied by the cooperating governments.

The Brussels Nomenclature of 1913 marked the first workable attempt at international cooperation in this area.

2. **League of Nations studies and recommendations.**

Beginning in May of 1927 with the World Economic Conference, the League of Nations began work on the problem of an international nomenclature for customs tariff purposes. After preliminary study of the task to be undertaken, the Conference recommended that a uniform classification be worked out that would be as objective as possible. The Conference held that "a single systematic nomenclature was entirely" consistent with "laws based upon different economic and fiscal theories", since the rate of duty attached to each stage or type of tariff item, not nomenclature, "is the means of establishing the degree of protection a country desires to give its various products". It was also the judgment of the Conference "that the adoption of a common nomenclature would diminish customs disputes and promote the conclusion of commercial treaties."

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Five definite recommendations to the Council of the League of Nations for its action came out of the Conference:

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1. That the Council upon its own initiative should have drawn up a systematic Customs nomenclature in accordance with a general plan covering all classes of goods;

2. That the nomenclature be worked out gradually, beginning with those classes of goods for which it can most readily be introduced;

3. That the nomenclature be submitted to the various Governments at each stage of preparation for study and recommendations;

4. That if a portion of such a common nomenclature for various important branches of production seems to be realisable before a complete nomenclature has been established, the adoption of such a portion of the nomenclature should be suggested to the Governments; and

5. That such a nomenclature, once worked out should be adopted by the various Governments bringing their laws affecting goods passing through customs into conformity with it.

The Council of the League of Nations acted promptly upon the recommendations of the Conference, and it invited the Economic Committee of the League to begin a preparatory study on the problem of unification of customs nomenclatures.

An expert sub-committee was convened to undertake the study. During two meetings held in Geneva in August and October, 1927, a draft framework of a customs nomenclature containing 20 sections and 94 sub-divisions or chapters was drawn up. In its preliminary work on this first draft, the sub-committee operated on the following four principles ---
1. The nomenclature should be extremely simple.

2. The nomenclature should be drawn up on scientific lines, i.e. commodities should be classified according to the main natural divisions established in the different branches of science.

3. In classifying commodities and articles in the nomenclature attention should be paid to the stage of manufacture.

4. Commodities of the same kind should, as far as possible, be grouped in one section for ease of use.

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This first work did not produce a customs nomenclature in the usual meaning of that term, nor was it intended to. The result was a simple, complete classification framework within which a nomenclature covering all products could be developed.

This initial framework was submitted to the various Governments for their study, criticism and comment. Their replies, received by the sub-committee, were incorporated in a second draft framework. The second draft extended the number of sections to 21 and at the same time decreased the number of chapters from 94 to 86. This revised framework became the structure around which the nomenclature was built by the expert sub-committee of the League.

59 This draft framework is presented as appendix B.
The first attempt at allocating commodities within the framework was made in 1928; during the following three years the expert sub-committee drew up, in considerable detail, a complete Customs Nomenclature which was presented to the Secretariat of the League of Nations in 1931. This nomenclature contained, as had the second draft framework, 21 major sections and 86 chapter headings; and, in addition, it had 991 sub-headings or paragraphs within the chapters. These 991 sub-headings it was believed contained in adequate detail, for each nation's purposes, a place for all of the hundreds of thousands of individual items that move in world trade. It was, thus, a structure that any nation could adopt in framing its own tariff legislation.

In terms of the number of sub-headings in a major section, the following examples are illustrative. Sections 6, 11, and 15 contained 136, 159, and 124 sub-headings respectively. These three sections were, in the same order, chemicals, textiles, and base metals. Section 6, chemicals, contained 8 chapters and 136 sub-headings which were further sub-divided in great detail. This section had altogether...
(after elimination of double-counting) 343 separate divisions for classifying particular chemical commodities. This still represents great simplification when it is remembered that there are many tens of thousands of specific chemical products to be classified for duty purposes, if they are included in the tariff. Section 11, textiles, contained over 450 individual sub-items, for purposes of classification, though it contained only 8 chapters and 159 major sub-headings.

This tariff classification system, the 1931 Draft Customs Nomenclature of the League, provided a systematic, logical, basic system which could be used in a practical way by any member Government. And, any amount of "specialization"—additional sub-division of sub-headings within the chapters or of chapters—could be made without affecting the advantages of a common basic system.

The methods of classification employed by the expert sub-committee varied according to the section, chapter or sub-heading concerned in a particular case. In its report to the Economic Committee of the League in June of 1931, the sub-committee pointed out that the following bases were used in distributing goods within the chapters; (a) origin, (b) processes of manufacture, (c) degree of workmanship, (d) economic importance, (e) nature of the packing (in some cases), and (f) destination (meaning primary use—used only in a few exceptional cases).
62 Ibid., p. 5-6. A detailed analysis of the structure of the League of Nations Customs Nomenclature is given below. The reason for not giving the analysis at this point is that this Nomenclature was developed over a 10 year period and emerged in three forms. These three forms will be referred to in the text as the 1928-draft, the 1931-draft, and the 1937-draft. This last draft represents the final completed product. For this reason analysis of the internal structure of the nomenclature will be presented when the 1937-draft is discussed. The 1928 and 1931 versions of the nomenclature do not represent different nomenclatures. Rather they represent incomplete products, whereas the 1937 draft is the finally evolved complete product.

In the report of the expert sub-committee in 1931 several points were made clear. First of all, in the opinion of the sub-committee, the main outlines of the nomenclature were in final form. That is, the 21 sections, 86 chapters and 991 sub-headings were to be "regarded as final and ne varietur." Second, this much of the nomenclature was to "be compulsory - in other words, the countries which adopt the standard nomenclature would not be allowed to abolish any of these headings, which, as a rule, (were) sufficiently comprehensive to include a whole group of well-defined articles which play(ed) an important part in international trade." Third, nations could add to or con-

63 Ibid., p. 7.

tract the additional amount of sub-items provided in the nomenclature. Fourth,
... By this means, all tariffs would have a minimum of elaboration, thus eliminating the danger of excessive simplicity which, in the circumstances, is as much a defect and as dangerous as over-detailed discrimination. Greater discrimination would always be possible, but it would have to be carried out within the framework constructed by the experts. Moreover, the experts fixed the main rules governing discrimination between the important headings in the explanatory notes relating to those headings.65

65 Ibid.

These points emphasize the advantages to be gained by the adoption of a common customs nomenclature. First, all countries would remain free to write their tariffs in terms of their own "economic and fiscal requirements." Each nation could adapt its tariff to this common structure without affecting the degree of protection it gave to its own economy or segments of its economy. Nor would the amount of revenue received from customs by any country be affected by a country's adoption of the nomenclature. The important point to note in this connection is that each nation could be carrying out its own aims, divergent from other national aims in the world economy, without in any way affecting the structure of the classification system.

Second, "goods would everywhere be classified in accordance with the same principles, the contents of each heading would always be defined in a precise and identical manner, and the same terms would be used everywhere for the
same products." Unification of customs nomenclatures would mean for all practical purposes a complete "unification of Customs language and terminology." Thus, all grounds for either uncertainty or ambiguity in interpreting tariffs would be removed. A commodity produced anywhere, by any producer, in any country, under any conditions would be found everywhere in exactly the same place, with exactly the same numbering in the tariff. The problems of the uncertainties of classification of commodities, faced by an exporter to any foreign country would virtually disappear. The duty payable by the exporter could be determined, in advance; and, furthermore, such determination would be in terms of a very high order of certainty.

67 Ibid.

Third, in the special sphere of commercial policy similar advantages would also follow. "Negotiators of commercial agreements would speak the same language; they would be sure, without any danger of misunderstanding or of subsequent disputes, of the meaning of the tariff items under discussion." And, in addition, in the present world of multilateral tariff negotiation "the common nomenclature would, where necessary, provide the indispensable basis for all collective tariff negotiations."

68 Ibid. Louis Domeratzky suggested that the international cartel movement in rayon, electric globes, and some chemical products would also help to foster the adoption of a common

While it had originally been planned that the nomenclature should be submitted to a special diplomatic conference for ratification when finished, it was decided in view of the world economic plight of 1931 to wait before undertaking this stage of the program of the League. Therefore, the nomenclature of 1931 was submitted to the various Governments for only their considered opinions and further suggestions.

Some of the suggestions from the various Governments were extensive. Particularly was this true with respect to the observations of the German and Swedish Governments. Their suggestions included many changes with reference to classifying "detached parts appertaining to the engineering industry" and "the classification of goods composed of several materials."

With respect to the problems raised by the German and Swedish Governments the 1937-draft set forth 6 preliminary provisions or rules to be followed in classifying these two types of items by the various Governments within the draft framework for their particular customs tariffs. These rules
were as follows—

1. **Articles composed of several materials and not specially classified as such shall follow the classification appertaining to the material of that part which gives the article its predominating character in respect of appearance and use.**

In applying this provision to composite articles, component materials which are present only in a negligible amount, and which do not essentially affect the nature or character of the goods, shall not be taken into account.

2. **Articles, the parts of which are not intended together to constitute a whole but are merely placed one upon, or within, the other, i.e., which are combined together only for the purpose of being used, shall not be deemed composite articles in the sense of paragraph 1 above. The parts of such articles must be classified separately, according to the material of which they are composed.**

3. Subject to the exceptions specified, detached parts of articles normally built up of several portions, which parts are intended to be assembled permanently, must be enumerated under the item corresponding to the complete article if imported together, even in separate packings, the absence of non-essential parts shall not prevent the application of the present provision.

4. **The articles composed of several materials which, by reason of the general or special rules contained in the nomenclature, fall under the chapter or group appertaining to articles composed of a single material shall be classified under the same item as the latter articles composed of a single specified material, even if the description of that item does not provide, or only provides in part, for combination with other materials.**

5. **In the classification of manufactured products, no account shall be taken of trade marks, names of the manufacturer or seller, indications of the country of origin, or similar indications not having the character of ornaments.**

6. **The foregoing provisions Nos. 1 to 5 are to be applied generally, subject to the special provisions appearing in the different sections of the nomenclature.**
Provision one above excludes the method of "chief value" for classification and insists upon classification by the material which gives the article its predominant character. (As will be noted below in Chapter IV, one of the principal causes of classification difficulties in the present United States Tariff is the frequent use of "chief value" as the classification rule to the exclusion of any other logical principle for items not specifically provided for in the tariff schedules.)

Another point to recognize is that in provision three, incomplete parts are to be classified not as a separate trade item, but with the complete part. They can, of course, be a separate sub-division in such chapters or sub-headings, if that is desired in a particular tariff so as to provide a separate duty rate; but, they are not to be classified elsewhere in the nomenclature.

Rule five above prevents the type of discrimination that is based on an irrelevant characteristic of the article. The classic example, often quoted, of such discrimination was note 3 of chapter 103 of the "German Tariff Act of 1902" which classified cattle on the basis of the altitude.
at which they were grazed. Such discrimination would be

72 "Note 3. - Large dappled mountain cattle or brown cattle,
reared at a spot at least 300 metres above sea level, and
which have had at least one month's grazing each year at a
spot at least 800 metres above sea level." Cited in Kelly's
op. cit., p. 489.

completely possible even though the Government in question
were to have followed the Customs Nomenclature of the
League. For one thing they could have provided a separate
sub-division under cattle in this nomenclature when they had
adopted it, which would include only cattle fitting the de-
scription of note 3 in the old "German Tariff of 1902". Or
without even affecting the nomenclature they, after insert­
ing the desired general duties for the items of the nomen­
clature, could have footnoted the duty on cattle and with a
special provision included at a separate rate cattle fitting
that description.

The basic point is that such discrimination would not
be based upon the fundamental structure of the nomenclature,
but would of necessity be open and obvious discrimination to
all concerned. This was one of the fundamental objectives
of having a uniform, international nomenclature for customs
tariffs; not to prevent discrimination at large, but only to
prevent discrimination based upon the structure of the nomen­
clature itself which was used in a particular tariff.

73 League of Nations. op. cit., 1928.II.37, p. 6, 9.
The Leagues' Draft Customs Nomenclature of 1937 was substantially the nomenclature of 1931. Some of the titles of sections, chapters and sub-headings were slightly changed, but this did not result in any substantial regrouping of goods. A few of the sub-headings—within a particular chapter—were shifted to give a more logical order largely in terms of the concept of stage of manufacture. Some of the sub-divisions under particular sub-headings were omitted, in other cases these sub-divisions were enlarged. But none of the changes involved a change in the methods of classification originally used. An analysis of the complete Customs Nomenclature of the League is given at this point.

The 21 major sections of the Customs Tariff Nomenclature of the League of Nations were:

Section I. Live Animals and Products of the Animal Kingdom. (Chapters 1-5)
II. Products of the Vegetable Kingdom. (Chapters 6-14)
III. Fatty Substances, Greases, Oils and Their Cleavage Products; Prepared Edible Fats; Waxes of Animal or Vegetable Origin. (Chapter 15)
IV. Products of the Food Industries; Beverages, Alcoholic Liquids and Vinegars; Tobacco. (Chapters 16-24)
V. Mineral Products. (Chapters 25-27)
VI. Chemical and Pharmaceutical Products; Colours and Varnishes; Perfumery; Soap, Candles and the Like; Glues and Gelatines; Explosives; Fertilisers. (Chapters 28-35)

VII. Hides, Skins, Leather, Fur Skins and Goods Made Therefrom. (Chapters 36-38)

VIII. Rubber and Articles Made of Rubber. (Chapter 39)

IX. Wood and Cork and Articles Made Thereof; Goods Made of Plaiting Materials. (Chapters 40-42)

X. Paper and its Applications. (Chapters 43-45)

XI. Textile Materials and Textile Goods. (Chapters 46-53)

XII. Footwear, Hats, Umbrellas and Parasols; Articles of Fashion. (Chapters 54-57)

XIII. Wares of Stone and Other Mineral Materials; Ceramic Products; Glass and Glassware. (Chapters 58-60)

XIV. Real Pearls, Precious Stones, Precious Metals and Wares Made Thereof; Coin (Specie). (Chapters 61-62)

XV. Base Metals and Articles Made Thereof. (Chapters 63-71)

XVI. Machinery and Apparatus; Electrical Material (Chapters 72-73)

XVII. Transport Material. (Chapters 74-76)

XVIII. Scientific and Precision Instruments and Apparatus; Watchmakers' and Clockmakers' Wares; Musical Instruments. (Chapters 77-79)

XIX. Arms and Ammunition. (Chapters 80-81)

XX. Miscellaneous Goods and Products Not Elsewhere Included. (Chapters 82-85)

XXI. Works of Art and Collectors' Pieces. (Chapter 86)

It can be readily seen from the section headings that no one basis for division into sections was used to the exclusion of all others. The first four sections deal primarily with agriculture and the food processing industries. Division here between them is partly on the basis of use or purpose, and partly on the basis of stage of manufacture. And, section three is also defined by the principle of material origin. The method of classification used in these
first four sections internally is primarily that of material origin. Similar groups of items in terms of their origin are grouped together into chapters; and, then these items individually are used as the sub-heading titles within the chapters. In some cases sub-headings are further subdivided. At times this additional sub-division is on the basis of material origin (sub-headings 3, 50, 60, 75, 105, etc.), at times on the basis of stage of manufacture (sub-heading 63), and in still others the type of packaging (sub-headings 152, 153).

Sub-headings referred to by number are from the final draft of the nomenclature. League of Nations. Economic Committee. Draft Customs Nomenclature. Volume I. 1937. II. B. 51.

The several methods of classification adopted to separate items into individual categories within these major sections illustrate the following general principle in the classification of commodities. Once the universe of commodities has been divided into a number of groups on some basis, then a number of different methods of sub-classification will be used in the sub-division of the major groups: provided that, the sub-division attempts to include, in some way (as chapters, sub-headings or paragraphs, or divisions of sub-headings) each of the major distinct "commodity items" in world trade as a separate item in the nomenclature. A few examples will illustrate the principle just stated. One common beverage in world trade is beer. This
was separately provided for in sub-heading 152 of chapter 22. Beer, in addition, is normally packaged in one of two distinct ways; either in casks, or in bottles. Therefore, sub-heading 152, beer, was sub-divided as follows:

152. Beer

a. In casks
b. In bottles.

The desired amount of detail was provided in this case by using the principle of classification by type of container, while in an over-all fashion use or purpose was the primary method of classification in these sections.

A second example of this principle is illustrated in the way coffee was included in the nomenclature. Chapter 9 includes coffee, tea, and spices. Sub-heading 63, coffee, was further sub-divided into 2 groups on the basis of stage of manufacture as follows:

63. Coffee

a. Not roasted
b. Roasted, including ground.

In this way, once again the desired amount of specialization or detail was made possible in the nomenclature. In order to provide this detail many different classification methods were employed throughout the nomenclature.

The method of material origin was the major method employed in the classification of sections V-XI, XIII-XV. These 10 major sections included minerals, chemicals, leathers, rubber, wood, paper, textiles, stone and ceramics,
precious stones, and base metals.

The method of material origin was used internally to name the sub-headings within the section on mineral products. In two cases, sulphur and petroleum, these sub-headings are further sub-divided on the basis of the stage of manufacture.

Section VI, chemicals, is also arranged internally on the basis of material origin. Chemical groups form the sub-headings and these are in turn sub-divided into the major individual products. In the last chapter in section VI, fertilizers, use was made of the principle of "destination", meaning primary use. Any chemical product containing at least two of the fertilizing elements whether the product was to be used as a fertilizer or not was to be classified under the sub-heading 356 of chapter 35, except when specifically provided for elsewhere in the nomenclature, i.e., as a fertilizer.

Extensive use was made in section VII, hides, etc., of the principle of stage of manufacture in classifying commodities within this section. One other principle also appears. Tanned hides were sub-divided within this section on the basis of the process of manufacture. Vegetable-tanned hides were separated from mineral-tanned hides.

The commodities within sections VIII (rubber), IX (wood and cork), and X (paper) were classified internally almost entirely on, first, the basis of material origin; and, second, the sub-classification on the basis of stage of
manufacture.

The classification of textiles within section XI was amplified by seven rules to be followed in using the classification system. First, items were classified without regard for any non-textile materials they may have contained, except where special provisions were specifically made. Second, yarns consisting of more than one type of fiber were classified by a set of specific rules. One example of these rules was that any yarn consisting of at least 10% wool by weight was to be classified as wool. In other cases the yarn was to be classified under the predominant material fiber by the weight of which the yarn was composed. Third, similar specific rules were provided for classifying textile goods made of yarns consisting of mixed fibers. Fourth, similar specific rules were given for the classification of hosiery. Fifth, articles of ready-made apparel are bound by the same rules as for the yarn or for the material of which they were made. Sixth, within chapter 52 (clothing) certain specific types of clothing were grouped together. Items coming clearly within the basis of "use" under these headings were to be placed in the sub-headings provided. In all cases where "use" was not clear they were to be classified within chapter 52 under sub-heading 597 on the basis of material origin. Seventh, items composed of several materials were to be classified only on the basis of that material which gave them their predominant character.
These seven rules for the classification of textiles clearly reflected the dominant use of the basis of material origin for classification within this section. Also, there was some inclusion of the principles of stage of manufacture and processes of manufacture; and, as was pointed out in rule six above, the principle of "use or purpose" was also employed in one case within this section.

Employing the above classification system for textiles resulted in a complex and extended classification of such commodities. Within these 8 chapters and 159 sub-headings there were more than 450 separate items listed after eliminating double-counting. (Some of the sub-headings are sub-divided others are not, hence the elimination of double counting is necessary to determine the number of individual items in the outline.)

Section XIII contained three chapters. These three chapters provided for stone and stone products, ceramic products, and glass products. Internally within these chapters, which were divided on the basis of material origin, the sub-classification was by use or purpose, stage of manufacture and process of manufacture. Manufactured items which serve primarily as raw materials for other industries were in that way kept separate from items primarily available for retail selling. In like manner items processed by one major industrial method were kept separate from those items processed by other methods. For example,
building bricks were sub-divided according to the finishing process: ordinary brick separated from glazed and from ornamental brick. Glassware was at times classified by use or purpose. Such items as optical glass, glass for clocks, glass bulbs for electric lamps form separate sub-headings.

All jewelery—precious and costume—along with specie were provided for in section XIV. Coin was classified on the basis of material origin. This method served also as the basis of classification of jewelery and precious stones. For articles of jewelery containing more than one precious metal specific rules of classification were provided. All articles containing any platinum were to be classified as platinum. Articles containing gold, but no platinum were to be classified as gold. Articles containing only silver of the precious metals were classified separately. The method of stage of manufacture was used to separate into major headings "partly worked" from "finished wares" of each of the major precious metals: platinum, gold, and silver. Internally some of the sub-headings were sub-divided on the basis of process of manufacture.

Section XV provided for base metals and all articles made of base metals. The chapters contained in this section were presented on the basis of material origin. Thus, separate chapters were provided for iron and steel, cooper, nickel, aluminum, lead, zinc, tin, and other base metals and alloys. A set of specific rules similar to the set
which preceded the chapters on textiles was provided as a guide for classification of base metal products. One group of these rules applied to the classification of commodities containing more than one base metal. The second group of these rules defined the terms "unworked", "simply worked", and "worked" for classifying base metals within the chapters on the basis of stage of manufacture. The method of process of manufacture also was used within these chapters. Thus, iron or steel bars, wire, sheet, hoop, pipe, tubes, etc., were provided for under separate sub-headings. These same methods were applied to the other base metals as well. By classifying the commodities in this manner the trade terms for these commodities in the base metal industries were used.

Within the chapter on iron and steel a number of sub-headings (15) provided for major groups of tools by name. Hence, saws, pliers, hammers, etc. were provided for in separate sub-headings. This represented classification by use or purpose. While the same general methods of classification were used within the other base metal chapters one additional classification method was used, but in only one case. In the chapter on aluminum a distinction was made between sheet and thin leaf aluminum. Thin leaves were classified separately on the basis of thickness (1/10 millimetre or less). Other leaf and sheet aluminum were provided for in a separate sub-heading. A final chapter in section
XV provided for miscellaneous wares made of base metals. Within this chapter such items as table knives, forks, spoons, razors, scissors, lamps, printers' type, and pens were used as sub-headings. Again this represents the method of "use or purpose" for classifying articles within the chapters.

Within these 10 sections (V-XI, XIII-XV) classification was basically by material origin. Other methods of classification were used to provide the desired amount of detail. In this connection many methods were included the most important being use or purpose, stage of manufacture, and process of manufacture.

Sections XII, XVII, and XIX were classified on the basis of use or purpose. Section XII included shoes, hats, umbrellas, etc. Each of these types of items formed a separate chapter. Within these chapters classification was by the method of material origin. Transport material, section XVII, again represented classification by use or purpose. Internally in this section, classification was by the particular method of transportation. Railway, automobile, aircraft, and waterway transport material were the basis for the chapter titles.

Within these chapters the specific type of article of transportation was the basis of sub-classification. Thus, within the chapter on air- and water-craft the major sub-headings were:
This represents again sub-classification by use or purpose. In the case of section XVII it can thus be seen that the principle of use or purpose has been employed at three levels. First, in carving out this section as a whole from the rest of the nomenclature. Second, by naming the chapters on the basis of the principle types of transportation. Third, within each chapter sub-dividing was on the basis of specific forms of that type of transportation equipment. While use or purpose was the predominant type of classification method used, it was not the only method adopted within this section. Other methods used for sub-classification included stage of manufacture and type of power used to propel the vehicle in question. In one case material origin was used as the basis for sub-classification.

Section XIX also was carved out in the nomenclature on the basis of use or purpose. Arms and ammunition are provided for in this section. Sub-classification within this section was on the basis of the type of article. Thus, such items as side arms, arms of war, and sporting arms were the sub-headings.

Sections XVI and XVIII were also, in part, classified on the basis of use or purpose. In separating these two
groups of commodities from the whole, however, use was made of stage of manufacture. Section XVI included most machinery. Classification within the chapter was partly on the basis of the source of power to drive the machinery, and partly on the basis of the machinery's particular use. Thus, for example, electrical equipment was separated from other types of machinery. In addition such items as looms, sewing machines, boilers, and tractors were provided for in separate sub-headings. In some cases sub-headings were sub-divided on the basis of the exact process the machinery would perform. Machinery for preparing textile materials, for example, was sub-divided into spinning and twisting machines, winding machines, and others. Section XVIII, which included scientific equipment, watch- and clock-makers' wares, and musical instruments, again represented classification primarily by use or purpose. Within these chapters use or purpose was the basis, also, for classification into sub-headings. At times these sub-headings were sub-divided on the basis of material origin.

Works of art were provided for in section XXI. The major forms of such works of art constituted the basis for the sub-classification, i.e., pictures, engravings, statues, etc. In general this can be termed classification on the basis of use or purpose.

Sundry products not provided for in the other sections were included in section XX. All of the chapters in this
section were classified internally on the basis of material origin. One chapter provided for types and games, etc. Internally, classification was by material origin, and also, by use in this one chapter.

In summary, the analysis of this nomenclature illustrates a general principle quoted in the first part of this chapter. That principle was as follows: Classification of commodities by material origin is logical for raw materials and materials simply prepared. Classification by material origin breaks down when used to classify highly manufactured goods. On the other hand, classification by use or purpose is logical for classifying manufactured goods. But classification by use or purpose breaks down when applied to raw materials and simply prepared goods because these commodities in most cases have multiple-uses. This analysis as a whole has shown that taken as a broad group the first four sections of the nomenclature were classified on the basis of use or purpose. Sections V-XI, XIII-XV were classified primarily on the basis of material origin. The remainder of the major sections (XII, XVI-XXI) were then classified primarily on the basis of use or purpose. In other words, the classification structure of the League's nomenclature was a clear demonstration of this principle of using both the methods of use or purpose, and material origin in designing a useful nomenclature.

A second general principle was mentioned in this
examination of the League of Nations work on custom nomenclatures. That principle stated that no single method of classification could be used singly in framing a nomenclature in which each of the major distinct "commodity items" in world trade was to be included as a separate item. The foregoing analysis of the League of Nations' Draft Customs Nomenclature demonstrates, in detail, this principle of commodity classification.

The nomenclature of 1937 was adopted by a few governments who made use of it as the basis for their customs tariff acts. The outstanding example is the tariff of the Benelux Customs Union: Belgium, Luxemburg, and the Netherlands. Other countries which have based their tariffs on this nomenclature are France, Finland, Italy, Columbia, and Uruguay.


The tariff nomenclature prepared after World War II by the European Custom's Union Study Group in 1949 was based upon the final version (1937) of the League of Nation's Draft Customs Nomenclature. These two nomenclatures,
therefore, are very similar. Since a detailed analysis was made of the League of Nation's Draft Customs Nomenclature, no detailed analysis of the European Customd Union's Tariff Nomenclature need be given. Instead the major differences between these two nomenclatures is presented.

Only three major structural changes were made by the Study Group in revising the League's nomenclature. First, in the League of Nation's nomenclature, section VII pertained to hides, leather, etc., and section VIII pertained to rubber, etc. This order was reversed by the Study Group. Second, in the League's nomenclature there were 86 chapters. In the Study Group's nomenclature the number of chapters was extended to 99. And third, a change was

78 The additions of chapters to the sections were as follows: 1) Three additional chapters were added to the chemical section. This increased the number of chapters in section VI from 8 to 11. This change represents, primarily, a sub-division of chapter 28 in the League's nomenclature and the addition of a chapter for miscellaneous chemical products (ch. 38). These additions represent recognition of the vastly expanded quantity and variety of chemical products produced today as opposed to the relative unimportance of the chemical industry when the League's nomenclature first took form (1928). 2) Section VIII of the League's nomenclature was for rubber, and only one chapter was provided. Section VII of the Study Group's nomenclature (which was for rubber) contains two chapters. One chapter (40) corresponded to the single chapter in the League's nomenclature. The new chapter (39) covers items formerly included elsewhere. It contains 7 headings for such items as resins, plastics, hardened protein derivatives, cellulose and similar items. Industrially, since the League of Nation's nomenclature was finished, a whole new field of products has been developed. This chapter was added, therefore, to include separately from the rest of the nomenclature these items in one chapter. 3) Section XI (textiles) in the League's nomenclature contained 8 chapters. In the Study Group's nomenclature this was
increased to 14 chapters. Three reasons can be given for this increase in the number of chapters for textiles; first, four chapters were added to provide separate chapters for "continuous synthetic and artificial textiles", "metallised textiles", "discontinuous synthetic and artificial textiles", and, "other vegetable textile materials"; second, one chapter was added to provide a separate chapter for carpets. In the League's nomenclature, carpets were classified in five different chapters on the basis of their material origin. In the Study Group's nomenclature all carpets were included in chapter 58. Then chapter 58 was subdivided into 10 classes primarily on the basis of process of manufacture. (Chapter 58 also includes a number of other products, such as: pile, chenille, tulle, lace, and embroidery.) Third, an additional chapter was provided for manufactures of textiles. In the League's nomenclature there were two chapters for such manufactures:

51. Hosiery
52. Clothing, underwear and ready-made apparel of all kinds.

The Study Group in adding a chapter for manufactures of textiles changed the coverage of the chapters to:

60. Knitted, netted, and crocheted goods
61. Articles of apparel and clothing accessories of textile fabric, other than knitted, netted or crocheted goods
62. Other made up textile articles

4) Section XV (base metals) contained 9 chapters in the nomenclature of the League of Nations. The Study Group added two chapters to this section. One chapter was added for articles made of magnesium and beryllium. In the League's nomenclature these were classified with "other base metals and alloys thereof". A second chapter was added by the Study Group to separately provide for "tools, implements, cutlery, spoons and forks, of base metals, and parts thereof". In the nomenclature of the League of Nations these items had been classified either with "iron and steel" or with "miscellaneous wares".

5) Section XVII (transport material) in the League of Nations' nomenclature contained three chapters. One additional chapter was added by the Study Group to separate aircraft from watercraft which had been in one chapter in the League's nomenclature. 6) Section XIX (arms and ammunition) contained two chapters in the League's nomenclature, one for arms and one for ammunition. The Study Group combined these two groups of items into one chapter. 7) Section XX (miscellaneous manufactures) contained four chapters in the League's nomenclature. The Study Group added one additional chapter. This additional chapter was added for furniture and parts of furniture, which were classified in various chapters in the League's nomenclature on the basis of material origin. The Study Group made one additional major change in section XX.
Chapter 85 in the League's nomenclature was for buttons, dress trimmings, pen holders, and articles for smokers. In the Study Group's nomenclature this chapter (98) was changed to "miscellaneous manufactured articles". This represents a sizeable extension of the coverage of items included in this chapter.

All of these changes, resulting in the extension of the 86 chapters in the League's nomenclature to the 99 chapters of the Study Group's nomenclature, can be viewed as logical changes necessitated by the passage of time, and as a result of changes in the composition and relative importance of items moving in international trade.

The analysis in this footnote is based upon an examination of these two nomenclatures which are given as appendices (B and C).

made by the Study Group in the number of major headings within the chapters of the nomenclature. In the League of Nation's Draft Customs Nomenclature (1937) there were 991 major headings under the 86 chapters. The Study Group increased the number of such major headings to 1,095.


This actually represents slightly fewer headings per chapter in the Study Group's nomenclature than there were found in the League's nomenclature, but does provide for more detail.

80 With 86 chapters and 991 major headings, there were 11.6 major headings per chapter, on the average, in the Draft Customs Nomenclature of the League of Nations. In the European Customs Union Study Group's nomenclature there were 99 chapters and 1,095 major headings. On the average this was 11.06 headings per chapter.

The Study Group prepared and included with their
nomenclature many notes and rules for classification. For the over-all interpretation of the nomenclature the following principles were adopted—-

1. The titles of Sections, Chapters and sub-Chapters are provided for guidance only; classification is to be determined legally according to the terms of the headings and any relative Section or Chapter Notes and, provided the headings or the said Notes do not otherwise require, according to the following provisions:

2. Any reference in a heading to a material or substance is to be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance is to be taken to include a reference to goods consisting wholly or partly of such material or substance.

Classification is to be according to the principles of paragraph 3.

3. When goods are, prima facie, classifiable under two or more headings, classification is to be effected as follows:

a. The heading which provides the most specific description is to be preferred to headings providing a more general description.

b. Mixtures and composite goods which consist of different materials or are made up of different components and which cannot be classified by reference to (a) are to be classified as if consisting of the material or component which gives the goods their essential character, insofar as this criterion is applicable.

c. When goods cannot be classified by reference to (a) or (b), they are to be classified in the heading which involves the highest rate of duty.

4. Goods not falling within any heading of the Nomenclature are to be classified under the heading appropriate to the goods to which they are most akin.
The first rule represents recognition of an aspect of law. Courts in most Western nations take the wording of laws literally without attempting to discover what was in the minds of the people who drafted the law. In this case the "law" would be the classification framework of the nomenclature. It was desired that both exact headings and interpretive notes should take legal precedence over the titles, sections, chapters, and sub-chapters, it was necessary to state this precisely, so that the possibility of the courts following some other rule would be removed. The alternative would have resulted in the titles of sections, chapters, and sub-chapters being vastly expanded (thereby losing the utility of brevity in the nomenclature) to include all of the items covered in the particular section, chapter, or sub-chapter. Even if such an effort were made, the Study Group came to the conclusion that "it would be difficult to draft those titles with the accuracy required if they were to have legal force."

The second rule was provided so that the phrases "and mixtures thereof", and "wholly or partly of" could be avoid-
ed throughout the nomenclature. In this way again the possibility that the courts in some countries might classify mixtures one way---on their literal interpretation of the wording of the nomenclature---and, other courts in other countries classifying the same item other ways on their interpretation would be largely avoided.

Rule three gave the principles for classifying any item which could be classified in more than one chapter or sub-heading. An item which could be classified in more than one place was to be classified in that place where the heading was most specific, as opposed to a more general heading (Rule 3.a.). If an item to be classified was a mixture or a "composite" good and could not be classified as above, then the item was to be classified as if it consisted solely of the material or the part which gave it its essential character. And finally, if an item could not be classified by these two rules, then it was to be placed in that heading under consideration which had the highest rate of duty.

This would mean, in effect, that those items which were classified by rule 3.c. would not necessarily appear everywhere, in every national tariff in the same place; and, to the degree rule 3.c. would have to be used, uniformity of customs goods classification would be sacrificed. There appears to be no way to avoid this impasse of uniformity of goods classification for customs tariff purposes as long as each nation separately classifies trade goods unilaterally within a common classification system.
One way around this difficulty, it would appear, would be to set up an international secretariat for the purposes of classifying those items which could not be classified without resort to rule 3.c. This would mean each nation sacrificing a small degree of sovereignty in its powers of taxation, an area, among others, within which national governments are not prone to yield.

Rule four provided for classifying goods that were not covered by any item in the nomenclature, interpreted literally. The rule provided that such an item was to be classified with that item to which it was most "akin". In determining the most applicable heading for classifying an item in such a case, full attention was to be paid to any relevant explanatory notes that preceded any section, chapter, or sub-heading. The French delegate to the Study Group believed that the phrase—"kinship lies in the state, the degree of preparation, and the value of the product, and especially in its intended use"—should have been added to rule four. The Study Group omitted such an explanatory phrase on the grounds that while "kinship" included all of those concepts, it also included other criteria. "This being so, it seem(ed) preferable to refrain from inserting such provisions in a legal text and to reserve them for the explanatory notes."

85 European Customs Union Study Group, Reports, op. cit., pp. 73, 80.

The similarity between rules 3.b. and 4. and paragraph 1559 of the United States tariff (the similitude rule) should be readily apparent. The chief difference, of course, lies in the fact that "chief value" of a component is not to be "the" method of classifying unenumerated items in the Study Group's nomenclature. While under the United States
tariff classification system, "chief value" is the rule for classifying unenumerated composite items, that cannot be classified on some basis of similitude.

These interpretive rules indicate clearly the desire of the Study Group to avoid classification based upon "chief value" or on any frivolous aspect of a trade-good. Instead, the classification system, as was pointed out in analyzing the League's nomenclature above, was based primarily upon the basis of material origin in the case of raw materials or simply prepared goods, and on the basis of use or purpose for manufactured items and for agricultural products.

In addition to the interpretive rules which applied to the nomenclature as a whole most of the chapters had extensive explanatory notes. As a rule these notes gave first those items which might be classified in the chapter, but which specifically were to be classified elsewhere. Second, these explanatory notes gave some explanation as to how the sub-headings in the chapter were to be interpreted.

In addition to the notes preceding the headings in the chapters, four of the sections had extensive explanatory notes. These sections (XI, XV, XVI, and XVII) were for textiles, base metals, machinery, and transport equipment.

86 The chapters that did not have explanatory notes were: chapters 24, 47, 50, 52, 54, 55, 57, 63, 77, 83, 88.
D. Uses to Which the Present Study will put the Methodology of Classification of Goods Developed in this Chapter.

In this chapter three things have been presented. First, the methods of classifying goods for customs tariff purposes have been developed. Second, this analysis of goods classification was applied to the various tariff laws which have been adopted by the United States since 1789. Third, international customs tariff nomenclatures were analyzed on the same basis to show how they have developed, and the nature of the classification framework which has slowly evolved.

The principal reasons for having presented the methods of classification of goods and the analysis of the various tariff structures has been twofold: first, to show how the United States tariff has "grown-up" over the years; second, to offer alternative classification models which could be used to simplify and consolidate the present United States tariff.

Chapter IV and V will present, in considerable detail, the current status of the United States tariff. Since the need for simplification and consolidation of the United States tariff is a matter of public record, various alternative models will be presented following chapter V.

The first of these models will be an evaluation of the present work of the United States Tariff Commission in this area. This will be the subject of chapter VI.
Chapter VII will use as the basis for a tariff model the suggestions made in the report to the President made by the Public Advisory Board for Mutual Security (commonly referred to as the Bell Report).

Chapter VIII will use, as the basis for a model, the tariff nomenclature of the European Customs Union Study Group.

Each of these models will be presented in outline form and will be examined from the point of view of how well it appears to simplify and consolidate the present United States tariff. Each will be evaluated from the point of view of how well it presents a logical structure, how well it appears to add additional certainty in the area of goods classification, and how well it would serve the needs of the United States government as a tariff structure. The emphasis throughout the analysis will be on simplification and consolidation rather than a consideration of the related problem of tariff reduction. The emphasis in evaluation, also, will be on simplifying and consolidating the present United States tariff, rather than on rate reduction. This is not to suggest that rate reduction is unimportant, but rather to focus attention almost entirely on the all but ignored (until recently) problem of tariff structure as an impediment to international trade. In any re-classification of trade-goods for tariff purposes some items may end up bearing somewhat higher duties than
they do under the present United States tariff; other items may have lower duties than at present. While the personal opinions of the author may favor lower rates of duty on imported goods in general, the attempt will be made to keep this value-judgment out of the analysis presented.

Before consideration can be given to the present United States tariff and suggested changes for simplification and consolidation (chapters IV through VIII), attention must first be given to the various ways by which goods have been classified for the collection and presentation of import statistics. This will be done in the following chapter.
Chapter III
THE NATURE OF IMPORT STATISTICS CLASSIFICATIONS

In chapter II the nature of goods classification in general was presented, followed by a rather detailed analysis of the classification of goods for tariff purposes. A related area is that of trade goods classification for purposes of compiling import statistics. Import statistics classifications and tariff classifications serve different purposes and as a result are different in their structures.

The purpose of classification in a tariff is to include those items upon which import duties are to be collected, and to separate out those items which are not subject to taxation. The primary and avowed purpose of the American tariff today is to afford protection in varying degrees to different industries. The schedules reflect the specific products and industries that Congress has determined should be protected.


By and large, the things that (the United States does) not produce (are) either on the free list or subject to a low rate of duty; by and large, those that (the United States) produce(s) in quantity (are) subject to a higher rate of duty. Goods which are processed usually (have) a higher rate of duty than the unprocessed materials of which they are made. Moreover, goods with a high labor component (tend) to have higher rates than those with a smaller labor component. . . . There (is) some tendency to protect low-priced articles with higher rates of duty, relative
to their value, than (are) higher-priced articles of the same general type. 2

2 Commission on Foreign Economic Policy, Staff Papers, February, 1954, p. 332. Verb tense has been changed and the words "the United States" were substituted for "we".

The internal structure of the United States tariff classification illustrates these kinds of particular protection; rather than a systematic classification of all the goods which enter the United States from abroad.

In constructing goods classifications for tariff purposes since 1927, when this subject began to attract systematic consideration on a wide scale, the method followed has been to classify not all goods, but only those items upon which tariffs were generally applied. This was the method followed by the League of Nations in its approach to the problem; and, this has been the approach followed by the European Customs Union since World War II. The objective of goods classification for tariff purposes has been to arrange in some usable and meaningful way those items upon which a rate of duty is to be assessed when they are imported; and to exclude from the tariff classification or place in a separate category, those items which are to be free of duty.

In comparison, the purpose of a classification system of goods for the collection and presentation of import statistics is much broader. Unlike a tariff classification system, import statistics are collected and presented under
an import classification to serve not one, but many purposes. Moreover, the nature of the classification system for import statistics which a country adopts depends largely upon the purposes for which the statistics are collected.

Before considering these specific purposes for which import statistics are collected the difference in coverage between these two classifications should be noted. In contrast to tariff classifications, import statistics classifications include all items which move into a country in international trade. In order to be useful to everyone using such statistics the classification system adopted for presenting import statistics must accomplish many things. These include, for the United States, the following: 1) To show separately all of the relatively important trade goods which are imported. 2) To include as separate items in the import statistics each item that is separately enumerated in the tariff. 3) To differentiate in terms of stage and process of manufacture for similar items where such stage and/or process of manufacture is significant within the industry. 4) To provide a system of several levels of classification, so that the data can be presented in several useful summaries. 5) To present the data in such a way that it can be converted accurately into the Standard Industrial Classification, so that data which is comparable to the Census of Manufactures (domestic
production) can be acquired. 6) To provide for comparability between the import statistics classification (Schedule A) and the statistical classification of commodities exported from the United States (Schedule B).

In order to serve well all of these different purposes, which United States import statistics do serve, it is necessary that the classification system have several levels for grouping of sub-items. Also, a very large amount of detail must be provided in the statistics at the lowest level in the classification. Schedule A, the United States import classification, will be analyzed below to show how it serves all of these purposes.

A. The Principal Uses of Import Statistics.

Import statistics are collected and presented for three primary types of "users" of such data. An analysis of these different uses will indicate the problems posed for the development of an adequate import statistics classification system.

One "use" is that by someone interested in relatively detailed commodity information." This user of statistics

3 V.S. Kolesnikoff, "Commodity Classification," in International Trade Statistics, (New York: John Wiley & Sons, Inc.), p. 53. Our presentation of two of these uses is based on this article. (The first and third uses discussed here.)

wants to know, for example, how much refined lead has come
into the United States. As long as refined lead is given as a separate enumeration in the statistical classification of imports his needs are adequately met. How the statistics are arranged is of little concern to this user. His primary concern is not with the classification system, as such. He is only concerned that enough detail be shown so that he can find his specific information. This user of commodity statistics may want similar information with reference to other non-ferrous metals, or he may want the information about lead and the other non-ferrous metals which have been processed for industrial use. He would like to have all of these items grouped together in the statistics for his convenience. Even in this case the nature of the commodity classification as a whole is of little or no consequence to him. As long as the details he seeks are individually given in the classification his needs are fully met. This need for detailed commodity information is very great and widespread. As a result the foreign trade commodity statistics of most of the world's "large trading nations show substantially detailed classifications with numerous commodity items."  

_Abid._

A second special user of import statistics is the one seeking information on trade in specific items which are dutiable under the tariff. This user wants to be able to find
easily all of the items which come in under a particular tariff paragraph. Since the tariff classification of goods differs from the import statistics classification of the same goods, he wants to be able, without appreciable difficulty, to translate the import statistics data from the import statistics classification to the paragraphs given in the tariff classification. Indeed, his preference for presenting import statistics data probably would be to have the data presented paragraph by paragraph as given in the tariff (or as outlined by the Tariff Commission in its comparable publication United States Import Duties). As the data are collected in the process of clearing imported goods through customs it would be a simple solution to the problem to present import data in this manner.

The problems created by this solution to all those interested in import statistics other than this one user are obvious. Data presented in this way would not serve the needs of the user who wants minute detail by individual commodity item. Nor would the data be comparable to the data given in 1) the Census of Manufactures; 2) the Standard Industrial Classification; 3) Schedule B for export statistics; or 4) the export and import statistics of the major trading countries which are now published by the United Nations on the basis of the Standard International Trade Classification (described later in this chapter). Indeed, if import statistics data were presented on the basis of the
tariff classification of goods, it would satisfy completely only this one user of such data. Obviously, as long as the present tariff classification system exists, import data must be presented on some more general basis than the tariff paragraphs. Otherwise its usefulness would be too limited.

Since the primary purpose of this study is to examine goods classification from the point of view of simplifying and consolidating the present complex United States tariff, the following question must be raised: Cannot the tariff be revised, simplified and consolidated on some logical basis, so that the tariff classification system would have detailed comparability to the import classification system? This question is discussed toward the end of the chapter.

The third user of import statistics is interested in an area quite different and distinct from either kind of detail wanted by the users of import statistics so far discussed. This user of import statistics (usually an economic analyst) is---

...interested in the over-all picture of the trade of an individual country or group of countries. This type of user is very much concerned with how commodities are grouped or classified, since in analyzing the over-all trade of the country or group of countries he wants to deal with a relatively few commodity classes. For this reason he wants the commodity information in broad groupings, generally no more than a few hundred at the outside, and frequently a much smaller number, as few as two on occasion. It is obvious that this use of import and export statistics raises most of the problems as to how commodities are to be classified.5

5 Ibid., pp. 53-54. (Italics supplied.)
The economic analyst who is using import statistics data, in addition to desiring relatively few groupings of data as a whole, wants the classification system used to provide other groupings of the data. For example, he wants the data to be classified in such a way that it can be summarized on the basis of origin of the products: manufacturing, agriculture, mining, fishing, and forestry. He wants to have the data summarized on the basis of stage of manufacture: raw materials, semi-manufactured, and manufactured. He also wants to be able to summarize the data on the basis of the type of economic good: consumer's goods and producer's goods.

How the economic analyst in a particular situation wants the data presented depends in large measure upon the purpose of the analysis in which he is engaged. At times this user of import statistics wants very detailed commodity classifications. He may desire to analyze changes in the trade in particular items.

At this point, then, the interest of the user in the over-all classification of commodities for a broad analysis of a country's trade overlaps the needs of the user interested in the commodity details.  


The needs, then, of these three primary users of import statistics are to a degree in conflict. No one commodity classification can perfectly meet all of the needs of the users of the statistics. "The commodity
classification which each country constructs for its export and import statistics represents a resolution of this conflict of interests." Each of the classification systems currently in use by the major nations which publish import statistics represents such a compromise.

"It is also undoubtedly true that a particular classification will not best meet the needs at a different time or under different circumstances. Technological changes, language differences, industrial organization, and market situation in various countries always affect a classification." Ibid., p. 55.

B. Import Statistics Classifications in International Use.

With the exception of those countries which do not publish trade statistics, most countries use one of three internationally developed classification systems. These classification systems are: 1) the Brussels Convention Classification of 1913; 2) the Minimum List of the League of Nations; and, 3) the Standard International Trade Classification of the United Nations. These will be described in this order.

1. The Brussels Convention Classification of 1913.

The first successful attempt at devising an international import statistics classification system was the Brussels Convention Classification. This nomenclature was analyzed in the preceding chapter (II.C.1.). It will be
recalled that this first international classification system contained five major sections and 186 chapters. The five sections were:

I. Live animals.
II. Food and beverages.
III. Materials, raw or simply prepared.
IV. Manufactured articles.
V. Gold and silver.

Basically, classification within each of the major sections was on the basis of the usual commercial practices in producing, selling, and trading commodities. Thus, class-

9 Ibid., p. 64. Mr. Kolesnikoff observes that successful classification of goods for either tariff purposes or import statistics purposes must generally be on this basis of usual commercial practice.

ification of live animals was on the basis of the common name of the animals. In the second section classification was upon the same basis; the names of major food products were the chapter titles. In both of these sections this represents a form of classification by material origin.

In section III (raw and simply prepared materials) classification was also on the basis of usual commercial practice. The chapters were named on the basis of the origin of the material involved.

Two principal methods of classification were found to be present in section IV in classifying manufactured articles. Primarily, classification was on the basis of either mat-
This also represented classifying the item in the same way as they were classified by the commerce in which they were handled. Section V segregated from the rest of the classification system the monetary metals, gold and silver.

Until about 1938 available international trade statistics were collected and published in Belgium on the basis of this classification system.

10 The Brussels Convention Classification is reproduced below as appendix A. For a complete analysis of the internal structure see chapter II.C.1. as noted above.


Shortly after the adoption of the Brussels classification system its inadequacies began to become apparent. It did not contain enough commodity detail to be adequate for the needs either in trade uses or for economic analysis.

11 Kolesnikoff, op. cit., p. 65.

The International Statistical Conference of 1928 recommended that a new classification system for international trade statistics be drawn up. The Conference recommended that such a classification be based upon the Draft Customs Nomenclature that the League of Nations was then having prepared. This work was begun and in 1934 (three years

following the publication of the first draft of the League's customs nomenclature) the Council of the League communicated the "Minimum List of Commodities for International Trade Statistics" to the member governments.

13 Ibid.

The Minimum List was adopted, after numerous minor revisions, and published in final form in 1938. It is one of the classification systems which is used in presenting and publishing international trade statistics at the present time.

The Minimum List was a classification system containing 17 major sections and 50 chapters. The 50 chapters were subdivided into 456 items. The sections of the Minimum List were as follows:

Section I. Food products, beverages, tobacco. (13 divisions, i.e. chapters, and 86 items)

II. Fatty substances and waxes, animal and vegetable. (2 divisions with 27 items)

III. Chemicals and allied products. (4 divisions with 33 items)

IV. Rubber. (1 division with 6 items)

V. Wood, cork. (1 division with 21 items)

VI. Paper. (1 division with 12 items)

VII. Hides, skins and leather and manufactures thereof, n.e.s. (3 divisions with 9 items)
VIII. Textiles.
   (4 divisions with 56 items)

IX. Articles of clothing of all materials and miscellaneous made-up textile goods.
   (4 divisions with 18 items)

X. Products for heating, lighting and power, lubricants and related products n.e.s.
   (1 division with 17 items)

XI. Non-metallic minerals and manufactures thereof n.e.s.
    (4 divisions with 31 items)

XII. Precious metals and precious stones, pearls and articles made of these materials.
     (1 division with 7 items)

XIII. Base metals and manufactures thereof n.e.s.
      (4 divisions with 48 items)

XIV. Machinery, apparatus and appliances n.e.s. and vehicles.
      (3 divisions with 31 items)

XV. Miscellaneous commodities n.e.s.
     (2 divisions with 48 items)

XVI. Returned goods and special transactions.
     (1 division with 2 items)

XVII. Gold and specie.
      (1 division with 4 items)

The sections and chapters (divisions) of the Minimum List are reproduced below as appendix D.

In constructing the Minimum List the Committee of Statistical Experts of the League of Nations decided that two principal methods of classification should be used as far as practicable. The method of material origin was to be dominant. Where this method appeared inapplicable the method of use or purpose was to be dominant.
several of the sections the principle of stage of manufacture was also used as a method of classification.

The Committee of Statistical Experts closely adhered to the criteria they had established for constructing the Minimum List. Only in five sections (VIII, IX, X, XIV, and XV) was the principle of material origin not the dominant method of classification. In section VIII, textiles, classification was primarily on the basis of stage of manufacture. The principal method for classifying finished articles of clothing (section IX), products for heating, lighting and power (section X), and machinery (section XIV) was the method of use or purpose. Section XV was divided into two chapters on the basis of stage of manufacture. One division was for miscellaneous crude or simply prepared products. The second division was for miscellaneous manufactured products.

As noted above, there were 456 items in the 50 divisions of the Minimum List. By re-arranging these items, a second classification of goods was made possible. This re-

16 This second classification included only the first 449 items. Items 450-456 could not be classified on the basis of stage of manufacture. These were for postal packages not classified, returned goods, and gold and specie.

classification was by stage of manufacture and use.
Group 1. Materials for the production of human food, of beverages and of tobacco (all non-durable).

2. Materials for agricultural production (all non-durable).

3. Non-durable materials for industry and commerce (except 1 and 2).

4. Durable materials for industry and commerce.

5. Animal and vegetable oils and fats and materials thereof (all non-durable).

6. Fuels, electric energy and lubricants (all non-durable).

7. Capital equipment for agriculture, industry and commerce (all durable).

8. Food, beverages and tobacco (all non-durable).

9. Other non-durable articles ready for retail sale or for consumer's use.

10. Durable equipment ("consumers' capital").

These 10 groups were internally sub-divided on the basis of stage of manufacture into:

a. Crude

b. Simply manufactured

c. More elaborately transformed.

All of the items included in groups 1, 2, 5, and 6 were in the first two of these categories. Groups 3, 4, and 8 included items which were classified under each of the three categories. Group 7 contained only crude and "more elaborately transformed" items. And, groups 9 and 10 consisted solely of "more elaborately transformed items".

17 The problems of assigning goods in any three-fold stage of manufacture classification in borderline cases was
Import statistics collected and presented in terms of the Minimum List could serve many purposes. It should be noted that the whole classification had several separate aspects to it. First, the basic classification by sections, divisions, and items was based upon the tariff nomenclature that the League of Nations was recommending for adoption to the member governments. In this way import statistics roughly comparable to the tariff nomenclature were provided. Second, reclassification of the individual items from the basic sections and divisions into the classification by groups in terms of stage of manufacture provided valuable additional information from the basic data. Aggregate trade data in terms of stage of manufacture was made available by this reclassification. Aggregate trade data distinguishing between consumer's goods and all other goods also was given. And, similar data classified on the basis of durable vs. non-durable was provided. All of these distinctions which could be made with the data are valuable for economic analysis. The last distinction, between durable and non-durable goods, it was observed, was valuable in preparing various time series, especially for use in analysis involving economic fluctuations.

Where individual items were to be reclassified from the original classification into the group-classification was something that was considered subject to change over periods of time. The need for such changes would result from several things. The change in the use of an item— for example, fabrics (piece goods)— will illustrate the problem involved. At present fabrics (items 239 and 240 of the Minimum List) are primarily materials for industry to process into ready-made clothing in the United States. Some years ago, piece goods were primarily an item for retail sale to consumers. At that time they would have been placed in group 9, other non-durable goods ready for retail sale. At the present time, by way of contrast, they would be classified in group 3, non-durable materials for industry and commerce.

Similarly, there is another problem that is inherent in any multiple-use condensed classification system. This problem is that all of the items under a particular sub-heading may not fit well into any one place in the reclassification. Some commodities classified in one sub-heading which contains primarily durable items may be non-durable. Some classified in one sub-heading which contains primarily finished manufactures may be items that are primarily materials for further production. This is one of the problem areas that always exists in the general area of goods classification.
An alternative form of this reclassification by stage of manufacture of the Minimum List was prepared in 1938. This alternative form, stated in terms of the classification first adopted, was:

<table>
<thead>
<tr>
<th>New Reclassification</th>
<th>Old Reclassification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group A.</td>
<td>Groups 1 and 8.</td>
</tr>
<tr>
<td>B.</td>
<td>Groups 2, 3, 4, 5, and 6.</td>
</tr>
<tr>
<td>C.</td>
<td>Group 7.</td>
</tr>
<tr>
<td>D.</td>
<td>Groups 9 and 10.</td>
</tr>
<tr>
<td>E.</td>
<td>Items 450-456 of the Minimum List.</td>
</tr>
</tbody>
</table>

This alternative form of the reclassification by stage of manufacture was suggested by the League as an aid to the member governments. There had been considerable delay in submitting trade statistics in terms of the first reclassification. It was believed that this new system would be easier for the member governments to comply with. The new system was satisfactory. By late Spring in 1939,

"Primarily because of the outbreak in 1939 of World War II, the Minimum List had less influence on national commodity classifications than the Brussels... List. However, many countries compiled supplemental tabulations in terms of the Minimum List, and some countries, including Norway and Denmark, adopted it for their national classifications." Kölesnikoff, op. cit., p. 69.
"31 countries and several colonial possessions of the United Kingdom had agreed to use the Minimum List."


Both the Brussels classification and the Minimum List of the League represented advances in the effort to devise internationally comparable trade statistics. The work in the general area had begun early in the 1900's. The outbreak of war in 1939 halted such international cooperative work. Since World War II the basis for collecting and presenting international trade statistics has been substantially revised.

3. The Standard International Trade Classification.

During the years since 1938 when the Minimum List was adopted many changes have taken place in the structure of international trade. Since World War II, as a result of the establishment of the International Monetary Fund and the International Bank of Reconstruction and Development, the need for greater comparability of international trade statistics has been recognized. As a result of these needs the work of standardization of international trade statistics has gone forward in the post-war period.

Shortly after the establishment of the United Nations' Statistical Commission, it was suggested that the Minimum List be revised. The criteria for formulating the Minimum List had been established in 1928. As twenty years had passed since the adoption of that criteria, it was believed that the revision of the Minimum List should begin with a reconsideration of the criteria of classification to be used in drawing up the new trade statistics classification. The primary principle which the experts tried to follow was different than the principles of classification adopted by the Committee of the League of Nations which formulated the Minimum List. It will be recalled that in the League's Minimum List two principal methods of classification were used: 1) material origin; and 2) use or purpose, where the method of material origin was inapplicable.

The classification method adopted by the United Nations was to attempt to follow whatever was "standard commercial practice" in each area in classifying all trade commodities. 24

24 Kolesnikoff, op. cit., p. 58.

This can be said to be the general rule followed in classifying commodities within the framework of the Standard International Trade Classification (SITC). However, classification by "standard commercial practice" can be classification upon any basis that has been developed so far in this study. In one situation classification by "standard
commercial practice" is classification by use or purpose. In another situation classification by "standard commercial practice" is classification by material origin. Therefore, in the analysis of the SITC which is to follow it will be pointed out which of the major methods of classification was implicitly used in classifying the items included in each major portion of this classification system.

The SITC comprises 10 "sections". These 10 sections were divided into 52 "divisions". The divisions were further subdivided into 150 "groups", divided in turn into 570 "items". These 570 individual items include, in summary fashion, all of the thousands of items that move in international trade. Thus the SITC as a classification system provides for four levels of data. This framework could be either further subdivided or contracted by a national government as it might need, if it adopted the SITC as its own basic system for classifying trade statistics. Certain rules were to be followed if such expansion or contraction were undertaken. These rules can best be shown if the numeric code form of the classification system is first examined.

The whole classification system was set up in a numeric code form as most trade statistics are collected on and compiled by punch card equipment. Each level of the classification system was designated by number as illustrated below:
XXX-XX is an Item

XXX is a Group

XX is a Division

X is a Section.

For example, apples (an item) is identified by number as 051-04:

<table>
<thead>
<tr>
<th>Item</th>
<th>051-04</th>
<th>is Apples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group</td>
<td>051</td>
<td>is Fruits and nuts, fresh (not including oil nuts)</td>
</tr>
<tr>
<td>Division</td>
<td>05</td>
<td>is Fruits and Vegetables</td>
</tr>
<tr>
<td>Section</td>
<td>0</td>
<td>is Food</td>
</tr>
</tbody>
</table>

This numeric coding system simplifies the compiling of trade statistics.

25 The Standard International Trade Classification has been reproduced as appendix E. In this appendix only the first two levels of the classification are given. In order that the reader can more readily see all four levels of the classification system, and its numeric coding, a sample of the complete classification has been reproduced as appendix F.

26 The SITC can be expanded by a member government by opening up sub-items under any particular "item". The important thing was that in subdividing an item the basic structure of the SITC be not disturbed. As an example, item 681-03 is "Ingots, blooms, slabs, billets, sheet bars and tinplate bars, and equivalent primary forms. A particular country could subdivide this item, if it wished, as follows:
The principal rule that a country was to follow in expanding the SITC for its own use was to leave unaltered the item-numbers of the basic system, and not to use any of the item-numbers left vacant in constructing the numeric portion of the classification. Expansion would take the form of subdividing existing items into sub-items (adding a decimal to the numeric item code numbers provided), but not adding additional basic items not provided in the basic structure. If a country in expanding the SITC did not use any of the "vacant" item-numbers its data at the item-level, as well as all other levels, would be comparable with the data of other countries.

Further, use of the vacant positions (was) reserved for internationally agreed changes which experience in the use of the classification by all countries will show to be necessary.

Countries which do not need as much detail in their trade statistics as the SITC calls for could omit the items and the groups in whole or in part. For example, countries
which are primary producing countries do not need as much
detail in their trade statistics for metals and metal
products as is provided in the SITC. However, "neither
divisions nor sections should be deleted as they are few in
number and broad in coverage, and the absence of trade
(statistics) in them is internationally significant." 28

28 Ibid., p. x.

The sections of the SITC classification are:

Section 0. Food

1. Beverages and tobacco
2. Crude materials, inedible, except fuels
3. Mineral fuels, lubricants and related materials
4. Animal and vegetable oils and fats
5. Chemicals
6. Manufactured goods classified chiefly by material
7. Machinery and transport equipment
8. Miscellaneous manufactured articles
9. Miscellaneous transactions and commodities, n.e.s.

Comparing the structure of the SITC to the structure of the
Minimum List, the following observations may be made.
The first two sections of the SITC were only one section in
the Minimum List. Section 2 of the SITC includes portions
of sections 2---8, 13, and 15 of the Minimum List. Section
6 and section 2 of the SITC are very similar. Section 2 is
for crude materials, section 6 is for manufactures of these materials. As was the case in comparing section 2 with the Minimum List, section 6 of the SITC contains items that were in sections 4-8, 11-13 of the Minimum List. The principal difference between these two classification systems is to be found in these two sections, 2 and 6, of the SITC.

The following sections of the two classifications are very similar:

<table>
<thead>
<tr>
<th>SITC</th>
<th>Minimum List</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3</td>
<td>Section 10</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>8</td>
<td>15</td>
</tr>
<tr>
<td>9</td>
<td>16</td>
</tr>
</tbody>
</table>

Even though there is a high degree of similarity between these two sets of sections, differences did appear.

29 Some of the more significant exceptions to this similarity may be noted. 1) The principal differences between section 3 of the SITC and section 10 of the ML are that whereas natural asphalt, tar and tar oils, and candles were in section 10 of the ML they are in sections 2, 5, and 8 respectively of the SITC. 2) The principal difference between section 4 of the SITC and section 2 of the ML is that oilnuts which were in section 2 of the ML are not in section 4 of the SITC, but with other crude materials (section 2 of the SITC). 3) The principal difference between section 5 of the SITC and section 3 of the ML is that section 5 contains explosives while in the ML these were kept separate from other chemicals and were placed in section 15.
As noted above, in setting up the SITC the experts at the Statistical Office of the United Nations tried to follow predominant world commercial practice in classifying the products within the classification framework. A brief examination of the sections will indicate the methods of classification used in following this general rule.

The items in section 0 (food) are classified on the basis of material origin. In this section the experts did not segregate items by stage of manufacture except where the trade recognizes this as an essential aspect of the items included.

Section 1 (beverages and tobacco) is separated from the food section as a result largely of traditional practice. These items, while normally moving in the same channels of trade as do food items, are not classified as food.

Crude materials, in section 2, are classified primarily on the basis of material origin. This is the customary way in which these items are classified in the channels of trade in which they are handled. Manufactured or processed materials which according to the usual trade practices are handled as crude materials were classified with the approp-
riate crude material in this section. For example, synthetic rubber was classified with natural rubber.

The principle of use or purpose is the basis for including together (section 3) mineral fuels, lubricants, and related items. Included in this section are coal products, petroleum products, gas (natural and manufactured), and electric energy. These items are grouped together functionally on the basis of use.

Oils and fats were included as a separate section (4). While these products could be classified on the basis of material origin in part with food (section 0), and in part with crude materials (section 2), or on the basis of the industry in which they are largely produced in a highly developed country, the highly integrated chemical industry, they were kept in a separate section for two basic reasons: 1) The importance of oils in international trade; 2) The tremendous variation in the methods of production used in producing oils throughout the world.

Section 5 (chemicals) is classified internally on the basis of the usual commercial practices in classifying chemicals. The major groups in the chemical classification are: 1) inorganic; 2) organic; 3) mineral origin; 4) dyeing and tanning; 5) medicinal; 6) essential oils and toilet preparations, et al.; 7) manufactured fertilizers; and, 8) explosives and miscellaneous chemicals.

Most manufactured articles are classified in sections
6, 7, and 8. Section 5 classifies those manufactures which can easily be classified by material origin. Those manufactured items which are not chiefly classified in usual commercial practice by material, are included in sections 7 and 8.

Section 7 (machinery and transport equipment) classifies items which are normally considered as capital equipment, and which are normally classified on the basis of use or purpose.

Miscellaneous manufactures that are not capital equipment, but are normally classified on the basis of use or purpose and not on the basis of material origin, are included in section 8. This section includes, for example: 1) prefabricated structures; 2) furniture; 3) travel goods; 4) clothing; 5) footwear; 6) professional and scientific equipment; and, 7) miscellaneous manufactures classified normally by use.

Section 9 was for special types of transactions. These include postal packages, live animals that are not imported for food, and other special transactions.

The classification is based, then, on two major methods of classification: 1) material origin; 2) use or purpose. Which principle was followed in a particular case was largely dependent upon normal trade practice. It should be noted that these were the same methods used in constructing the Minimum List. Yet the two classifications are
structurally quite different. While these two methods of classification were dominant internally in the classification system, the fundamental change in structure of the SITC from the Minimum List resulted from applying the method of stage of manufacture to the universe of commodities that are normally classified by material origin. This particular universe was divided into two groups: crude materials classified chiefly by material, and manufactures classified chiefly by material. Then internally within these two sections, classification of the divisions and groups was on the basis of material origin. It is this structural change that basically differentiates this classification of trade statistics from the classification system of the Minimum List.

At the present time supplemental classifications of the items of the SITC have not been completed by the Statistical Office of the United Nations. The work of developing supplemental classifications is being done and in time reclassifications of the 570 items into classifications similar to those offered in connection with the Minimum List will be available.

C. Import Statistics Classification in the United States.

Annual import statistics for the United States have been published since 1790. Between the years 1790 and 1821 the data compiled were very inadequate and inaccurate. Information on goods entering free of duty prior to 1821 is not available, and value data on imports subject to specific duties was not compiled. In addition, much of the published data were apparently estimated several years after the trade had taken place.

An Act of Congress, approved on February 10, 1820, provided for the collection and compilation of accurate trade statistics of the United States' foreign commerce. Even so, the trade statistics of the United States, until the time of World War I, left much to be desired. Since then the compilation of United States import statistics has steadily improved.


The present classification system used by the United States to compile and present import statistics is called
Schedule A. The current authority for compiling import statistics is found in section 484(e) of the Tariff Act of 1930:

(e) Statistical Enumeration: The Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States, and as a part of the entry there shall be attached thereto or included therein an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and the value of the total quantity of each kind of article.

Schedule A contains 11 "groups". These 11 basic groups are subdivided into 93 "subgroups". The subgroups are further subdivided into approximately 5500 individual items, or "commodity classifications" as they are called. These 5500 commodity classifications are the most detailed form in which United States import statistics are prepared.

The primary classification by group in Schedule A is as follows:

34 The groups and subgroups of Schedule A are presented as appendix G.

Group 00. Animals and animal products, edible.

0. Animals and animal products, inedible.

1. Vegetable food products and beverages.

2. Vegetable products, inedible, except fibers and wood.

3. Textile fibers and manufactures.
Two methods of classification were used to classify imports into these 11 groups. These methods were material origin, and use or purpose. Groups 7 and 9 were classified on the basis of use or purpose. They contain those groups of items that are normally not classified by material, but are classified by the function which they serve. Animal and vegetable products were kept separate; and, each of these categories was divided into two groups on the basis of whether they were edible or inedible. The other groups in the classification were derived on the basis of material origin.

Within the 93 subgroups, as noted above, there are approximately 5500 individual commodity classifications. This represents more detail than is found in the export statistics of the United States (Schedule B). At the present time there are about 3500 individual commodity classifications in Schedule B. The differences to be found between the United States' import and export classifications exist in the individual commodity classifications, and to a certain extent in the number of subgroups. There are
103 subgroups in the Schedule B classification for exports, as compared to 93 subgroups in Schedule A. The major groups are identical which does provide for at least rough comparability between import and export statistics.

There are several reasons why the number of individual commodity classifications in Schedule A has become so large. First, it should be recognized that the number of commodity classifications in Schedule A has increased substantially over the years. One factor explaining the large number of individual commodity classifications is the nature of the United States tariff. As a matter of policy in devising commodity classifications, no single commodity classification in Schedule A contains items from different tariff paragraphs. Also, as a matter of policy, no individual commodity classification contains items with different rates of duty. When it is recalled that many of the tariff paragraphs contain large numbers of individually enumerated items with differing rates of duty, one major reason for the large number of individual commodity classifications has been recognized.

Another factor, the primary explanation for the growth in the number of separate classifications since 1934, has
been the operations of the Trade Agreements Program of the United States. Under this program many items in tariff paragraphs with a common 1930-duty-rate have been singled out for rate reduction. In addition, many items that were originally provided for in "basket clauses" in the 1930-act have been separately enumerated under the Trade Agreements Program and have been made subject to a reduced rate of duty. And last, under the Trade Agreements Program especially enumerated items have been sub-divided into two or more items in order to pin-point more closely, than did the language of the original act, the particular item on which the United States was granting a duty concession.

For example, in negotiating with Great Britain on bicycles (par. 371) the United States separated out from all bicycles those which have a tire with a diameter of 1 5/8" or less, and the reduction in the rate of duty applied only to these. A result of such tariff "specialization", i.e. sub-division of enumerated items in the tariff into two or more items, is that the number of individual commodity classifications in Schedule A has grown. This type of specialization, which increases the number of individual commodity classifications, provides a type of detail in the commodity statistics very often not needed by the
users of those statistics; indeed, it is actually a type of detail frequently unwanted. As a result, the data for many "types" of commodities are unwieldly and awkward to handle.

Gloves, for example, are represented in the import statistics by 48 individual commodity classifications.

The principal reason for this large number of individual commodity classifications is that in addition to being classified by material origin, gloves have been classified in part in the tariff on the basis of their length. As a result, it becomes a burdensome operation to locate and combine the desired data into more meaningful form to the user of the statistics interested specifically in imports of gloves. This same type of over-detailed specialization exists with reference to many other types of products, e.g. toys, watches, glassware, and china.

There is one additional factor which helps explain the great detail which exists in the commodity classifications of Schedule A. An effort has been made to give import statistics in classifications that can be converted readily into the Census of Manufactures product-code. This code is based upon the Standard Industrial Classification of the Bureau of the Census. Since there is very little in common
between the classification of products within the present United States tariff and the Census of Manufactures product-code, a large amount of detail is necessary to provide such conversion.

Schedule A, as a classification system for imports, is subject to constant change. Several hundred changes are frequently made in a single year. For this reason the classification is issued in loose-leaf form, so that as changes are made the pages affected can be reprinted and replaced. In this way the classification can be kept up-to-date without having to reprint the entire schedule (283 pages).

As new trade agreements are concluded, and as a result of other changes, new commodity classifications become necessary and old commodity classifications lose their value. The reasons for providing new commodity classifications were discussed above. For eliminating unneeded commodity classifications, the following criteria have been established in the Bureau of the Census.

1. High priority for elimination (is) given to classifications having a low anticipated level of trade.

2. In general, preference (is) given to combining small-valued classifications with each other or with relatively large-valued "basket" classifications rather than with large-valued specific classes. It (is) considered better to add to the heterogeneity of an already heterogeneous "basket" classification than to lose homogeneity in a large-valued specific classification.
3. The classifications recommended for combining should be reasonably homogeneous, at least to the extent that no combination should include classifications currently included in more than one subgroup. ... Also, as a rule it (is) not proposed to combine classifications of different economic classes. ... 

4. While Schedule A is not in the arrangement of the Tariff Act of 1930, decisions on outline changes should in cases of doubt be made on the basis of classification in the Tariff Act. ... 

5. As far as possible high priority for the elimination of detail should be given to those classifications causing the greatest reporting burden on importers and compiling burden on the Government, keeping in mind of course the loss in usefulness of the statistics which would result. ... 

6. Consideration should be given to combinations proposed by users of the statistics. ... 

7. Wherever practical, priority should be given to retaining classifications where they permit a unit of quantity to be retained in the statistics. ... 

8. Combinations should not be proposed if they would result in a substantial loss in conversion to the following in terms of the dollar value of the trade (or the shipping weight in regard to Schedule T):
   a. Standard International Trade Classification. ... 
   b. The Census of Manufactures product code which is in turn based on the Standard Industrial Classification. ... 
   c. Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States. ... 
   d. Schedule T, Statistical Classification of Imports into the United States Arranged in Shipping Commodity Groups. ... 38

In addition to publishing import statistics in the classification form of Schedule A which has been discussed, a supplemental arrangement is also provided. This supplemental arrangement of the 5500 individual commodity classifications is known as the 10 economic classes. This reclassification is based upon two methods. Classification is by stage of manufacture and, also, by whether the products are agricultural or nonagricultural in origin. The 10 economic classes are:

0. Agricultural crude materials.
1. Nonagricultural crude materials.
2. Agricultural crude foodstuffs.
3. Nonagricultural crude foodstuffs.
4. Agricultural manufactured foodstuffs and beverages.
5. Nonagricultural manufactured foodstuffs and beverages.
6. Agricultural semimanufactures.
7. Nonagricultural semimanufactures.
8. Agricultural finished manufactures.

39 See either Kolesnikoff, op. cit., p. 70, or United States Department of Commerce, Bureau of the Census, Schedule A, Statistical Classification of Commodities Imported Into the United States, January 1, 1954. P.XVII.

The United States prepares, also, a supplemental tabulation of import statistics in terms of the Standard International Trade Classification (SITC) for the United Nations.
Additional different tabulations of import statistics are prepared and kept on file in a few major cities, but are not published. If a private individual or firm desires some special rearrangement of the basic data, the Bureau of the Census will, upon request, supply any such possible retabulation for the cost of the work involved.


D. Import Statistics Classification and Tariff Simplification and Consolidation.

Earlier in this chapter the following question was raised and the possible answers were deferred to the end of this chapter: Cannot the tariff be revised, simplified and consolidated on some logical basis, so that the tariff classification system would have detailed comparability to the import classification system?

Upon the basis of the foregoing analysis of the nature of import statistics classifications, there can be various opposed answers, depending upon the meaning of terms in the question as stated. Before attempting an answer, it will be well to summarize the results of the previous analysis of import statistics.

Adequate import statistics for the United States must be logical in arrangement. This arrangement, as a general rule, should conform to the way goods are classified by the trade in which they are handled in the United States. Also,
adequate import statistics for the United States must provide considerable product detail as well as be presented by major logical groupings in various arrangements. Adequate import statistics, probably, must be at least as detailed as export statistics. At present the United States export statistics provide for about 3500 commodity classifications. Therefore, while not strictly comparable, import statistics classifications must include at least approximately 3500 commodity classifications if they are to be as useful to all users of such data as are export statistics.

And finally, an adequate import statistics classification for the United States must be convertible into at least several additional classifications. The Standard International Trade Classification of the United Nations is an obligation that the United States has assumed. In order to provide such information the commodity classifications of United States imports where not identical to the 570 items of the SITC will have to be more detailed to provide for accurate conversion into that classification. Another important classification is the Census of Manufactures product-code. If this conversion can be made, import data will be comparable to data on domestic production. This is highly desirable. Schedule B, the export statistics classification is also important. It is also highly desirable that product data for the imports and for the exports of the United States be at least roughly comparable which they are at the
present time. This means that comparable commodity classifications for all items—those produced domestically and those imported and exported in substantial volume—be provided.

These results, as specified above, are a matter of public policy in the United States. It will be assumed in answering the question raised that these conditions must be met in establishing an import classification system for the United States. It would appear then, that the question raised above could be answered either in the affirmative or in the negative.

If the answer is in the affirmative then the following conclusions can be reached. In order for there to be direct comparability between tariff paragraphs and import statistics commodity classifications, the tariff would have to contain about 3500 paragraphs or sub-divisions. In addition the intent of Congress would have to be clear that in interpreting the tariff act the customs collectors and the Courts would have to classify unenumerated items as they are classified in the import statistics. But more important

41 The problem of the intent of Congress, and the problems of legal interpretation are discussed, below, in chapter V. The easy and relatively certain way this could be accomplished would be as follows. As a portion of a new tariff act there should be an index of commodities appended. Such an index of say from 50,000 to 100,000 names of specific items that are used in the trade would give the pertinent tariff classification for each name. This index should be identical to the import statistics classification. Every few years as new products appear they should be similarly indexed and added to the original act by amendment. This
solution while it would solve the problem of comparability is recognized by this writer as impractical.

is the problem of the change in public policy, more broadly viewed, that would be involved. Many of the bases for protection in the United States tariff would have to be discarded. Included in such bases would be: the braid, fringe, and lace provisions as now constructed; many of the "chief value" provisions; differential treatment of similar items that are classified in the trade by use or purpose, but which are classified currently in the tariff on the basis of material origin; the use of the term "in part"; archaic distinctions based on use that are no longer relevant; classification of parts and containers; and, classification of items in terms of minute and insignificant characteristics generally, such as length, width, and most value brackets.

In other words, many of the present bases of protectionism would have to be largely discarded. This could be done only if Congress accepted the idea that a logical arrangement of the tariff, directly comparable to the import statistics classification system, was preferable to tariff protection on the present basis. To assume that this is or could be the present intent of the United States Congress involves ignoring the congressional debates and hearings on extension of the Trade Agreements Program during these past 10 years, and especially during 1955.

If the question as raised above is answered in the
negative then the following conclusions can be reached. Adequate revision of the present United States tariff means major simplification to reduce the present complexity in classification. It means major consolidation of all the relatively unimportant differences between commodities that are produced in the same segment of domestic industry. It means providing less detail in the tariff paragraphs than is needed in an adequate (for all users and purposes) import statistics classification system. Simplification and consolidation of the present United States tariff on this basis reduces the number of separate enumerations. The result of such a program possibly could be to sacrifice the degree and amount of detail that is needed in an adequate import statistics classification system.

Such a reduction in detail may be a highly desirable result in terms of constructing a more logical basis for the classification of commodities within the United States tariff. If simplification and consolidation are the primary goals of public policy in a revision of the present tariff, then direct comparability between import statistics commodity classifications and tariff commodity classifications must be sacrificed. It would leave the problem of providing comparability between import statistics and the new tariff enumeration to the Foreign Trade Division of the Bureau of the Census. If the information was desired by the Congress, the Bureau of the Census could be requested to
compile and publish such comparable statistics as an additional retabulation of import data. While the question of comparability may be answered in the negative, a means of simplification and consolidation could still be achieved. However, this approach to comparability through this kind of simplification and consolidation is improbable and therefore impractical.
Chapter IV

THE UNITED STATES TARIFF: 1955

In this chapter the present United States tariff is described and analyzed. This will involve outlining and examining the Hawley-Smoot Tariff Act of 1930; modifications of the Tariff Act of 1930 in the form of reciprocal trade agreements; subsequent legislation that imposed taxes on imported articles; the "escape clause" and the "peril point" provisions.

The purpose of this detailed presentation of the present United States tariff is, first, to indicate the great complexity of American trade restrictions. Second, the specific area for simplification and consolidation of trade restrictions which this study examines will be separated out for detailed analysis, i.e. classification of import commodities for tariff purposes. This procedure will show from a practical point of view the limits of the analysis. Also, it will show the relation of this area to the totality of present import policy before proposing classification changes. The relationship between any change in the area of goods classification and the need for simplification and consolidation of other aspects of import policy will then more clearly be appreciated. In a specific way, it will be shown how other areas of import policy will be affected and will need alteration, partly
as a result of reclassification, in order that the objectives set for reclassification can be achieved.

A. The Tariff Act of 1930.

For the past twenty-five years the basic tariff of the United States has been the Hawley-Smoot Tariff Act of 1930, the longest period in United States history during which the basic tariff has not been revised by direct Congressional legislation. Some of the complexity of the current situation in this general area of public policy results perhaps from the above circumstance. During the intervening years, however, import policy has not been static. Rather it has changed continuously. These changes, however, have come about by the addition of legislation for particular purposes as a supplement to the existing legislation, or as modification by executive authority of the basic tariff act.

The basic legislation, the Hawley-Smoot Act, was written under circumstances that may help to explain today why no major legislative revision has been made in the last twenty-five years. During the 18 months in which the bill was pending, first, the Committee on Ways and Means of the House, and later, the Committee on Finance of the Senate held extensive hearings. In all, over 20,000 pages of
testimony and written briefs were presented to these Com-
mittees. In addition to this material, the Tariff Commis-
sion submitted much detailed information, the most impor-
tant being **Summaries of Tariff Information** which exceeded
2,700 pages in length.

2 E. E. Schattschneider, *Politics, Pressures and the Tariff,* (New York: Prentice-Hall, Inc.), copyright, 1936. See especially for an evaluation of the materials presented and the evaluation of these materials as a basis for tariff-

During the passage of the original bill in the House
several hundred amendments were added after the bill had
been re-written by the Committee on Ways and Means. Later,
in the Senate 1,253 amendments were added to the basic
House bill before it was passed and sent to the Conference
Committee.

3 See Arthur W. Macmahon, "Second Session of the Seventy-

Remembering years later the agonizing work of tariff
writing, the late Senator Vandenburg made the remark in
the Senate that both he and several other members of that
body would probably resign before they would undertake the
work of re-writing the basic tariff schedules. Schatt-
schneider in his study of the writing of the Tariff Act

4 Congressional Record. June 12, 1948, p. 8324. "Tariff
rate-making in Congress is an atrocity. It lacks any element
of economic science or validity. I suspect the 10 members
of the Senate, including myself, who struggled through the
11 months it took to write the last congressional tariff
act, would join me in resigning before they would be willing
to tackle another general tariff revision.

of 1930 concurs with this general philosophy with respect
to writing tariff legislation.

5 Schattschneider, op. cit. The following two quotations
are illustrative. "In tariff making, perhaps more than in
any other kind of legislation, Congress writes bills which
no one intended. All policies are deflected and warped in
being reduced to statute, but where the difficulties of
the process are great, the original design may be battered
beyond recognition and the policy utterly confused. This
is especially true in tariff legislation because law-making
in this field is beset with incomparable embarrassments and
perplexities, and the labor in evolving the statute is
great to the point of agony." P. 13.

"One may conclude that the conditions under which Con­
gress makes tariffs are not conducive to good legislation.
The committees of the House and Senate, charged with the
responsibility of drafting the bill, are overburdened with
a labor beyond their powers, and, moreover, much of the
labor is vain because the fundamental issues and alterna­
tives involved in the policy have not been well formulated
and defined. The procedure developed by the committees,
in an attempt to reconcile the contradictory demands of the
legislative time-table and the volume of work to be done,
is unsatisfactory at many points. Testimony was taken under
circumstances entailing extreme haste, and the committees
were forced to sacrifice to the exigencies of time and
politics any intention they may have had to make a thorough
investigation. Valuable services rendered to the committees
by the staff of the Tariff Commission alleviated some of
the worst of these conditions, but it cannot be said that
they cured the fundamental defects of the process." P. 66.

The Tariff Act of 1930 was a major revision of the
existing legislation of that time. A study made by the
Tariff Commission in 1930 found that the number of dutiable
items listed in the Act had been increased by 381 items
over the Act of 1922. Of these 50 represented items trans-
ferred from the free list to the dutiable list, 52 items represented a further subdivision in the then existing "basket clauses". In the Act of 1922 there had been 212 "basket clauses" and in the Act of 1930, 264 such clauses were found. The remaining 279 items represented specifying individually many items which had been included before in various "basket clauses".


The Tariff Act of 1930 contains four major parts. Title I, the dutiable list, enumerates all the dutiable items. Title II, the free list, gives those items exempt from payment of duty. Title III contains all the special provisions for the Act, e.g. marking requirements, dumping, countervailing duties, importation of immoral articles, drawbacks, flexible tariff provisions, etc. And, Title IV provides the administrative provisions for executing the Act.

The dutiable list is divided into 15 separate schedules. The free list, Title II, is schedule 16. These schedules, presented and briefly analyzed in chapter II, were as follows:

Title I.

Schedule 1. Chemicals, Oils, and Paints

2. Earths, Earthenware, and Glassware

3. Metals and Manufactures of
4. Wood and Manufactures of
5. Sugar, Molasses, and Manufactures of
6. Tobacco and Manufactures of
8. Spirits, Wines, and Other Beverages
9. Cotton Manufactures
10. Flax, Hemp, Jute, and Manufactures of
11. Wool and Manufactures of
12. Silk Manufactures
13. Manufactures of Rayon or other Synthetic Textile
14. Papers and Books
15. Sundries

Title II

16. Free List

The analysis of this classification system in chapter II set forth its main characteristics. The principal method of classification was that of material origin. Only schedules 7, 8, 14, 15, and 16 deviated from this general method of classification by material origin. On the basis of material origin (or for that matter use or purpose) schedule 8 should have been a subdivision of schedule 7 if consistency in the method of classification was desired. Schedule 7 represented classification by use or purpose; and schedule 14 was similarly separated from schedule 4 on the basis of use or purpose as well as stage of manufacture. Schedule 15, which was for enumerated miscellaneous items,
included many un-related items, but at times closely related items in terms of various classification methods were placed either in the same paragraph, or in adjacent paragraphs.

For example Par. 1551 included photographic cameras and parts thereof. Film is also included in this paragraph on the basis of use or purpose. Par. 1530 provided for hides, leather and manufactures of leather not otherwise enumerated. The basis of classification internally in this paragraph was that of material origin. Many of these sundry items in schedule 15 could have been classified by material origin within schedules 1-14.

The principal method of classification for non-enumerated items was that of "chief value". Paragraph 1559 gave the rules for classification of all non-enumerated items. This is the well-known similitude rule. It provided for three methods of classifying non-enumerated items. First, if any non-enumerated article was similar to an enumerated article on the basis of material origin, quality, texture, or use it was to be classified with that enumerated article. Second, if the non-enumerated article equally resembled two or more enumerated articles than it was to be classified with that article bearing the highest rate of duty. Third, if the non-enumerated article was manufactured of two or more materials, and could not be classified by either of the first two rules, it was then to be classified on the basis of "chief value" and placed with that item or in that "basket clause" that had the highest rate of duty. And finally, as an inclusive principle, if
any imported item could have been classified equally well within more than one paragraph on these bases it was always to be classified in that paragraph where it had the highest rate of duty.

In the 15 schedules of the dutiable list there are 517 separate duty paragraphs. Some of these paragraphs cover only one or a very few items. Other paragraphs covered a multitude of individual items. Illustrative of this situation is paragraph 5 of schedule 1. This paragraph was a catch-all, or "basket clause", for all chemical items not specifically listed in par. 1-4, but which are similar to those on the basis of material origin. It has been estimated that this one paragraph includes 1,500 individual commercial chemicals. A similar example is par.


360. This paragraph includes scientific and laboratory equipment and similar items. In testimony before the House Committee on Ways and Means, one former member of the Tariff Commission testified that the catalog of one Chicago firm alone listed over 10,000 separate items included in this single paragraph. As mentioned above, there are a

a total of 264 of these "basket-paragraphs" in the Tariff Act of 1930.

Many if not most of the dutiable paragraphs of the Act include more than one item, and in the original Tariff Act of 1930, the number of actually enumerated items exceeded 2,800. As a result of subsequent "specialization" in these schedules under the Trade Agreements Acts the number of separately specified items has been greatly increased. At the present time there are more than 8,000 separate items and corresponding rates of duty in the revised schedules.

This area dealing with the Reciprocal Trade Agreements Program is the subject developed later in this chapter. See A Trade and Tariff Policy in the National Interest, (Bell Report) Public Advisory Board for Mutual Security, Washington: February, 1953.

The Tariff Commission has estimated that at least 25,000 different items that are imported are classified within these 517 dutiable paragraphs. This difference between 25,000 and either 8,000 or 2,000 represents the very large area wherein classification is under par. 1559 (the similarity rule); and hence, classification is on the basis of either similarity of use, or of material origin, or on the basis of "chief value", if the item could be classified in more than one of the 517 dutiable paragraphs.

Certainly, the method of treating unenumerated articles is an area of classifying imports for duty purposes wherein genuine uncertainty exists, where anomalies frequently
occur, and wherein complex, constant litigation continues.

If these short-comings are the result of the method of classification used in the Tariff Act of 1930, then simplification and consolidation in this area must in general alleviate the problem. Later, an effort will be made to set forth means for at least ameliorating the effects of this present complex situation. In part, what is needed is a more precise method of classification of non-enumerated articles, in the sense of classifying them in a manner logical to those groups affected by such classifications, i.e. importers, exporters, domestic producers, economic analysts, and other.

Items in the free list, schedule 16, are classified primarily on an alphabetical basis. This schedule contains 214 separate paragraphs. Many of these paragraphs, however, contain more than one item and several paragraphs contain "basket clauses". The alphabetical system is of the type

11 For example: par. 1601, 1604, 1606, 1609, 1650, 1657, 1786. Some of these are "chief value" basket clauses, others are on a basis of material origin and are for all items not specifically provided for (nspf) which would be dutiable if not included in either this manner or separately enumerated.

wherein related items are grouped together and then the alphabetical system is based on the common term of the group. For example, par. 1680 through 1683 are in part as follows:
Par. 1680. Fossils

1681. Furs and fur skins.

1682. Live game animals and birds, imported.

1683. Goldbeaters' molds and goldbeaters' skins.

As is evident from this illustration the items in par. 1682 are commonly known as "game", and alphabetically—on this basis—the classification is orderly. There are some exceptions to this general rule within the free list.

Two of the exceptions are for particular forms of wood (par. 1804, 1805) and follow wood (par. 1803). More logically, within the system, they could have been listed as parts of par. 1803. These deviations are, however, very minor in nature and are included here only for the purpose of illustrating that even when one principle of classification is adhered to, exceptions still were made in framing the United States tariff in legal form.

B. The Reciprocal Trade Agreements Program.

One of the factors contributing to the present complexity of the United States tariff has been the reciprocal trade agreements program. Since 1930 the list of enumerated articles has been increased from about 2,800 to approximately 8,000 items. The increase in the number of enumer-
ated articles is the result of "specialization"—the division of a single item or category of items into several separate items with separate rates of duty. For example, par. 353 of the Act of 1930 specifically named various electrical items. All of these items originally bore a common ad valorem rate of 35 per cent. As a result of reciprocal trade negotiations par. 353 now contains 28 separate rates ranging from 35 per cent to as low as 8 3/4 per cent. This type of complexity is a result of the operation of the trade agreements program of the past 21 years.

The reciprocal trade agreements program began in 1934. The law, as passed in 1934, was based upon three principles. Agreements were to be negotiated on a reciprocal basis with foreign governments in order to reduce barriers to trade without the necessity of having such agreements individually ratified by the United States Senate. The President, in negotiating trade agreements, could alter the rates on individual items up to 50 per cent of the 1930 rate, provided that, corresponding concessions in the trade barriers of the foreign government negotiating were granted to the United States. Reductions in the 1930 rates that were arrived at by this process were to be applicable to all countries which did not discriminate against
the United States. That is, the unconditional-most-favored-nation principle was to underlie and be included in all trade agreements.

The principle of most-favored-nation treatment was central to the purposes of the Trade Agreements Act. Negotiations between the United States and other countries were to be bi-lateral with individual agreements signed in each case. If, however, either the United States or the country which was a party to an agreement negotiated a second agreement with a third country lowering further the rates on items included in the first agreement or on other items, the benefit of such additional reductions accrue automatically to the countries party to the first agreement. In other words, the most-favored-nation clause is the method through which either of the contracting parties automatically receive "all the advantages which either of them has granted, or at any future time shall grant, to any third state, i.e., to the 'most favored' third state."

Another principle which has been fundamental to the Trade Agreements Program has been the principle of negotia-
ting with the "principal supplier" of each item. In negotiatiing tariff reductions the United States has bargained where possible with individual countries on the individual items in which they have a predominant interest. If a country was the major supplier of United States imports of a given item, the United States negotiated with that country on that specific item, and not with some third country which might have been a less important supplier. The reasoning upon which the policy was based is that in bargaining to reduce restrictions, the United States wanted to gain the most possible in terms of reducing these restrictions. By bargaining with the principal supplier "we could get the maximum tariff concessions for our own exports" to that country by concentrating on the imports from that country in which it had its largest interests in terms of increasing its exports to the United States.

16 Cordell Hull, op. cit., p. 362. The idea of principal supplier is actually somewhat broader. In practice the country with which the United States has negotiated has not always been, historically, the principal supplier, but was presumed to be the 'potential' chief supplier, provided that rates of duty were reduced.

In order to negotiate with the principal supplier on individual items in trade, it frequently has been necessary to sub-divide individual items or segregate out individual items from the classification provided in the paragraphs of the Tariff Act of 1930. Unless this procedure had been followed in bilateral negotiations, the United States would
have lost much of its bargaining power after concluding agreements with a few important countries because of the automatic generalization of concessions (most-favored-nation principle).

The original trade agreements legislation enacted in 1934 was for a three-year period. Subsequent three-year extensions of the legislation were made without any material change in 1937 and in 1940. In 1943, the legislation was extended for two years only, with one minor amendment.

17 Operations of international cartels were included specifically "among the acts of a foreign country which would provide the President with a basis for withholding from that country trade-agreement concessions which would otherwise be extended to it." Tariff Commission, Operation of the Trade Agreements Program, June 1934 to April 1948. Part II. History of the Trade Agreements Program. P. 23.

Important amendments were added to the legislation when it was extended for three years in 1945. The most important of these was the change in the date of the base year. In the original 1934-law provision was made for reducing rates of duty up to 50 per cent of the then-existing duty, i.e., the 1930 rate. In the 1945-extension new negotiating authority was provided by changing this date to the rate existing on January 1, 1945. This meant that if a rate of duty had been reduced by 50 per cent of the 1930 rate prior to January 1, 1945, it could now be reduced an additional 50 per cent of this reduced rate, or a total reduction of 75 per cent below the original 1930-rate. No additional
authority to reduce rates through reciprocal negotiations was added to this legislation until the Trade Agreements Act of 1955.

18 Ibid. A description and analysis of the Trade Agreements Program is given in the annual (since 1948) reports of the Tariff Commission on the operation of the program.

From 1934 until 1947 the negotiations were conducted on a single country bilateral basis. During this period the United States concluded trade agreements with 28 different countries. Beginning in 1947 a different approach was adopted in negotiating trade agreements. The United States invited 19 foreign countries to join with it in negotiating a multilateral agreement to reduce tariff barriers. Only the Soviet Union of the countries invited did not accept the invitation to participate. The procedure of negotiating was in the form of a general meeting or conference. Each country conducted bilateral negotiations with each of the other countries with whom it could profitably do so. Each country negotiated with its principal supplier on a product by product basis. After all of these bilateral negotiations had been completed they were combined into one single agreement which was entitled the "General Agreement on Tariffs and Trade" (commonly referred to as GATT). At Geneva on October 30, 1947, 23 countries signed
At Annecy, France, in 1949 further negotiations regarding the General Agreement on Tariffs and Trade were held and 9 countries were added to the original 23 who had signed the GATT protocol in 1947. In 1951 at Torquay, England an additional four countries acceded to the GATT protocol. At the present time 34 countries are parties to the General Agreement on Tariffs and Trade.

Five countries signed at Torquay, but one of them, Korea, did not make the agreement effective. The original 23 at Geneva became effectively 24 in 1950 when the Contracting Parties recognized Indonesia who had been formerly represented by the Netherlands. See United States Tariff Commission. Operation of the Trade Agreements Program. July 1950 to June 1951. Fourth Report. P. 75.

Some idea of the extent to which detailed changes have been made in individual tariffs as a result of the GATT can be gained from a brief reference to each conference. At Geneva in 1947, 45,000 individual concessions were made. At Annecy in 1949, 5,000 concessions were made. And, at Torquay in 1951, 8,800 individual concessions were made. The consolidated schedules resulting from these negotiations, thus,
contain approximately 58,800 items. This is the number of individual changes that have been made. The extent to which the United States has revised in detail its own tariff is very great. At Torquay, the third session, on the approximately 2,800 statistical classifications on which the United States negotiated, 1,325 were altered or bound as a result of the negotiations. At the end of 1954 as a result of the trade agreements program the rates covering approximately 90 per cent of United States dutiable imports had been lowered.


The negotiations were based on the statistical classification of items as set forth in Schedule A and are not on the basis of tariff paragraph as such. These 2,800 statistical classifications represent slightly less than one-half of the total statistical classifications by which the United States classifies imports for statistical purposes. The nature of the United States' import statistics classification was separately considered in the preceding chapter.

All of these revisions in rates of duty have been incorporated into a second column in the United States tariff. The 1930 rates apply to those countries with whom the United States does not have trade agreements and to all iron curtain countries. The second column of rates, the negotiated rates in the tariff, apply to those countries with whom the United States has concluded trade agreements.

24 A third column exists in the sense that on some items the Cuban preference dating from 1902 still exists. Also,
under the Philippine Trade Act of 1946, the Philippine products were duty free until 1954, and thereafter they are subject to 5 per cent of the full tariff rate during the first year, and an additional 5 per cent each year thereafter until 1975. From 1975 on the full United States tariff rates are to be applied to products from the Philippines. See Public Advisory Board for Mutual Security. A Trade and Tariff Policy in the National Interest. Washington: February, 1953.

Consolidation and simplification of the United States tariff could remove the unnecessary complexity that characterizes the changes resulting from the trade agreements program. Renegotiation after such revision would, of course, be necessary, but it need not prove to be an insurmountable obstacle in the United States trade agreements program with other countries.

C. Import and Processing Taxes.

In addition to the tariff duties found in the Tariff Act of 1930 some imports have had additional levies imposed upon them. These import and processing taxes were added to the internal revenue code in 1932, 1934 and 1936. At the present time the following groups of items are subject to such import or processing taxes.

<table>
<thead>
<tr>
<th>Internal Revenue Code Section</th>
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<tbody>
<tr>
<td>Sugar</td>
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<tr>
<td>Coconut, palm, and palm-kernel oil, fatty acids, salts, etc.</td>
</tr>
<tr>
<td>Additional tax on non-Philippine coconut oil</td>
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<tr>
<td>Petroleum and derivatives</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Code Section</th>
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</thead>
<tbody>
<tr>
<td>4501 (b)</td>
</tr>
<tr>
<td>4511 (a)</td>
</tr>
<tr>
<td>4511 (b)</td>
</tr>
<tr>
<td>4521</td>
</tr>
</tbody>
</table>
Coal 4531
Copper 4541
Lumber 4551
Whale, fish, and marine-animal oils, tallow, and inedible animal oils, fats, and greases, fatty acids, and salts 4561
Sesame, sunflower, rape seed, kapok, hempseed, and perilla oils, fatty acids thereof or of linseed oil, and salts 4571 (1)
Articles or combinations containing 10 per cent or more of taxable oils 4581
Hemp seed 4571 (2)
Perilla seed 4571 (3)
Kapok seed and rape seed 4571 (4)
Sesame seed 4571 (5)


Import and processing taxes are incorporated into the internal revenue code, but like duties imposed by the tariff, apply to goods that are imported.

26 Internal revenue taxes are imposed on certain articles by reason of their importation into the United States. These taxes are not usually regarded as tariffs imposed under the customs laws because they are at the same rate as like taxes on domestic articles and are intended to be compensatory only. Examples include alcoholic beverages, tobacco products, and playing cards. Ibid, p. 11.
The items covered by these import and processing taxes are classified in various schedules in the Tariff Act of 1930. All together at least 38 individual tariff paragraphs contain one or more of the items included in this group. Six of the schedules of the tariff contain paragraphs in which some of these items are classified. The distribution by schedule of paragraphs affected is as follows:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Paragraphs</th>
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<tbody>
<tr>
<td>1</td>
<td>11</td>
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<td>3</td>
<td>10</td>
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<td>4</td>
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<td>5</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>16</td>
<td>12</td>
</tr>
</tbody>
</table>

The paragraphs are: 1, 5, 34, 52-57, 76, 80; 309, 316, 318, 339, 350, 353, 380, 381, 387, 397; 404; 501; 701, 703, 709; 1620, 1634, 1650, 1657-1659, 1669, 1727, 1730, 1732, 1733, 1803. Author's count. There may be additional paragraphs which may include items covered by such taxes. At the present time only these paragraphs appear to have items in them covered by import and processing tax legislation.

Some items in 26 paragraphs (those in schedules 1, 3, 4, 5, 7), thus, are subject to tariff duties and also to extra import or processing taxes which have been levied against imports. In addition, items in 12 of the paragraphs specifically exempted from duty in the free list have had duties levied on them by means of these import and processing taxes. Import and processing taxes, like tariff duties, have been subject to revision by reciprocal tariff negotiations.

One advantage of simplification and consolidation of the present United States tariff would be the elimination of
this duplication. Such duplication could be removed without lowering or affecting the combined duties involved should that be the goal of policy. While the passage of time has made for certainty as to which items in which tariff paragraphs are subject to both tariff duties and import or processing taxes, still simplicity could be achieved by consolidation if a thorough revision of the United States tariff were made.

D. Other Complicating Additions to the United States Tariff Since 1930.

Since 1930 various additions have been made to the tariff of the United States other than the Trade Agreements legislation as discussed above. The three principal additions to which attention is here directed are import quotas, the escape clause, and the peril point provisions. While none of these is a part of the tariff, strictly speaking, each one is a complicating addition to United States import policy and each is here considered as a part of the current United States tariff broadly interpreted.

These additions are important for several reasons. Each one represents a measure of additional and new protection, while the general trend in overall United States import policy has been toward reducing United States restrictions on imports during the past twenty years. Also, they (quotas, the escape clause, and peril points) repre-
sent a complicating addition to trade policy. And finally, each of these additions complicates the situation facing exporters interested in entering the United States market. A new element of uncertainty is added to the many variables which face foreign exporters and domestic importers when they are making their business decisions.

1. Quotas.

Under section 22 of the Agricultural Adjustment Act of 1933, as amended, the President is authorized to impose import fees or quotas on imports of agricultural commodities. This authority was granted to the President to prevent the importation of agricultural commodities if they are found to be entering the United States in such quantities that they interfere with the domestic price support programs for agricultural products.

Before World War II quotas authorized by section 22 had been imposed upon only four agricultural products: sugar; millable wheat; wheat products; and, various types of cotton and cotton waste. Since World War II the use of quotas on agricultural commodities to protect the domestic price support program for these commodities has been

28 7 USC 624.

extended. In large part the extension of quotas in this area in the post-war period was under the authority of section 104 of the Defense Production Act of 1950. Prior to the expiration of the authority of this statute on June 30, 1953, the President by proclamation (June 8, 1953) changed the authority for the restrictions which were currently in effect to section 22 of the Agricultural Adjustment Act. In effect this meant that the purposes for which section 104 was added to the Defense Production Act were to be carried out under section 22 after the Defense Production Act had expired.

30 Ibid., pp. 27-29.

As of June, 1955 the United States imposed quotas on an appreciable list of agricultural commodities. Included in the commodities so protected were cotton and cotton waste (par. 763, 901c, 1662); wheat and wheat products (par. 729); edible tree nuts (par. 756, 757); dairy products—butter, milk products, and various cheeses (par. 708b, 708c, 709, 710); peanuts and peanut oil (par. 54, 759); flaxseed (par. 762); linseed oil (par. 53); oats (par. 726); rye, rye flour, and rye meal (par. 728); and, barley (par. 722).

31 Ibid. The pertinent tariff paragraphs are not given in this source. They have been added to show the number of tariff paragraphs affected by quotas imposed under section 22 proceedings.
A few additional quotas are found in the present United States tariff. In general these are tariff quotas which have been added as a specialization technique in reciprocal trade negotiations. A tariff quota provides that only an agreed on amount of imports come in at the reduced rate, and all imports of the item in excess of such a quota must pay the 1930-rate. One example is the tariff quota on walnuts (par. 760). The reduced rate (7½¢ per pound) in this case applied to only the first 5,000,000 pounds which are imported in any year. All imports in excess of this amount are dutiable at the full 1930-rate (15¢ per pound). Similar tariff quotas have been added to the tariff structure through reciprocal trade negotiations for fresh milk and cream (par. 707), fresh or frozen fish (par. 717), and potatoes (par. 771).

Quotas in the United States' import policy represent one area of restrictionism in the face of declining tariff protection as the general rule. Their primary purpose has been to prevent imports from aggravating the domestic price support program for agriculture. This represents an area of import policy where the objectives of public policy are in conflict. On the one hand, public policy, as a whole, during the past twenty years has been to reduce United States barriers to imports and in the process to expand the market area for United States exports. On the other hand, the United States has pursued a domestic policy with reference to
agriculture which has been in conflict with general import policy. In agricultural policy the United States has attempted to protect agricultural income by pegging the prices of various agricultural products above world market prices and by reducing the supplies of such products coming into the United States market. Simplification and consolidation of the United States tariff can offer little in this area. What is needed, if the situation is considered undesirable, is either a change indomestic objectives, or a change in the means of achieving the objectives of United States domestic policy in the field of agriculture.

32 The United States also imposes tariff quotas on cattle, and it imposes quotas on sugar under the Sugar Act of 1948.

2. The Escape Clause.

Beginning in 1943 with the Mexican Trade Agreement, a safeguarding clause was added to each reciprocal trade agreement which the United States concluded. This safeguarding clause is known as the escape clause. The standard escape clause provides that either party to a trade agreement can withdraw or modify any concession granted, if imports of the article upon which the concession was granted occur in such increased quantities as to threaten to cause or cause serious injury to the domestic industry, which is producing the same or directly competitive items. Thus, the escape clause is the mechanism through which protection is reserved by each of the contracting parties.
to prevent their domestic industry from being seriously
injured by unexpectedly increased imports resulting from
negotiated tariff reductions.

Prior to 1951 the authority and procedures for includ­ing
escape clauses in trade agreements were provided by
33
executive order. Under these orders the Tariff Commission

33 Executive orders 9832 of February 25, 1947; 10004 of
October 5, 1948; 10082 of October 5, 1949. Par. 10 of
Executive order 10082 which defines the escape clause is
as follows: "Par. 10. There shall be applicable to each
tariff concession granted, or other obligations incurred, by
the United States in any trade agreement hereafter entered
into a clause providing in effect that if, as a result of
unforeseen developments and of such concession or other
obligation, any article is being imported in such relatively
increased quantities and under such conditions as to cause
or threaten serious injury to the domestic industry producing
like or directly competitive articles, the United States
shall be free to withdraw or modify the concession, or sus­
pend the other obligation, in whole or in part, to the extent
and for such time as may be necessary to prevent such
injury."

was to conduct investigations in order to determine the
facts in each case. Furthermore, in cases where serious
injury was either threatened or indicated the Commission
was to recommend escape-action to the President. The
President, acting on his own discretion in the light of
the public interest, then could invoke appropriate escape­
action, i.e. revoke the concession granted on the item, or
he could reject the Commission's recommendations.

34 Par. 13 of Executive order 10082 set forth the function
of the Tariff Commission in regard to the escape clause as
follows: "Par. 13. The Tariff Commission, upon the request
of the President, upon its own motion, or upon application
of any interested party when in the judgment of the Tariff Commission there is good and sufficient reason therefor, shall make an investigation to determine whether, as a result of unforeseen developments and of the concession granted, or other obligation incurred, by the United States with respect to any article to which a clause similar to that provided for in paragraph 10 hereof is applicable, such article is being imported in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive articles. Should the Tariff Commission find, as a result of its investigation, that such injury is being caused or threatened, it shall recommend to the President, for his consideration in the light of the public interest, the withdrawal or modification of the concession, or the suspension of the other obligation, in whole or in part, to the extent and for such time as the Tariff Commission finds necessary to prevent such injury. In the course of any investigation under this paragraph, the Tariff Commission shall hold hearings, giving reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The procedure and rules and regulations for such investigations and hearings shall from time to time be prescribed by the Tariff Commission."

While operating under the authority of the Executive Order (prior to 1951), the Tariff Commission conducted a full investigation after escape clause relief had been requested only if in its judgment there appeared to be "good and sufficient reason therefor." On this basis the Tariff Commission, acting on its own judgment, dismissed 14 of the 21 applications which were made to it for relief by means of escape clause action. In each of the 14 dismissed cases an informal preliminary investigation proved sufficient for the purposes of the Commission.
In the 1951 Extension of the Trade Agreements Act, the Congress incorporated the escape-clause concept and the procedures to be followed into the Act. Section 6 of the Act provided in part that:

No reduction in any rate of duty, or binding of any existing customs or excise treatment, or any other concession ... shall be permitted to continue in effect when the product on which the concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Section 6 also provided that the President, as soon as practicable, take what action might be needed to have included in all outstanding trade agreements such a clause, i.e. that all previously concluded trade agreements would have an escape clause inserted in them as soon as possible.

37 Section 6 of Public Law 50, 82nd Congress 1st Session.

Section 7 of the 1951 Extension of the Trade Agreement Act set forth the procedure to be followed in escape clause proceedings. Subsection (a) provided that "Upon the request of the President, upon the resolution of either House of Congress, upon resolution of either the Committee on Finance
of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the application of any interested party the Tariff Commission was to conduct an investigation and produce a report on the situation within one year from the date the application was received. If the Commission found evidence of serious

38 In 1953, by amendment, this was changed to a 9 month period instead of one year.

injury or threat of serious injury, or if directed to do so it would hold public hearings on that situation.

After concluding its public hearings and investigations, if the Tariff Commission found that serious injury or the threat of serious injury was present in the situation as a result of the tariff concession, it was to recommend to the President remedial action. Such remedial action could be of various forms. It could be a withdrawal or a modification of the concession. It could be the establishment of import quotas to the extent necessary to either prevent or remedy such injury. Provision was made also, that the report of the Tariff Commission to the President be sent to the two interested committees of the Congress.

Subsection (b) of section 7 set forth suggestive criteria for the Tariff Commission in determining in an escape clause proceeding if injury was threatened or did exist to the domestic industry. These criteria included the following:
1. A downward trend of production, employment, prices, profits, or wages in the domestic industry.

2. A decline in sales.

3. An increase in imports, either actual or relative to domestic production.

4. A higher or growing inventory.

5. A decline in the proportion of the domestic market supplied by domestic producers.

39 When the Trade Agreement Act was extended for one year in 1954, one important amendment was added to the bill. Known as the Symington Amendment, section 2 provided: "No action shall be taken pursuant to such section 350 to decrease the duty on any article if the President finds that such reduction would threaten domestic production needed for projected national defense requirements." (Public Law 464, 83rd Congress). A similar amendment has been added to the 1955 Trade Agreement Act. As of mid-1955 the usefulness of such an amendment is doubtful for two reasons: 1) No list of projected national defense requirements, translated into supply terms from United States industry, has been published by the Federal Government. 2) The President, by constitutional delegation, is commander-in-chief, as well as being in charge of foreign relations (both constitutionally and, in this area, by limited delegation under section 350 of the Tariff Act of 1930, as amended). It would appear that in view of the powers of the President granted under Article II of the Constitution that this amendment is unnecessary. Presumably, this section of the Trade Agreement Act of 1954 applies equally to both the escape-clause provisions and to the peril-point procedures.

Subsection (c) of section 7 provided the procedures to be followed by the President after he had received the report and recommendations of the Tariff Commission. The President, in effect, could take either of two courses of action. He could follow the recommendation of the Tariff
Commission in adjusting the concession on the item, or in imposing quotas. Or, the President could transmit to the Committee on Ways and Means of the House and to the Committee on Finance of the Senate, within 60 days of the time he received the Commission's report, a report explaining why he had not followed the Commission's recommendations.

Subsection (d) of section 7 provided that the Tariff Commission publish its report including its findings and conclusions in all escape-clause cases where in its judgment no injury or threat of injury was found.

The 1951-extension of the Trade Agreements Act made the escape-clause concept and procedure a part of the legislation in the field of United States commercial policy. In achieving this end the concept of injury was broadly defined. Consequently, the escape-clause as an addition to the United States tariff represents a major change in public policy. In this connection it should be recalled that at the inception of the Trade Agreements Program in 1934 the United States was in a deep and prolonged depression. The policy basis for instituting the trade agreements program was then that expanded trade, reciprocally expanded trade, would help, not hinder the domestic situation. Similarly, when the negotiating authority of the Trade Agreement Program was extended in 1945 the threat of a post-war recession, of sizeable magnitude, was widely accepted. In each of these cases the belief was that an expanded foreign trade, reciprocally arrived at, would
help, not hinder the domestic situation.

In contrast, the escape-clause as an instrument of cancelling the successful achievements of the trade agreements program was added to the tariff during a period not characterized by depressed economic conditions. When the Extension of the Trade Agreements Act was passed in 1951, at which time the escape-clause was legislatively incorporated into the tariff, the United States had maintained a high level of employment. Neither depression nor threat of recession was at that time an important consideration of public policy.

The escape-clause is perhaps most important in an area not readily subject to empirical verification, namely, the attitude of foreign exporters toward entering the United States market. If a duty is lowered sufficiently, a foreign exporter may decide to develop a market in the United States. The development of a market by the exporter usually involves a large and continuing outlay for creating a distribution system, a service system in some cases, and an effective advertising program. This is an expensive operation for the exporter and is at best a hazardous one. If the exporter successfully builds a market and succeeds in establishing himself as a supplier in the United States, his success may become the beginning of his difficulties. The exporter at this point may find his efforts to sell in the United States seriously curtailed. Any domestic firms
selling the same or similar products under the law can ask for the institution of an escape clause proceeding. Until the escape clause proceeding has been concluded and the President has made his decision (assuming that the Commission found injury) a new area of business uncertainty, removed from the free market, must be included in the exporter's calculations.

Even though the President may not modify the previously granted concession, as recommended by the Commission, this new area of uncertainty still will persist. A new escape-clause proceeding may be requested by the domestic firms entailing additional expense by the exporter. Under the present escape-clause legislation there is no relief from this situation available to the foreign exporter, other than abandoning the market he successfully has developed in the United States. As a result, many foreign firms faced with large developmental expenses in order to sell in the United States, probably refrain from attempting to do so.

This area of uncertainty and restrictionism cannot be removed by either simplification or consolidation of the United States tariff. It represents perhaps the most restrictive element in present United States trade policy. If the goal of the United States in its trade policy is to expand world trade, including United States imports as well as United States exports, the escape-clause as a
relatively new restrictionistic device must be either revoked or substantially modified. In the words of the Bell Report—

So long as the import policy of the United States is based on the concept that imports cannot come into the country if they threaten injury to a domestic industry producing the same or directly competitive products, there is little scope for increasing imports. Under present-day conditions, this concept is insufficient. The trade policy of the United States should be based on the national interest rather than the interests of any one group of producers of this or that article which comes into competition with imported goods.


I.B. Kravis, in an interesting analysis of the interpretation of the escape-clause by the Tariff Commission during 1948-1953, concludes that: "What should be protected against an injurious increase in imports is the capital of entrepreneurs and the jobs of workers, not the output of a particular product." Professor Kravis suggests that "the majority (of the commissioners) insistence on the industry basis" for determining injury as opposed to the individual product basis is the proper approach. This is perhaps logical in those cases where the firm's requesting relief are multiproduct firms. But where the firms in question are producing a single product, then his suggestion that what should be protected "is the capital of the entrepreneurs and the jobs of workers" can scarcely be examined except in terms of the "particular product." See his article, "The Trade Agreements Escape Clause," American Economic Review, June 1954. Pp. 317-338.

The author's opinion is that less reliance in United States commercial policy should be placed on such an administrative device as the escape clause, and more public trust should be placed in the resiliency and the ability of the American economy to absorb such shocks as increased imports may provide. The constant adjusting process found in the market economy in the United States at mid-twentieth century is worthy of such trust. The danger in the escape-clause as a continuing aspect of the American tariff it would seem, as Kravis suggests (p. 338), is the results which might follow from its application if a serious recession would occur in the United States. Probably most of
the more significant concessions the United States has granted would be withdrawn. Should such a situation occur with the results just indicated it would amount to a complete reversal of trade philosophy from that expressed by Cordell Hull and the Administration in 1934.

3. The Peril Point.

As a means of preventing reductions in duties which might injure domestic industries through large increases in imports, the peril point provisions were written into the Trade Agreements Act. The peril point provision was first added to the Act in the Extension of 1948. Section 3.(a) 42

42 Public Law 792, 80th Congress 2nd Session.

of the 1948 Act provided in part that:

Before entering into negotiations concerning any proposed foreign trade agreement, the President shall furnish the United States Tariff Commission with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions. The Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which modification may be extended without causing or threatening serious injury to the domestic industry producing like or similar articles; and (2) if increases in duties are required to avoid serious injury to the domestic industry, the minimum increases in duties required.

The Commission, in each case, was to give its report to the President within 120 days. During this period no trade agreement was to be concluded until after the Commission's report had been sent to the President, or the 120 day period had passed. Subsection (b) of section 3 provided that the Commission would hold hearings giving reasonable
public notice and allowing reasonable opportunity for parties interested to present evidence.

Section 5(a) provided that in case the President in concluding a trade agreement went beyond the limits set by the Tariff Commission in reducing the duty on any item, i.e. placing the duty below the "peril point", the President would "transmit to the Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements (were) not complied with, and stating his reasons for the action taken with respect to such article." By this means the freedom of the President to reduce duties to a level below the minimum set by the Tariff Commission, but at a rate consistent with the policy followed by the Administration in interpreting the Trade Agreements Act, was preserved.

In 1949 the peril point provisions were repealed with the repeal of the 1946-extension of the Trade Agreement Act. The simple extension of the 1945-Act by the Act of 1949 did not include the peril point provisions. In 1951, however, when the Trade Agreement Act was extended the peril point provisions were again included in the Act. Section 3(a) of the Act of 1948 was included verbatim in the 1951-extension with one minor exception.
44 In section 3. (a)(2) in the Act of 1951 the words "directly competitive articles" were substituted for "similar articles".

The Randall Commission in its report on United States foreign economic policy in 1954 recommended that the peril point procedure be retained in any extensions of the Trade Agreements Act. As a means of gathering adequate and full information, from all sources, prior to tariff negotiations the procedure established is desirable. At the present time the results of negotiations can lower duties on individual items below the "peril point" as found by the Tariff Commission. This provision should not be altered; that is, the findings of the Tariff Commission should not become absolutely limiting in reducing rates of duty on particular items. While it may, at times, prove awkward for the President to explain adequately why a duty has been lowered beyond the lower limit set by the Commission, such explanation should be made a part of the public record in the manner presently prescribed by law.

Thus, the peril point provisions are more of a means of making sure that the full and complete facts with reference to each item being considered in a negotiation are known to the negotiators than they are provisions restrictive
on the actions of the President in determining foreign
economic policy. Within the scope of this particular study
involving simplification and consolidation of the tariff no
improvement in this area would result from their repeal.
Chapter V
SOME LEGAL ASPECTS OF TARIFF LANGUAGE

In the preceding chapter the general structure of the United States tariff, broadly interpreted, was examined.

Many relatively unimportant aspects of the tariff have been ignored, primarily because they do not affect the problem area of this study. These aspects include such things as: valuation, anti-dumping legislation, sanitary legislation, the flexible tariff provisions, countervailing duties, and import prohibitions.

In this way the nature and the causes of the existing tariff complexity were presented. Simplification and consolidation of the present United States tariff could take the form of codification into one statute, that is, the original law as it has been modified by all of the additions and changes which have been made to the tariff since 1930.

Such a procedure, while valuable as a means of simplifying the present situation, would not materially affect the classification system. It would not reduce the uncertainties surrounding classification of new items in trade in the United States tariff. It would still result in the illogical classification of many items (from the viewpoint of logical classification framework based upon consistent classification methods). Anomalies of classification would still occur. The basis for classification disputes which would have to be resolved in the customs courts would remain. And, hence, the trial dockets of the customs courts would
continue to be overloaded.

Disputes over the classification of an item within the tariff primarily arise for only one reason. This reason is that the importer believes that his merchandise is properly classifiable under a different tariff paragraph (or portion thereof) which provides for a lower rate of duty than the paragraph under which the customs collector has classified the merchandise. The importer in such cases files a protest on the classification and the collector in considering the protest can revise his original classification of the item, thereby ending the dispute. In other cases, the ones relevant for the presentation here, the collector rejects the protest and the case goes to the United States Customs Courts where the issue is resolved. The final resolution

2 The case is first heard in the United States Customs Court. Either party to the dispute may appeal the case to the United States Court of Customs and Patent Appeals for final settlement. In a very few cases the Supreme Court will review such cases by writ of certiorari. Such a review by the Supreme Court is on the sole basis of its sound judicial discretion and is granted only when special and important reasons for such review are shown. Supreme Court Rules. Rule 38, Par. 5.

of classification cases may take the form of what appears to be an illogical classification, or an anomaly.

In recent years the problem of uncertainties, illogical classifications of items within the tariff for duty purposes, and the anomalies which occur has attracted public attention. Many of the complaints made of the results of
classification of items have been based upon a lack of knowledge concerning the problem. In order to understand better the nature of the problems involved, it is necessary to examine certain aspects of customs law and the language which has been used in tariff drafting. Needless to say it will not be possible (or necessary) to cover thoroughly this problem. To do so would require an examination of all of the language of the tariff and the judicial interpretations that have been placed upon such language. This would require a detailed analysis of thousands of cases which have been resolved in the customs courts over the years. Instead, what will be done is to examine a few of the more prominent problem areas which are illustrative of the language problem in United States customs law as a whole.

A. Commercial Designation.

"The rule of commercial designation is the first and most important rule of construction . . . applied in tariff classifications." The term commercial designation has a rather precise legal meaning. In the language of the Court:
A tariff law may use language not intended for the community at large, but for merchants, or for a particular trade, and such as to mislead those for whom it is intended if not taken in the commercial or trade sense.


It has long been a settled rule of interpretation of the statutes imposing duties on imports that if words used therein to designate particular kinds or classes of goods have a well-known significance in our trade and commerce different from their ordinary meaning among the people, the commercial meaning is to prevail unless Congress has clearly manifested a contrary intention; and that it is only when no commercial meaning is called for or proved that the common meaning of the words is to be adopted.


It does not need the citation of authority that evidence of commercial designation must show that the claimed commercial meaning is general, uniform, and definite, and not partial, local, or personal, and that this meaning must be that which is so used in the wholesale trade which handles the merchandise involved.


The rule of commercial designation means that descriptions of goods in tariff laws are stated in the terms in general usage in the wholesale trades in the United States. This rule applies in all cases except where it can be shown clearly that the term possesses a contrary legislative intent. This rule of commercial designation has been

8 Lung & Co. v. Wise, 176 U.S. 156, T.D. 21954. It should
be noted that the application of this rule of statutory interpretation is not unique in its application to customs law, but is a general common law rule of statutory interpretation.

applied in customs law extensively. Its continuous usage can be traced from the earliest United States customs litigation in terms of Supreme Court decisions.

9 Digest of Decisions, op. cit., p. 13. 200 Chests of Tea, 22 U.S. 428; United States v. 112 Casks of Sugar, 33 U.S. 275; Elliot v. Swartwout, 35 U.S. 137; Arthur v. Cummings, 91 U.S. 362; Sonn v. Magone, 159 U.S. 417. These cases are illustrative of the force and persistence with which the rule of commercial designation has been applied.

In spite of the foregoing language of the court "it is not to be assumed that every description of articles in a tariff schedule has some hidden meaning that can be ascertained only by patient search through the jargons of the trade." Rather it is to be assumed that the names appearing in the tariff have the same meanings in popular usage and in the wholesale trade. The burden of proof for offering a commercial designation at variance with common public usage for a term falls entirely upon the party in a dispute offering the designation. However, if the commercial designation is demonstrated to the satisfac-

10 Customs Digest, op. cit., p. 13.

tion of the court, it automatically takes legal precedence any other meaning for the term.

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Even though the customs courts have placed primary reliance upon commercial designation as a rule of legal construction, the application of no other legal rule has resulted in "more diversified judicial opinions". That

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13 William H. Futrell, The History of American Customs Jurisprudence, (New York: Published Privately), 1941, p. 199. In a footnote Mr. Futrell calls attention to a long line of decisions on the meaning, use, and application of the rule of commercial designation which are cited by the Court in Lamont, Corliss & Co. v. United States, T.D. 44083, 57 Treas. Dec. 906.

The application of this rule has resulted in anomalies is shown by the following decisions:

An article is Congo tea, but being bought and sold falsely as bohea tea it must be so classified as bohea. 9 Wheat 428.

The growth on the back of a sheep is commonly known as wool, yet if tradesmen buy it and sell it as Mocha hair it must nevertheless be so classified as hair. 206 U.S. 194.

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Articles called in the trade 'burlaps' are properly classified under an eo nomine provision for 'burlaps' and not under a provision for 'oilcloth foundations' for which they could also and were used. Arthur v. Cummings, 91 U.S. 362.

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In simplifying and consolidating the present United States tariff this legal rule of construction must be kept in mind. The legal construction of terms used in any new tariff law would be controlled by the application of judicial precedents antedating the passage of the new legislation, unless the Congress in writing the tariff act were to clearly indicate its intent to be otherwise. And for all those names, words, or phrases in a new tariff law where its intent was not clearly shown to be different, previous judicial construction would be controlling. In other words, the terminology used in tariff law in the United States has had its legal meaning crystallized through judicial and administrative rulings followed by reenactment. "In general, changes in the tariff terminology have been avoided unless a change in meaning was intended." 

15 United States Tariff Commission. Interim Report, p. 40. "The re-enactment by Congress, without change, of a statute which has previously received long-continued executive construction is interpreted as an adoption by Congress of such construction. Likewise, words to which a certain meaning has been given by the Federal Supreme Court as used in one statute will be given the same meaning when used in a later act, on the theory that in using the phrase in the later statute Congress adopted the construction already given it by the court." 15 Am. Jur. "Customs Duties," par. 15. As authority, United States v. Falk, 204 U.S. 143, and Latimer v. United States, 223 U.S. 501, are cited.
B. Enumeration; Ex Nomine Designation; New Articles.

Enumeration of items within a tariff act is not a simple matter of whether or not a specific name is provided. One example will serve to illustrate the problem of enumeration in the legal interpretation of tariff language. Par. 27(a)(3) of the Tariff Act of 1930 uses, in part, the language "all products, by whatever name known". The courts have ruled, taking the phrase literally, that the words "by whatever name known" provide as specific an enumeration as though the law had individually named, by every conceivable name, each item that could possibly be included in this enumeration. This means, in effect, that an item in order to be enumerated does not necessarily have to be designated by name. "It is enumerated if there is a description of it in the tariff schedules which distinguishes it from other articles."

The specific problem raised by this legal interpretation is that if such or similar language appeared in a new tariff law providing for reclassification to reduce anomalies, clear legislative intent would have to be shown for each currently non-enumerated article that is classified today in such a manner as to be considered an anomaly.

16 T.D. 20928.

Careful consideration, also, would have to be given in this regard to the above discussed rule of commercial designation. The enumerated names of items in the new classification system would not necessarily coincide with popular usage. Where the meaning of the term in the wholesale trades differed from the common popular meaning of the term, the former as noted above would take legal precedence.

In this connection the judgement of the Tariff Commission is pertinent:

"The complaint is sometimes made that the inherent complexity of the existing tariff classification laws has made it impossible for importers and other interested persons to make decisions regarding their transactions without securing the help of customs house brokers, attorneys, and other persons specializing in tariff matters. There is no conceivable way to devise a tariff schedule geared to the highly developed United States economy which would be so simple that an inexperienced person could refer to it and immediately with reasonable certainty ascertain the provisions applicable to his goods. Custom house brokers and customs attorneys perform a valuable function and the fact that their services must be availed of by inexperienced persons or persons who do not have the time to devote to such matters is not an indictment of the tariff structure. Specialized assistance is not confined to the field of customs law; it is a phenomenon present to an even greater degree in other fields of law."

18 Interim Report, op. cit., pp. 32-33. Italics supplied. In concurring with this judgement the author, who is one of the above mentioned "inexperienced persons", bases his analysis and proposals upon the following explicit assumption. Every proposed reclassification model or suggestion included in this work must be of general and tentative nature. Any model (however simple, logical, and clear to the economist) to be practical in any way, would have to be rewritten into law and revised substantially by lawyers trained and experienced in customs law. In no other way could the "clear intentions" of the economist's models become practical law. And, probably, after being re-written by the lawyers the model would no longer be clear to the
Eo nomine designations (designation by name) is one of the means by which items are classified in the tariff. Classification by eo nomine designation has been, in the past, uncertain. Many names of items included in the tariff have been illustrative of this problem: e.g. "wiping rags", "pickets", "palings", "standard newsprint paper", "handkerchiefs", "mufflers", and "scarfs". Eo nomine designations have been interpreted by the courts in terms of the legal rule of commercial designation. The burlap case cited above (91 U.S. 362) is an example.

The standard newsprint paper cases involved, in part,

the problems posed by the rule of commercial designation, eo nomine designation, chief use, and classification of an item in the law which was not known at the time the law was passed.

The doctrine of chief use is discussed below.
The two relevant paragraphs of the act of 1930 read, in part, as follows:

Par. 1401. Uncoated papers commonly or commercially known as bookpaper, and all uncoated printing paper, not specially provided for, not including cover paper, one-fourth of 1 cent per pound and 10 per centum ad valorem:

1772. Standard newsprint paper.

The questions which have been at issue in all of the cases cited have been fundamentally: What was standard newsprint paper? What did Congress mean by the term when it was first introduced into the tariff of 1922 (par. 1672)? What was the legislative intent at that time?

The Treasury defined (Treasury Decision 40996) "standard newsprint paper" with respect to weight, rolls, stock, finish, ash, and degree of sizing. In the Myers case the court ruled that paper stock containing bleached sulphate rather than unbleached sulphate, as the Treasury's administrative ruling had required, which was used in printing newspapers by the major newspaper publishers was standard newsprint paper within the designation. In the Crown Willamette Paper Co. case the court ruled in part as follows:

The testimony in this case supports the conclusion that 'standard newsprint paper' is only such paper as is chiefly used for printing newspapers. . . . The report of the House committee shows that the paper which is intended to be free was that form of print
paper upon which newspapers are printed. Evidently, the weight, thickness, and composition of the paper were not the only characteristics Congress had in mind when the term 'standard newsprint paper' was used. 23


In this case the Court found that the paper was in general of the same type as "standard newsprint paper", but newspapers were not to be printed on it nor could they be printed on it; therefore, it was classified as not "standard newsprint paper".

In the James P. Heffernan Paper Co. case the issue involved the width of the paper rolls. It was shown that this size of roll was not used in printing newspapers prior to 1922 (when the law had been first passed) and therefore it could not be what Congress had in mind when it separated out from the general category of newsprint papers the specific type, "standard newsprint paper", and accorded it duty-free treatment.

In the F.S. Whelan case the issue was again the size of the rolls. They were smaller than those chiefly used prior to the passage of the act, but in this case the court ruled that they were "standard newsprint paper". The court ruled, reversing its former position, on the grounds that the paper was chiefly used in printing standard newspapers even though it was in rolls narrower in width than those used prior to the passage of the act, that the paper under
consideration was "standard newsprint paper".

In the F.W. Meyers case (24 C.C.P.A. 464) the court ruled that the paper under consideration was not even newsprint, much less "standard newsprint paper". The court in its decision, however, did clarify the meaning of the terms involved:

The term newsprint paper is an eo nomine provision. It indicates the use to which the paper is put. "Standard newsprint paper" is also an eo nomine designation and suggests its use. The particular kind of newsprint paper free listed was "Standard newsprint paper".

Under the well-settled rule of this and other courts, an eo nomine designation, the meaning of which is in question, must be determined as of the date of the passage of the act. In determining the meaning of a word which meaning depends upon its use, it has always been the law that proof of that use is confined to the time prior to and on the date of the passage of the act in which the term is used. In other words, what did the term mean when Congress used the same?

... It seems obvious that "Standard newsprint paper" is a narrower term than newsprint paper, but, in order for it to be "Standard newsprint paper" it must first be newsprint paper.24

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In a 1938-decision the Court reversed its prior ruling in the Whelan case. In the Whelan case the paper was in rolls which were smaller in width than what had been used prior to the passage of the act, yet the Court had ruled that it was "standard newsprint paper". In the 1938-decision the Court of Customs and Patent Appeals in the C.J. Tower & Sons case ruled that size was, after all, a controlling
factor and that even though the lower court had properly interpreted the facts in the light of the Appeals Court's former ruling in the Whelan case, the reasoning in that case by the Appeals Court was in error. The Court, reversing itself, ruled that unless the paper, including the width characteristic had existed and had been used as, and had been called "standard newsprint paper" prior to 1930 it could not now be considered such paper for tariff classification purposes, even if known at that time (1938) by that name.

25 As mentioned above in a citation from the Tariff Commission's Interim Report, the term "standard newsprint paper" has been a difficult ex nomine designation to apply:

What was at issue in these cases, in addition to what was meant by the ex nomine designation "standard newsprint paper", was a product that was new to the trade as a result of the introduction of newer and more efficient rotary printing presses. The courts have established the position of new articles for purposes of classification within the tariff in the following terms:

Tariff Acts are intended to bring within the purview of their provisions imported merchandise which is described therein, notwithstanding the fact that such merchandise was not known in commerce at the time the law was enacted.

When an article is to be classified under a tariff law enacted before the article was known in commerce, it is not the province of customs officers or the courts to anticipate legislative action by giving a provision an interpretation not warranted by its terms on the theory that the Congress would have made that provision applicable if it had known about the new article. The only intention the Congress could have had about an article unknown to it is that it would be classifiable under some provision having terms broad and general enough to cover it.27

27 Ibid., p. 158. Based on T.D. 40170; T.D. 40227.

Tariff acts are, of course, made for the future, but when an article entirely new enters commerce after the passage of an act, we do not feel that it must necessarily be classified in a paragraph simply because, in a literal sense, it may be described therein. Other considerations are proper.28

28 T.D. 47111. An almost identical statement appears in Digest of Decisions, op. cit., p. 158, citing same. In this case the classification of rubber bath mats was at issue.

It was contended by the importer in oral argument that had Congress known of its existence, and of its being an article of commerce, they would have included it by name. . . It seems to us that they probably might have so acted under the assumed circumstances, and no doubt it would be a fit subject for legislative attention in the future, but it is the province of this court only to declare what the law is, and not to anticipate legislative action nor to supply omissions of the legislative body. The argument that Congress would have included this commodity had they known of its existence seems to strengthen the position that they did not intend at the time of enactment to include it by implication, since it is fair to assume that they did not intend to include a thing they knew nothing about.29

The foregoing constructions by the Court with reference to articles new to commerce raises issues to be considered in attempting to write a classification system which will not result in anomalies or awkward classifications. For one thing, clear legislative intent will have to be shown with reference to the criteria for such classification. Tariff items which have been narrowly construed as commercial or *eo nomine* designations will have to be avoided or qualified. The purpose, therefore, in extensively quoting from the Court has been to indicate that customs law has been narrowly construed by the courts and unless clear legislative intent is shown in future legislation that it should be otherwise, the courts will continue their interpretive rulings on this same basis.

C. *Use*.

When use is one of the criteria for classification, it is chief use that is controlling as the Courts have consistently ruled. The courts have ruled, also, that


an *eo nomine* rule can not prevail over the doctrine of chief use where use is made the test of classification.

In the case at issue the product was an actor's make-up pencil. Pencils were provided for on an *eo nomine* basis in the act; but, the item was classified in par. 61 which provided in part for "all preparations used as applications to the hair, mouth, teeth, or skin, such as cosmetics, ... theatrical grease paints, ... other toilet preparations."

In a second case the court placed chief use over an *eo nomine* designation. The case involved the importation of an original oil painting by the artist, Alfred Pellan. The painting was created by him solely as an original work of art. The painting was purchased abroad by a representative of Abbot Laboratories, who liked it, to be reproduced on the cover of a magazine which the company sent out to physicians. The relevant paragraphs in the tariff act were in part as follows:

par. 1547(a). Work of art, including (1) paintings in oil. . . (dutiable)

1807. Original paintings in oil. . . and the words "painting" . . as used in this paragraph shall not be understood to include any articles of utility or for industrial use. . . (free)

The Court ruled that it was dutiable because this *was* an industrial use, as it construed the meaning of that term.

An equally interesting case involved an innovational deviation based on a Swiss music box. Under the Reciprocal
Trade Agreement with Switzerland the duty in a part of paragraph 1541(a) which included music boxes was reduced to 20 per cent. The product imported consisted of toilet roll holders which contained a music box which purported to play "Whistle While You Work" as the paper was being consumed. The Court ruled that the collector had classified the article properly in par. 412 (other manufactures in chief value of wood) as their chief use was to hold a toilet roll, not to entertain.

33 Thorens, Inc. v. United States, 31 C.C.P.A. 125. John H. Crabb in an article "Classification Problems and Procedures Under United States Customs," Miami Law Quarterly, Volume 9, 1955, p. 168 writes as follows: "A new article which fits in a literal way within a class designation, may escape duty thereunder where its use is of a different type and it does not compete with the article described in the paragraph; so to classify it would not serve the legislative purpose of protection." He cited Gimbel Bros. v. United States, 22 C.C.P.A. 146, as authority.

Corpus Juris Secundum summarizes the law with reference to the doctrine of use as follows:

The doctrine of classification by use has been said to be only a rule for ascertaining the intention of congress, and to have no application where the manifest intention of congress is otherwise shown. This mode of classification has been said to be usually applied to articles not known in trade and commerce by any particular appellation. Where the actual use to which an article may be put is made the test by which its classification is to be governed, such classification by use is held to prevail over ex nomine designation, where such appears to be the intention of congress, and to be more specific than one by composition; and a designation according to a specific use prevails over a competing description of a general character without special limitation as to use or other qualification.
D. Other Difficult Terms.

Many other terms or phrases have caused difficulty in interpreting the United States tariffs. Brief mention here will illustrate the nature of the problems involved in the usage of a few of these.

One group of terms, the use of which has resulted in considerable litigation includes "crude", "advanced", "manufactured", and "manufactures of". If an item has been worked so that it no longer is in its primary state, but is still a form of the original material it is the "article manufactured". On the other hand, if the form of the material has been changed, making it an entirely different article then a "manufactures of" the article has been created.

The line of demarcation between these terms has been in many cases exceedingly fine. In the language of the Court:

"The lines between different articles enumerated in the tariff law are sometimes very nicely drawn, and a trifling amount of labor is often sufficient to change the nature of the article, and determine its classification."
Saltonstall v. Wiebusch, 156 U.S. 601, 604. In this case the trifling amount involved three or four per cent of the total labor in the item, a forging.

The same issues between these terms, which are frequently competing in the tariff acts, has arisen in many cases. Products including such items as seaweed, kap, marble chips, tankage, bird nests, and rags have been the subject of litigation over classification by these process designations.


The term "in part" has been the subject of much litigation. A corset containing only 1 per cent (by value) of elastic was "in part" elastic. An article containing as little as 0.02 per cent gold or silver was "in part" such metal. An imported ore containing zinc which was irre-

Pfister Jewelry Co. v. United States, A 5129 (cc); Varsity Watch Co. v. United States, 34 C.C.P.A. 155, C.A.D. 359.

coverable, and also, detrimental to the value of the ore,
was considered zinc-bearing ore and was subject to duty. 40


E. Summary.

The purpose of this chapter has been to indicate the problems imposed by a tariff classification system in terms of the legal language of the law itself. The Courts, in construing the law literally, as they do in all cases involving revenue laws, attempt to determine congressional intent. The legal constructions, some of which were presented in the preceding sections of this chapter, are the products of the accumulation of judicial interpretation of congressional intent during the Courts' history in the United States. These rules of judicial construction, for determining the congressional intent as new cases come before the Courts, will not be changed as the result of a new tariff act providing for a new classification system for imported items. It would appear that the problem at hand, since these rules of construction are known, is that the intent of Congress must be changed so that a more logical classification system can be devised and adopted. The Court has said, if its interpretations result in anomalies which are contrary to the legislative intent, the solution to that problem is
known and definite. "It (is) a fit subject for legislative
attention."

217, T.D. 40227.

The problems of illogical classification of items and
anomalies in goods classification are primarily a matter
then of two things. First, the apparent intent of Congress
as deduced by the Courts has not provided a classification
system which was logical and certain in its application to
those primarily concerned. Second, the intent of Congress

42 "The classifications given in the tariff schedule appear
to be amazingly complex and arbitrary at first glance. But
it is to be remembered that protectionism is the basic
motive behind the American tariff, and the schedule as de­
vised is not arbitrary or absurd, but reflects the specific
products and concerns of American industries that Congress
determined should be protected. The schedule is a result
of hearings at which vast detailed amounts of technical
industrial information was submitted to the Government.
This information is gathered continuously through the years
and the experiences and provisions of prior tariff schedules
are drawn upon also in devising new tariffs. The reported
cases on classification tend to be concerned largely with
partly manufactured or processed articles designed for use
as parts in completed consumer goods which are assembled
by American industry. The high degree of specificity of
such articles and their endless and changing variety appear
to be the primary causes of classification problems."
John H. Crabb, "Classification Problems and Procedures Under

being in law the exact language of the act as passed, the
Courts must construe the law by the rules of construction
which have developed, and which are known, resulting in
classification of products which are illogical to those
primarily interested.
In the chapter preceding this one the present United States tariff was examined. In describing the present tariff and its growth, the nature of the complexity of the current situation in this area was presented. It was shown that such things as the operations of the Trade Agreements Act, the import and processing taxes, and other restrictive additions to the tariff had contributed to the present complexity of the law in this area; but, these were found to be only in small part responsible for the lack of certainty in goods classification.

In this chapter it was shown that the problem of the lack of certainty in goods classification has two major aspects: first, the system of goods classification which has been developed within the tariffs of the United States; second, the specific language which has been used in constructing the tariff, and the conflicts which have occurred in interpreting the competing provisions in the law.

The problems involving the legal interpretation of the language of tariff acts are major obstacles to devising a system of goods classification that will provide logical certainty. Some of these problems have been pointed out in this chapter. But the problems arising from these legal aspects are properly outside the competency of the economist.

In the chapters which follow, alternative suggestions for reducing complexity and increasing certainty in this
area of goods classification for tariff purposes are considered. An assumption underlying this presentation will be that for each system to be certain as law, it would have to be re-drafted by legal experts who understood the nature of the classification system presented and who were capable of drafting such legislation.
Chapter VI
THE TARIFF COMMISSION'S 1955 INTERIM REPORT ON SIMPLIFICATION AND CONSOLIDATION

The interim report of the Tariff Commission containing its Tariff Simplification Study is one approach or plan for simplifying and consolidating the present complex United States tariff. It is a preliminary statement of the Tariff Commission's procedure. The Interim Report of the Tariff Commission was submitted pursuant to section 101(d) of the Customs Simplification Act of 1954.


A. The Customs Simplification Act of 1954.

The Customs Simplification Act of 1954 was based on one of the recommendations of the Commission on Foreign Economic Policy. The Commission on Foreign Economic Policy (Randall Commission) was established under Public Law 215, 83d Congress, 1st session. The Commission, in part, recommended

2 67 Stat. L., 472. The law was approved on August 7, 1953.
Congress should direct the President to have the Tariff Commission undertake a study of the tariff schedules immediately, with the stated purpose of framing proposals for the simplification of commodity definitions and rate structures; this study should be completed within a definite time period and the Tariff Commission should be provided during this period with an appropriately enlarged staff. Congress should empower the President, on the basis of such recommendations, to proclaim such changes in commodity definitions and changes in rates as he determines to be appropriate, provided that such changes do not materially alter the total of duties collected pursuant to any group of rates affected by such simplifying changes when calculated on imports in a specified base period.  

3 Commission on Foreign Economic Policy. Report to the President and the Congress. Washington: January 23, 1954. pp. 45-46. This recommendation was apparently a noncontroversial area in the report. In this section of the Commission's recommendations on tariff policy there were no dissents. Similarly in the Minority Report, filed by Representatives Simpson and Reed, there was no dissent from this proposal. In fact they specifically approved it. See Commission on Foreign Economic Policy, Minority Report, January 30, 1954, p. 7. Later in the House, Chairman Reed of the Committee on Ways and Means effectively guided the "Customs Simplification Act of 1954" through the House.

To implement this recommendation, Representative Byrnes of Wisconsin introduced into the House H.R. 9476, a bill to provide for the establishment of simplified customs schedules, among other things. (83d Congress 2d Session.) The Committee on Ways and Means of the House held hearings on the Byrnes' bill during June of 1954. In executive session following the hearings, the Committee rewrote the bill in an effort to remove all elements of controversy. Thereupon they reported out a new bill, H.R. 10009, which the House passed on July 26, 1954. The Senate, with minor amendments, passed the bill on August 12, 1954. After the House agreed to these minor changes, the bill was approved by the President on September 1, 1954. (Public Law 768, op. cit. See Interim Report, op. cit., p. 3 for the above dates.)

Title I of the "Customs Simplification Act of 1954" provided for carrying out part of this one recommendation.
of the Randall Commission’s Report. Section 101(a) directed the Tariff Commission to proceed promptly to make a complete study of all provisions of the customs laws of the United States under which imported articles may be classified for tariff purposes, including the dutiable and free lists and related special provisions of the Tariff Act of 1930, as amended and as modified, the provisions of the Internal Revenue Code relating to the duties designated as import taxes, as amended and as modified, and other laws. The Commission shall compile a revision and consolidation of such provisions of the customs laws which, in the judgment of the Commission, will accomplish to the extent practicable the following purposes.

1. Establish schedules of tariff classifications which will be logical in arrangement and terminology and adapted to the changes which have occurred since 1930 in the character and importance of articles produced in and imported into the United States and in the markets in which they are sold.

2. Eliminate anomalies and illogical results in the classification of articles.

3. Simplify the determination and application of Tariff Classifications. 4

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4 Public Law 768, op. cit.

Title I of the "Customs Simplification Act of 1954" contained three additional, pertinent subsections. Subsection (b) emphasized that the purpose of title I of the act was simplification and consolidation of the tariff per se, not rate changes or rate reductions. According to this subsection the Tariff Commission was directed to try to accomplish the revision without suggesting changes in rates of duty. In other words, the Commission was directed to avoid making revenue policy as a result of simplification.
It was recognized, however, that interpreted literally this would prevent the Tariff Commission from solving many, if not most, of the classification problems present in the law. Therefore, the subsection provided, also—

Where... in the judgment of the Commission, the purposes of subsection (a) cannot be accomplished without such changes, the Commission shall specify each incidental change in rates which in its judgment would accomplish such purposes, and shall accompany it with a summary of all the data on which such suggested change is based, together with a statement of the probable effect of such suggested change on any industry in the United States.\(^5\)

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\(^5\) Ibid.

In addition, the subsection provided that before suggesting rate changes, the Tariff Commission was to publish public notice of its intent to change particular rates. It was then to hold hearings and allow those interested in such rate changes to be present, to produce evidence, and to testify with respect to the probable effects of such rate changes.

Subsection (c) of section 101 set a time limit for the Tariff Commission to conduct its simplification study. The law provided that not later than two years after enactment, i.e. by September 1, 1956,

the Commission shall transmit copies of the schedules and accompanying data and statements to the President and to the chairman of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.\(^6\)
Subsections (e), (f), (g) of section 101 were administrative features of title I. They provided, respectively, for the Commission to make the necessary rules and regulations, hire the services of experts, and authorize Congress to appropriate additional funds to make the study.

The Tariff Commission was directed under subsection (d) of section 101 to make an interim report. This report was to give the following information.

(1) the progress that has been made in carrying out the provisions of (section 101),

(2) the significant complexities of tariff classification that have been developed as existing in the present law, and

(3) suggestions as to standards and methods which might be adopted for a simplification of existing tariff schedules without significant changes in tariff levels.

The purpose of this chapter is to present and analyze the findings and recommendations of the "interim report". First, however, several observations about title I of the "Customs Simplification Act of 1954" will be made.


These observations relate to certain omissions in the Act. One of the noteworthy omissions in the instructions to the Tariff Commission was their lack of specificity. It should be noted that the Act did not provide for any of
the following:

1. That the present tariff schedules and basic classification system of the Tariff Act of 1930 were to be followed in making the revision.

2. The methods for classification that were to be adopted in arriving at a classification system, logical and consistent in arrangement, were not given in the Act.

3. The rules to be followed in changing rates of duty from specific to ad valorem, from compound to specific or ad valorem, etc., were not provided.

4. The standards to be adopted for grouping commodity items into new groupings and then arriving at (a) the form of the duty to be applied, or (b) the rate of duty to be applied, were not provided in the Act. The limitation in this area that was specified in section 101(b) was--- if a change in the duty was found to be necessary in the judgment of the Commission, then the Commission had to follow certain prescribed procedures (these procedures were noted above).

In lacking specificity in these areas the instructions to the Tariff Commission provided for a very broad grant of authority. The Congress established, in other words, the goals which the Tariff Commission was to try to reach in
its work; namely, a new classification of commodities for tariff purposes that would "be logical in arrangement and terminology", provide for the elimination of "anomalies and illogical results in the classification of articles", and "simplify the determination and application of tariff classifications".

8 Ibid., section 101(a) quoted above.

On the other hand, in granting this broad delegation of authority, the Congress specifically did not determine in advance the approaches, methods, means, or standards which the Tariff Commission was to follow. It should be noted that both the original Byrnes bill (H.R. 9476), and the bill as originally passed by the House (H.R. 10009) did contain specific instructions on methods to be followed by the Tariff Commission in making the study. In the Senate these limitations and instructions were specifically removed. The Senate Report on H.R. 10009 makes this very clear:

The committee amended title I of the bill in order to state simply and clearly a direction to the Tariff Commission to make a study of customs tariff schedules and classifications. Certain references in the House bill to stated methods, standards, and results to be achieved were deleted. The committee felt that these deletions were necessary in order to avoid confusing the real objectives of the study proposed to be made by the Tariff Commission. They are not intended to preclude the Commission from including a consideration of those subjects.

The amendments make plain that it is the intent of the committee that the Tariff Commission shall submit recommendations to accomplish desirable simplification of classifications: that any change in rates of duty is not to be recommended unless in the opinion of the
Commission desirable simplification cannot be accomplished without such rate change. Such recommendations involving any changes of rates shall not be made until after adequate public hearings of the affected industries have been held by the Commission for the purpose of determining the effect of such tariff rate changes on such industries.


In addition to this lack of specificity in instructions one other very important omission was made in the "Customs Simplification Act of 1954". There was no provision for putting the tariff revision, when completed, into effect. In the original Byrnes bill (H.R. 9476) the revision was to be effected in a way similar to the method of executive implementation used in the past. After the Tariff Commission had completed its work the President if he approved the revision was to try to renegotiate the United States' trade agreements to bring them into conformity with the revision, and to make whatever other changes he felt were necessary in the "national interest".

At that point the President could abandon the revision, or he could transmit the revised schedules to the Congress. If after sixty calendar days of continuous session neither House of Congress had passed "by the affirmative vote of a majority of the authorized membership of that House, a resolution stating in substance that that House (did) not favor the revision," then one full calendar month later the revised schedules were to be placed into effect.
What was included in the "Customs Simplification Act of 1954" was far different. In subsection 101(d), the law stated that in its interim report the Tariff Commission was to make ---

(3) suggestions as to standards and methods which might be adopted for a simplification of existing tariff schedules without significant changes in tariff levels.

The House Report on the bill (H.R. 10009) makes clear the meaning given by the Congress to subsection 101(d)(3).

First of all, the Committee desired to avoid making a decision on how to adopt the proposed tariff revision at that time. One reason for doing this was that the issue of how to place the expected revision into effect became the most controversial aspect of the legislation, and a sincere effort was apparently made to remove all elements of Congressional controversy from title I of the Act. The exact meaning which the Ways and Means Committee did place on subsection 101(d)(3) can be inferred from the following remarks in the Committee's Report on H.R. 10009.

 Witnesses expressed the view that the only practicable method of effectuating such a revision was by delegation to the executive branch of the Government subject to specific standards and limitations. Witnesses advocating this method differed as to whether or not there should be a reference back to Congress as provided in title I of H.R. 9476. Other witnesses advocated direct enactment of the revision by the Congress.
A number of the members of the committee tended to the view that only the first of these alternatives was practicable; while certain members tended to accept the second alternative. Time did not suffice to resolve this question finally or to determine precise limitations, standards, and methods which would govern. For this reason, and also because the committee believed that it would be assisted in solving these questions by a preliminary report of the Tariff Commission, this bill authorizes the Tariff Commission to begin immediately the review necessary to propose a revision of the tariff schedules in order to avoid any loss of time.

The bill also requires the Tariff Commission to report to the Congress by March 15, 1955, its views and recommendations based upon its preliminary studies as to the appropriate standards and methods to be adopted for a simplification of existing tariff schedules without significant changes in tariff levels. With the benefit of these recommendations, the Congress can more effectively consider legislation to implement the revision proposed by the Tariff Commission. In suggesting methods for simplifying the schedules the Commission will, of course, take into consideration the problem of adjusting trade-agreement commitments to any proposed tariff revision.


The intent of Congress was clear on this matter. The Congress wanted the Tariff Commission, as an expert body independent of both the executive branch and the legislative branch to a degree, to consider and analyze the various alternatives for placing a complete tariff revision into effect. And then the Congress, acting on the basis of this semi-independent expert opinion could "more effectively consider legislation to implement the revision proposed by the Tariff Commission". One aspect of the analysis below
will be to consider the Tariff Commission's recommendations under this provision of the Act.

The Act, in summary, appears to be a very broad grant of authority in the form of a congressional request for the Tariff Commission to make a fundamental, comprehensive study of the entire subject of goods classification for tariff purposes. The sole object of the study was to be for the Commission to devise a revision of the tariff schedules. This revision, as was noted above, was to

1. Establish schedules of tariff classifications which will be logical in arrangement and terminology and adapted to the changes which have occurred since 1930.

2. Eliminate anomalies and illogical results in the classification of articles.

3. Simplify the determination and application of tariff classifications.

The purpose of the revision was to arrive at a classification system that would be logical, consistent, and certain; so that, the way goods were classified under the United States tariff would not be a deterrent to international trade. The purpose was not, however, to reduce the level of duties on imported commodities, as a general rule.

The Commission in achieving this goal in revision was not bound by any rules as to methods, standards, or
approaches. It was granted as complete a freedom of operations in this area as the Congress could devise (witness the Senate Report, noted above).

And last, the Commission was requested to advise the Congress on methods of effectuating the revision. The analysis of the Interim Report which follows is based upon the above interpretation of the "Customs Simplification Act of 1954".


The Tariff Commission, as noted above, was required under section 101(d) of the "Customs Simplification Act of 1954" to submit an interim report on March 15, 1955, to the President and to the Chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. This report was to include three subjects: 1) the progress the Commission had made in its study; 2) the significant complexities of tariff classification which the Tariff Commission found to exist in the present law; and, 3) their suggestions as to standards and methods for effectuating the revision. Each of these three aspects of the Interim Report will be considered.

1. The progress made in the study.

There are approximately two pages of the Interim Report devoted specifically to stating the progress made by the Tariff Commission in its study on tariff simplification.
The Commission immediately initiated the study after the law had been signed by the President. It issued "A release inviting importers, domestic producers, customs brokers, and other interested parties to submit any suggestions which in their opinion were pertinent to the purposes of the study." The announcement stated that no hearings would be held until after the Commission had made its review of the pertinent laws and had drafted a preliminary revision of the tariff schedules. The release did state, however, that hearings would be held later as provided in the Act for interested parties to testify on "the probable effect on the domestic industry of any incidental changes in duties which may be involved in the proposed revision." In addition the Interim Report makes clear that the parties interested in testifying at the hearings could be heard on the proposed revised schedules, as such. The law did not make the latter mandatory.

The Tariff Commission also had obtained the cooperation of the Bureau of Customs of the Treasury Department. The Bureau of Customs requested all of its field officers to
"submit directly to the Commission suggestions for improvement of the tariff schedules with a view to removing complexities." The Tariff Commission, in addition, directed its own staff specialists to review the areas in which they specialized, and to make suggestions in their respective areas to reduce complexities.

This program which the Commission initiated to gain suggestions resulted in the Commission receiving "231 pieces of correspondence, each of which include(d) one or more suggestions." The report contained the following tabulation of this correspondence:

<table>
<thead>
<tr>
<th>Sources</th>
<th>Pieces of Correspondence</th>
<th>Number of Suggestions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Service</td>
<td>118</td>
<td>1009</td>
</tr>
<tr>
<td>Importers</td>
<td>61</td>
<td>133</td>
</tr>
<tr>
<td>Foreign shippers and producers</td>
<td>39</td>
<td>80</td>
</tr>
<tr>
<td>Domestic producers</td>
<td>13</td>
<td>59</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>231</strong></td>
<td><strong>1281</strong></td>
</tr>
</tbody>
</table>

The report did not give an analysis of what these suggestions were or what they involved. Nor did the report indicate to what extent there was overlapping among the
suggestions. It would appear doubtful that the 1,281 suggestions were all different. The net number of suggestions, probably considerably smaller in number, was not given.

Instead of including a report in this section on the progress which the Tariff Commission had made in revising the existing tariff schedules (or what they were requested to report on under section 101(d)(1) of the Act) the Commission ended its statement on the "Progress Made in Study" by stating:

This report necessarily will be confined to a treatment of the more fundamental problems underlying a tariff revision study and the requirements for putting revised schedules into force. In the course of so doing, a few typical suggestions, and "classic" examples of tariff complexity which have received wide publicity, will be analyzed and commented upon in an effort to dispel prevalent misconceptions which obscure the real objectives of tariff simplification. In order that a full appreciation may be had of the scope of the study and the nature of the problems to be solved, it is believed that attention must first be directed to features of the existing tariff structure, and the administration and judicial review of the tariff classification laws.

20 Ibid., p. 8-9.

Any other progress the Tariff Commission made between September 1, 1954, and March 9, 1955, in carrying out the provisions of title I of the "Customs Simplification Act of 1954", is not mentioned in the progress report given on the two pages devoted to this topic.
2. The significant complexities in the present tariff law.

Section 101(d)(2) of the "Customs Simplification Act of 1954" directed the Tariff Commission in its Interim Report to point out the significant complexities of tariff classifications that have been developed as existing in the present law . . .

The Tariff Commission devoted two major parts of its report to a summary of these two aspects of the problem. Part II was entitled the "Existing Tariff Structure". The titles of the major sections indicate the content of this part of the Interim Report. They were:

A. General
B. Customs Territory of the United States
C. Generalization of Rates of Duty
   1. Cuban preference
   2. Philippine preference
   3. Discriminatory customs treatment of Communist products
   4. Problems introduced by exceptions to policy of generalizing rates of duty
D. Titles I and II (Dutiable and Free Lists) of the Tariff Act of 1930, as amended and modified
E. Internal Revenue Code Provisions Relating to Import-Excise taxes
F. Special and Additional Import Duties and Special Exemptions.

These topics are developed in the report in general descriptive terms. Most of the material included in the presentation of the "Existing Tariff Structure" was
presented above in chapter IV. Certain aspects of the existing tariff structure were noted in this part of the Interim Report which were not mentioned in chapter IV. These aspects included the following:

1) Problems introduced by exceptions to the policy of generalizing rates of duty. In this section the Commission recognizes that country-of-origin determines the applicable rate of duty on imported products in many cases. The present tariff, in other words, is what is called a multiple-column tariff. While the Commission does not suggest it, the following conclusion obviously must be reached. If rates of duty are not to be changed materially as a result of the revision, then any proposed revision providing for reclassification of goods for tariff purposes will have to have as one aspect, multiple-columns for the duties. Separate columns will have to be provided for the following categories (in whole or in part) in terms of the origin of the imported product:

1. Communist and non-trade agreement countries.
2. Trade Agreement countries.
3. The Philippines.
4. Cuba.

This is not, however, actually a problem of substance
facing the Tariff Commission. It might better be termed an irritating, clerical job which would have to be performed once the fundamental purposes of the Act had been achieved. These purposes given in section 101(a) as cited above were to

(1) Establish schedules of tariff classification which will be logical in arrangement and terminology and adapted to the changes which have occurred since 1930 in the character and importance of articles produced in and imported into the United States and in the markets in which they are sold.

(2) Eliminate anomalies and illogical results in the classification of articles.

(3) Simplify the determination and application of tariff classification.

Attention must constantly be drawn to these purposes; and, it should be explicitly noted that these purposes did not include simplification and consolidation of duty rates, or changing the fundamental aspects of rate discrimination in tariff policy. These are not matters that relate directly

22 The exception noted above includes only those cases of reclassification of items that cannot be logically reclassified unless the duty is altered. Section 101(b). The bill that did not become law, H.R. 9476, did provide for rate reduction and consolidation.

to the problem of providing a system of goods classification within which certainty, in a logical and consistent manner, prevails.

2) Special and additional import duties and special exemptions. In this section of the report the Commission points out certain aspects of United States law which can properly be termed a portion of the tariff. Included are
thirty-four topics, some of which were mentioned in chapter IV. Included in this listing are, for example:

1. Anti-dumping duties
2. Repairs to vessels
3. Section 22(b) of the Agricultural Adjustment Act
4. Duties for improper marking
5. Administrative exemptions
6. Imports for commercial exhibitions
7. War-time exemptions
8. Temporary exemptions, and many others.

While all of these portions of law are a portion of the tariff broadly construed, nearly all of them are irrelevant to the study at hand. That is, these exceptions, additional duties, are not aspects of the problem of classifying goods in a tariff law. They apply to specific categories of items under specific situations and do not apply generally to items in a given general classification of goods. If the Congress desires that these special and additional duties and special exemptions be retained no serious problem, in terms once again of the fundamental purpose of title I of the Act, is found to be present. The problem that the Tariff Commission was directed to solve was the problem of developing a general classification of goods for tariff purposes within which certainty according to logical, consistent rules would prevail. The problem of simplifying the special and administrative provisions of the tariff was not the area the Tariff Commission was requested by the Congress
to simplify and to consolidate.

In part III of the *Interim Report* the Tariff Commission examined "Consolidation and Revision of the Customs Classification Laws". In this part, or chapter, of its report the Commission recognized that one simplification measure that could be accomplished would take the form of codification of all law in the area of imported goods. The Commission stated:

There can be no doubt that the availability of all the classification laws arranged in a single, authoritative consolidation or set of schedules is desirable and would be of material benefit and assistance to interested persons, whether they be importers, domestic producers, or government officers, and whether they be experienced or inexperienced in tariff matters.23

The Commission then recognized that codification would not alter the problems involved in providing logical certainty of goods classification. These problems exist because of major deficiencies in the basic tariff structure. The logical rearrangement of existing duty-rate descriptions, the adaptation of tariff terminology to trade changes, the elimination of anomalies and illogical results in tariff classification, and the simplification of the determination and application of tariff classifications are dependent primarily on appropriate revision of the tariff structure. Thus, consolidation and revision, particularly the latter, are both involved in achieving the purposes of section 101 of Public Law 768.24


In this part of the report, also, the Commission stated that if the revision completely achieved its purposes the result would be an "ideal" tariff structure. The Commission defined an "ideal" tariff structure as one in which

the provisions with respect to tariff treatment of imported articles would be so arranged and so stated that the legislative intent would be clearly and correctly expressed and easily and quickly ascertainable by administrative officers, importers and other interested persons. 25


The Commission noted that achieving such an "ideal" structure is not too difficult a task if legislative intent is simple and clear. On the other hand, the Commission noted that

it is not possible to achieve such simplicity for the highly specialized tariff laws governing the importation of articles into the customs territory of the United States.

... It is inevitable (sic) that any tariff structure geared to a highly diversified economy such as the United States will frequently become involved in hair-splitting administrative and judicial interpretations. 26

26 Ibid., p. 27. The use of the word inevitable is apparently an explicit judgement of the Commission which is not substantiated in the report.

It would appear from these citations that the Tariff Commission has failed to understand the legislative intent of the "Customs Simplification Act of 1954". In addition it should be noted that the Tariff Commission's reasoning is either not clear, or leaves something to be desired.
The Tariff Commission, apparently, equated clear legislative intent with a simple tariff structure. These two do not necessarily go together. Legislative intent under the present law appears to be exceptionally clear. To state this clear legislative intent in the form of an outline it is:

1. Congress, by passing the "Customs Simplification Act of 1954" accedes to the general idea that uncertainty of goods classification under the Tariff Act of 1930, as amended and as modified, does exist.

2. The intent of Congress is clear that this situation should be carefully examined, as provided by Public Law 768.

3. This examination, which is to be performed by the Tariff Commission for the Congress, is to result in a classification system wherein goods classification is certain.

4. Therefore, if there are aspects of the present tariff law which result in uncertainty of goods classification, the Tariff Commission is to revise these aspects; so that, the causes of uncertainty of goods classification are removed.

5. The causes responsible for there being uncertainty in goods classification for tariff purposes may take many forms. Some of these causes were known to the Congress when it passed the "Customs Simplification Act of 1954", other causes were not known to the Congress.
6. Therefore, the Congress granted to the Tariff Commission very broad authority to explore the causes and determine the means for removing the causes of uncertainty of goods classification which the Commission would find as a result of its study.

7. The intent of Congress then is that by this process the causes of uncertainty of goods classification can be found, and can be removed as a result of a general re-classification of goods for tariff purposes.

The intent of Congress in the law and in the Reports of the Committees appears to the author to be very clear. To restate it again: the intent is not that the tariff structure of the Tariff Act of 1930 be retained. The present congressional intent is that a new classification of commodities for tariff purposes is to be developed. This new classification is to "be logical in arrangement and terminology", provide for the elimination of "anomalies and illogical results in the classification of articles", and "simplify the determination and application of tariff classifications".

The Tariff Commission, while quoting the relevant sections of the law in its Interim Report appears to this writer to have almost completely misunderstood the intent of Congress. The intent of Congress was that change was necessary. The intent of the Commission, in interpreting the law would appear to be that change was undesirable. It
is not necessary to look far to substantiate, at least in part, this contention.

In testifying before the Committee on Ways and Means of the House on H.R. 9476, the expert witness of the Tariff Commission said:

The Commission is in sympathy with any efforts to simplify the United States tariff schedules. It should be remembered, however, that a large proportion of the classification language used in the tariff schedules has been in our tariff laws for a great many years and that administrative and judicial interpretations have clarified the meaning of the more obscure provisions of the tariff schedules. One of the difficulties involved in any extensive revision of the language of the tariff schedules is the fact that any new language which may be adopted would itself have to be interpreted, and consequently extensive changes in terminology could possibly lead to extensive litigation. On the other hand, some changes which should be made will not be possible because of the limitations contained in the bill.27

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It would seem that this testimony by the authorized representative of the Tariff Commission rested on the following implicit assumption. Any tariff revision that could be made which would involve any basic, fundamental changes in the way goods are classified would result in uncertain classification system and, therefore, extensive litigation would result. What the witness appears to have been saying was
that the Tariff Commission cannot carry out the clear intent of the Congress even if it is given unlimited authority to revise the system of goods classification that exists in the tariff at present. As already indicated, the clear legislative intent as specifically stated in the Senate Report on H.R. 10009 was that in reclassifying goods (as opposed to changing duty rates) the Tariff Commission was to have a completely free hand.

Mr. Charles P. Taft, in testifying on this same bill (H.R. 9476) before the same committee of the House evaluated the testimony of the expert witness from the Tariff Commission in these words:

I cannot refrain from commenting on the testimony given June 22 on behalf of the Tariff Commission. I must say that I cannot believe that its members, the members of the Tariff Commission, could have reviewed it.

It is obvious that the Tariff Commission is overworked. It does not have enough money. I am informed that in many cases their technical experts have to do their own writing in long hand and do not have enough stenographic help to get the job properly done. It is equally obvious to anyone who knows this field and has had any experience in it that the reports of the Commission on the facts during a good many years, certainly for the 10 that I have known anything about it, have achieved a very high standard and are the basis of the administrative judgments in the other departments of Government that are concerned. So my criticism is not directed to the Commission and its work or its capacity at all.

But the attitude expressed in the statement yesterday about the reform of classifications in the Tariff Act is bureaucracy at its worst. As this committee knows, I have been a bureaucrat, and nothing is more necessary in Government than able and effective bureaucrats. I have defended them on many occasions.
But the Tariff Commission, while expressing to you its sympathy with the objective of the bill, said what every bureaucratic obstructionist has always said when code revision and elimination of outworn and antiquated procedures is proposed, namely, that 'Administrative and judicial interpretations have been made which we are used to, and, if you monkey with this, all it does is to give more work for lawyers and more extensive litigation'.

This will result only if you of the committee fail to do well your job of legislative drafting . . . 28

28 Ibid., p. 51.

This evaluation of the position of the Tariff Commission prior to the passage of the "Customs Simplification Act of 1954", might well be considered also an evaluation of the work which the Commission has undertaken under the authority of that Act.

As noted above, several errors of reasoning, or examples of confusing the issues, were committed by the Tariff Commission. The first mentioned was that of identifying or equating clear legislative intent with simplicity in a tariff structure. As has been shown this just does not follow. If the tariff needs of a "highly diversified economy such as the United States" require a complex, detailed tariff it is possible for the legislative intent still to be clear. The Tariff Commission has not left room for this possibility to occur. The Commission's position, simply stated, is that

it is inevitable that any tariff structure geared to a highly diversified economy such as the United States will frequently become involved in hair-splitting administrative and judicial interpretations. 29
It is true that this situation does exist within the present classification system of the United States tariff. But, it does not necessarily follow that this same situation would exist if a new, different classification system were to be developed.

In this connection, an "ideal" tariff classification is one in which goods could be classified clearly and correctly in such a way as to express the legislative intent. The present legislative intent, expressed clearly, calls for a complex tariff structure. Therefore, the "ideal" tariff that the Tariff Commission has been asked to develop must of necessity be a complex classification system. The Commission is avoiding the central problem area when it says that if changes are made within the present tariff structure extensive litigation will result. The issue before the Commission is not retaining, or merely patching up the present tariff classification system. The issue is for them to develop, under the authority of section 101(a) of Public Law 768, a classification system for tariff purposes that is logical and consistent, does not result in anomalies or illogical classifications, and which will be more simple in its application.

It is not contended here, however, that the Tariff Commission can develop a classification system for imported
items in which there will be absolute certainty in classifying imported goods. Probably any reclassification will be somewhat inadequate in this respect. But it would appear reasonable to assume that an adequate revision of the classification system would provide a basis for classifying with certainty the hundreds of different items the classification of which has resulted in extensive litigation in the past. To provide for absolute certainty of classification for the products of the future, as yet unknown and undeveloped, is a problem which the Tariff Commission should consider, but which it should not even hope to fully solve. That extensive litigation over the classification of goods in a tariff will continue is a certainty. The problem the Tariff Commission was requested to solve was to reduce the present causes of such litigation, not to abolish them. Or, the problem is not to create an "ideal" tariff structure, but a more "ideal" tariff structure than exists at the present time within the Tariff Act of 1930, as amended and as modified.

The remainder of part III in the Interim Report was devoted to the nature of the classification system which exists at present. The Tariff Commission discusses in this section of the Interim Report the nature of the causes of uncertainty in goods classification. The eleven topics discussed in this section of part III were:
1. Too many tariff classes
2. Overlapping tariff provisions
3. Tariff terminology
4. Prohibitive rates of duty
5. Parts
6. Similitude
7. New articles in commerce
8. Specific v. ad valorem rates of duty
9. Containers
10. Free list
11. Tariff "loopholes".

Most of these topics were discussed in preceding chapters of this study. The topics which were not so discussed do not appear to be a portion of the problem of revision of the classification system.

3. Suggestions on standards and methods for effectuating the revision.

In the third part of section 101(d) of "The Customs Simplification Act of 1954" the Congress asked the Tariff Commission in its Interim Report to make

(3) suggestions as to standards and methods which might be adopted for a simplification of existing tariff schedules without significant changes in tariff levels.

Part IV of the Interim Report outlines the principles the Tariff Commission has formulated for revising the tariff schedules. Part IV was divided into two sections. These will be separately discussed below.
a. Standards for formulating tariff revisions.

The Tariff Commission formulated three rules or standards to which it would adhere in formulating a new tariff classification system. These rules were to ---

(1) restate existing tariff treatment to the fullest extent consistent with desirable changes in treatment to carry out the purposes of section 101(a) of Public Law 768;

(2) avoid changes in tariff treatment which, though desirable from the standpoint of simplification, are, in the judgment of the Commission, likely to result in serious injury to any domestic industry;

(3) avoid changes in tariff treatment which, although desirable from the standpoint of simplification, will impinge in any important degree on international obligations of the United States, or will involve gratuitous rate reductions of such value as to represent significant bargaining power.

30 Ibid., pp. 61-2.

The Commission noted that in tariff-drafting there are two general aspects. First, there is the aspect of the general economic policies that the tariff is to reflect. Second, duty-rate descriptions are arrived at to implement those general economic policies within the tariff structure. When the Congress directly drafts a tariff act, these two aspects of tariff drafting are merged; but, when the Congress delegates the task of tariff revision, drafting the duty-rate descriptions, the distinction between these two aspects becomes important.

The first rule adopted by the Tariff Commission for making the proposed tariff revision explicitly recognized
this dichotomy.

The policy-making function is not delegable; it must be exercised exclusively by the Congress. The formulation of duty-rate descriptions, on the other hand, is delegable, but only to the extent that its exercise is related to some intelligible standard enunciated by the Congress. Any attempt by a governmental agency to formulate or revise duty-rate descriptions without reference to a legislative policy standard or guide is futile and can only lead to a conscious or unconscious substitution by that agency of its own ideas as to what the policy should be.

In formulating proposed revised tariff schedules, the Commission will endeavor to reflect therein to the fullest extent possible, consistent with the purposes of simplification, the existing tariff treatment of imported articles.31

31 Ibid., p. 59.

The other two rules which the Commission adopted were self-explanatory.

b. Standards for simplification without significant changes in tariff levels.

In suggesting standards for tariff revision that would not result in significant changes in tariff levels, the Tariff Commission analyzed two positions either of which the Congress might adopt.

First, it recognized that if the Congress desired that no revisions should be made involving significant changes in rates of duty, then the Congress could "direct the Commission not to include any such proposals in its tariff revision." This would mean, however, that the Commission 32

32 Ibid., p. 63.
would be precluded from suggesting some desirable changes.

Second, the Commission recognized that a desirable revision of the tariff would involve some changes in rates of duty. It suggested that, as a general rule, no rate changes would be suggested on most items that are imported in substantial amounts. The reason for reaching this conclusion was that for most of the items that are regularly imported in substantial amounts certainty already exists in their classification within the tariff.

The areas where uncertainty of classification exist at the present time are the areas where rate changes incidental to a more certain classification might occur.

The only "significant" changes in rates which might be suggested by the Commission would occur with the correction of known defects (including tariff classification uncertainties) in the tariff structure. Therefore, any "standard" (i.e., limitation) which would be imposed to prohibit significant changes in tariff levels would impose restrictions on the Commission in areas of the existing structure where the proposed revision might accomplish desirable results.

The Commission is of the opinion that it can function with greater ease and can accomplish more substantial results in connection with the proposed tariff revision if fixed or arbitrary limitations are not imposed on the rate making incident thereto.33

33 Ibid., p. 65.

The final part, V, of the Interim Report analyzed the methods suggested for effectuating the revision of the tariff schedules. The Commission did not take any position on this subject since it believed that this was strictly a
policy issue for the Congress to decide. On policy issues the Tariff Commission does not feel that it is appropriate for the Commission to make specific recommendations.  

34 Ibid., p. 66.

There have been three views set forth for effectuating the tariff revision once the Tariff Commission has completed its work on tariff simplification. First, the authority to effectuate the actual revision could be delegated by Congress to the President without prior review by the Congress. Second, the authority to effectuate the actual revision could be delegated by Congress to the President, but only after the Congress had had an adequate opportunity to review the revision. A third view was that any revision be directly enacted by the Congress after being submitted to the Congress and after appropriate review and revision.  

35 Ibid., p. 66.

While the Tariff Commission did not suggest that any one of these techniques be used specifically, the Commission did make two suggestions that could be used as guideposts by the Congress in selecting the appropriate effectuating technique.

First, the Commission suggested that however the revision was put into effect —

the resulting action should have the force and effect of legislative enactment.
In other words, the revised tariff schedules should completely and effectively supersede all existing provisions of the customs laws (including exemption practices) to the extent that they are involved in the revision.\footnote{Ibid., pp. 66-7.}

As its second suggestion the Tariff Commission stated that it ---

\par doesn't believe that the preparation of revised trade-agreement schedules to conform to the revised basic tariff structure should be undertaken until the latter has been definitively approved for adoption domestically.\footnote{Ibid., p. 69.}

\section*{D. Summary.}

Under the authority of "The Customs Simplification Act of 1954" the Tariff Commission is engaged in a study which is to lead to a revision of the tariff schedules. The purpose of this revision is to arrive at a classification system that will be logical, consistent and certain; so that, the way goods are classified under the United States tariff will not be a deterrent to international trade. The law provided that the Tariff Commission would issue an \textit{Interim Report} on its study on March 15, 1955.

The \textit{Interim Report} has been analyzed in this chapter. The progress which the Tariff Commission has made in its work, the complexities which they have discovered as existing
in the present law, and their recommendations and suggestions for subsequent legislation have been presented.

It was shown that the intent of Congress in "The Customs Simplification Act of 1954" was for the Tariff Commission to revise in a basic and fundamental way the classification of goods for tariff purposes. The purpose of this revision was to add certainty to the system of goods classification for tariff purposes. The purpose was not to be reduction in the duty rates on imported goods, except where incidental to necessary reclassification.

It was also shown from the Interim Report that the Tariff Commission has apparently interpreted its directive in a very narrow manner. The analysis presented of the report in this chapter has emphasized this narrow interpretation by the Tariff Commission of its authorization for revising the tariff schedules.

While the proposed revision has not been made public, and it is not to be made public for some time, it seems fairly safe to indicate several probable results. The proposed basic revision of the tariff schedules that the Tariff Commission has been directed to make will probably be very similar in structure to the present United States tariff. Probably most of the more glaring examples of illogical classification will be corrected. The revision may be little more than a codification of existing law. This will represent some progress in this area; but, codification
alone cannot remove the basic structural defects of the present system of goods classification which are responsible for the uncertainty that is present in commodity classification. Nor will codification alone reduce the sizeable number of classification cases which burden the Customs Courts annually. Only basic, structural revision of the present way in which commodities are classified for tariff purposes can reduce the number of classification cases which are annually filed and litigated.
Chapter VII
THE BELL REPORT'S MODEL

The Public Advisory Board for Mutual Security published (February 1953) a report entitled A Trade and Tariff Policy in the National Interest. The sixth chapter of that report involved "Simplification, Consolidation, and Reduction of Tariffs". An analysis and evaluation of that plan for tariff revision as one possible method for tariff simplification and consolidation will now be undertaken.

1 The Public Advisory Board for Mutual Security, A Trade and Tariff Policy in the National Interest. (Washington: February, 1953). This report is commonly known as the Bell Report and hereinafter will be so cited. The specific plan for tariff revision in this report is found on pp. 43-45.

Unlike the Tariff Commission's Interim Report, the Bell Report assumed that a substantial simplification of the tariff would entail less meticulous tariff protection of American products, and hence, proposed a plan of revision which would involve tariff reduction on many items.

The model for tariff revision in the Bell Report consists of two principal parts. First, the technique for accomplishing tariff revision is given. Second, the structural outline for the revision is specifically indicated. Each of these principal parts of the model will be presented separately.
A. The Technique for Accomplishing Tariff Revision.

A technique was provided in the Bell Report for revising the United States tariff and then for effectuating the revision when it had been completed. The suggested technique to revise the tariff was for the Congress to pass an appropriate enabling act. This act, which could be called "A Tariff Simplification, Consolidation and Reduction Act", would authorize the President to establish a special, temporary commission to revise the tariff. This enabling act would contain, also, the standards and limitations within which the special commission would draft the revision. A final feature of this enabling act would provide the technique for effectuating the revision. The plan for putting into effect the revision was that it should be done by Presidential proclamation. The plan did not provide for referral of the revision to the Congress for either direct enactment or ratification.

When this revision and consolidation has been completed, on the basis of the instructions of Congress, the new law would supersede the Tariff Act of 1930, as amended, and other related legislation.2

2 Ibid., p. 43. In addition to the quotation, all of the information above is found on page 43.

By means of this technique the drafting and placing into effect of a new tariff law would be accomplished outside of the normal legislative channels. Both Houses of Congress and their respective revenue committees would be
in this way by-passed. However, the plan provided for a highly specific delegation of authority by the Congress to the President in order to accomplish a tariff revision. If Congress was willing to pass the enabling act, it was not buying a "pig in a poke", and hence, in this sense was not by-passed. Moreover, the Bell Report anticipated the narrow approach of the Tariff Commission, and hence, proposed a special, temporary commission for making the revision.

This plan for revision and effectuation of the revision was called "the most practical way to accomplish tariff revision at this time" (1953). It is questionable whether or not this was a practical way to revise the tariff in 1953, much less the "most practical way". As subsequent events show, there was no way of revising the tariff, which involved any reduction, in the next few years because of protectionist pressures in Congress.

The line of reasoning that leads to the belief that effective by-passing of the legislature is the most practical method of tariff drafting proceeds somewhat as follows. "The writing of a new tariff law would be an impossible task if the procedure used to frame the 1930 act were to be followed." The task of tariff-drafting is a technical job requiring the work of experts. "A comprehensive tariff revision would require far more time than Congress could
afford to give to the task, for the setting of tariff rates, item by item, involves infinite detail." Therefore, the task of redrafting the tariff should be delegated by the Congress under specified limitations to some expert group.

This group could be the Tariff Commission, some unit of the executive branch (e.g. Bureau of the Census, Bureau of Customs, or others), or it could be a special temporary commission established for that single purpose. A special temporary commission is preferable to some established, regular governmental agency for at least two reasons. First, it could be free of traditional vested interests. Second, this group need not consider possible repercussions, budgetary or otherwise, brought about as a result of its tariff revision.

There can be little question that the above line of reasoning has considerable merit. It is based upon a thorough and sound knowledge of the difficult task of comprehensive tariff revision. The author does not question the soundness of this position as presented. The argument must be continued, however, to demonstrate that this technique is the "most practical way to accomplish tariff revision at the present time".

In order to demonstrate that this is the "most practical way to accomplish tariff revision at the present time,"
consideration must be given not only to drafting the revision, but also to placing the revision into effect. In order to accomplish tariff revision, the proposed revision must be put into effect. It must supersede all conflicting prior legislation, effectively repealing it.

A proposed new tariff revision could be placed into effect in any of three ways. These were recognized in chapter VI. First, the Congress could enact the proposed revision as a law and it could be duly signed by the President. This is the customary way. Second, the President could be given authority in the enabling act to make the revision effective by proclamation, but only after the revision had been reviewed and not rejected by the Congress, by either house, or by joint resolution. This is the technique that has become customary in making executive reorganization changes. Third, the President could be given the authority in the enabling act to make the revision effective by proclamation without prior review by the Congress. This third technique is the "practical way to accomplish tariff revision" as proposed in the Bell Report.

The practicality of this effectuating technique is subject to considerable doubt. A tariff revision is a revenue measure. Revenue measures directly affect the absolute and relative positions of economic interest groups and fragments of these economic interest groups. The goal of tariff revision recommended in the Bell Report not only is to increase
certainty in the classification of commodities for tariff purposes, but also is to bring about a major reduction in individual tariff rates at the same time.

It seems unreasonable to assume that either the Ways and Means Committee of the House or the Committee on Finance of the Senate would voluntarily relinquish their prerogatives in any major taxing legislation. As pointed out in chapter VI, the only aspect of the "Customs Simplification Act of 1954" that became controversial prior to the passage of the bill was the provision for putting the proposed revision into effect. Those provisions were removed, and as yet the Congress has not adopted legislation to place the revised tariff schedules into effect when the Tariff Commission has completed its work.

The plan outlined in the Bell Report recommended that the Congress pass legislation that would result in a major revenue measure becoming law without direct legislative consideration or enactment. It is to be doubted that this was "the most practical way to accomplish tariff revision" in 1953. And, if the legislative history of "The Customs Simplification Act of 1954" is indicative of the present mood of the Congress on delegation of its authority, this method proposed in the Bell Report cannot be considered as practical at the present time.

The model presented in the Bell Report as a possible framework for simplification and consolidation of the United States tariff contained two parts.

First, of all legislation in the area of tariffs, import taxes, quotas, and all of the special exemptions and special provisions which determine the status of imported articles were to be codified. Codification of all law in this area is a necessary and highly desirable aspect of any revision of the present complex situation. This fact has been emphasized in the preceding two chapters.

The second aspect of the model presented in the Bell Report outlined a proposed structure for redrafting the tariff. This structural framework contained four divisions:

1. Free List
2. Specific List
3. Ad Valorem List
4. Extraordinary List.

The contents of each of these divisions of the tariff classification structure would be determined in the following manner.

The Free List would contain all of those items that are free of duty under the Tariff Act of 1930. In addition, the imported items for which tariffs are shown to be unnecessary were to be placed on the Free List. The authority to add to the Free List on this basis was to be given to the President
in the enabling legislation.

The Specific List would contain all of those basic agricultural and mineral commodities which have specific duties in the present United States tariff. The rates of duty to be applied to these commodities were to be those in effect at the time of the revision. Provision was made, also, to include those rates of duty which had been and were temporarily suspended at the time of the enactment of the revision. Duty reduction authority was to be given to the President for the commodities included in the Specific List. The President was to be authorized to reduce specific rates to 50 per cent of their pre-revision amount. Reductions were to be made by the President, however, only when he found "that such a reduction is necessary for the defense of the United States or in the interest of the national economy." The President was also to be given the authority to suspend any specific duty on any commodity during a national emergency.

5 Ibid.

The Ad Valorem List was to contain all imported items excluded from the other three lists. In this way it can be termed the residual portion of the dutiable list. The structure of the Ad Valorem List appears to have been based on the Walker Tariff of 1846.
6 The Walker Tariff was discussed and subjected to analysis in chapter II, supra.

There were to be four separate schedules in the Ad Valorem List. Classification was to be on the basis of the rate of duty as follows:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>10%</td>
</tr>
<tr>
<td>B</td>
<td>20%</td>
</tr>
<tr>
<td>C</td>
<td>30%</td>
</tr>
<tr>
<td>D</td>
<td>40%</td>
</tr>
</tbody>
</table>

In the Bell Report it was stated that "the principal task of simplification, consolidation, and reduction of tariffs would be the placing of articles in their appropriate schedule in the Ad Valorem List." While the Ad Valorem List was to be a residual list in the sense noted above, it still would be the major part of the tariff, and by far the majority of all imported dutiable commodities would be included in these four schedules.

Four specific rules were given in the Bell Report to guide the special commission of the President in classifying these items in the Ad Valorem List. The first rule provided the technique for determining the present ad valorem equivalents for all of those imported items which have specific or compound duties under the existing law.
The basis for calculating ad valorem equivalents would be the value of imports for consumption in 1952 for each dutiable article, as given in the statistical classification of imports by the Department of Commerce, and the total amount of duties paid on each such dutiable article. Excise taxes on imports would be included as duties on imports for this purpose.  

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The second rule provided for consolidation of similar items into groups. Three principles were to be followed in this process of consolidation. First, items in the same tariff paragraph in the 1930 act would be considered to be essentially the same. Second, articles in different tariff paragraphs would be classified in the same group if the items were "essentially the same on the basis of use, manufacturing process, or raw material composition."

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It was shown above in chapter II that these three methods of classification (use or purpose, stage of manufacture, and material origin) are frequently in conflict if they are used simultaneously with equal force in a classification system. This rule would have been less confusing if it had provided that items were to be classified on whichever one of these three basic methods was customarily in use in the trade in which the article was generally handled. A currently considered anomaly is the classification of golfer's caddy carts. Some caddy carts are made of aluminum, others are made of wood. Should caddy carts be classified by their raw material composition (material origin) or classified on the basis of their use? At present golfer's caddy carts are classified on the basis of material origin and hence have differing rates of duty, and yet they are competing products in the market in which they are sold. This rule, as provided in the Bell Report, does not eliminate this major area of classification problems.
The third principle to be followed in consolidating similar items provided for classifying those items covered by the "basket clauses" in the "Tariff Act of 1930." Articles in basket clauses were to be classified with those items specifically enumerated to which they were most closely related. Presumably the criteria of relationship were to be the same as in the second principle noted above.

The third rule provided the technique to be followed by the special commission in assigning a single ad valorem rate for each separate group of commodities as established under rule two. This rate was to be a tentative rate to be used only for the purpose of classifying each group of commodities within the four schedules of the Ad Valorem List. These tentative unified rates were to be determined by the President and the special commission in the following way. The President and the special commission could choose any of three rates for each group. First, they could choose as the representative rate the lowest rate in each group. Preference was to be given to this lowest rate for this purpose. The reason for this provision was that one of the principal objectives of the model in the Bell Report for tariff revision was rate reduction. Second, the rate of duty which applied to the largest portion of all of the commodities in each group could be used as the unified representative rate. This would be a model type of average rate. Or, last the average rate of duty could be used as
the unified rate. Presumably the average rate was to be the arithmetic mean of the average ad valorem equivalents for the group, or it could have been the simple ad valorem equivalent for the group as a whole. While the Bell Report did not make clear which type of "average" rate was to be determined, the author believes the intent was a simple arithmetic average of the average ad valorem equivalents in each group of commodities.

Which of these three rates was to be used in each case was to be determined at the discretion of the President. Any one of the three rates were to be used depending upon the decision of the President acting on the advice of the special commission.

The fourth rule provided for classifying the groups of commodities within the ad valorem schedules after the tentative unified rates had been determined for each group of commodities. The procedure to be followed was:

Where the tentative unified rate is 10 per cent or less, the group will be moved to the Free List. Where the tentative unified rate is more than 10 per cent but less than 20 per cent, the group will be placed in Schedule A at 10 per cent. Where the tentative unified rate is 20 per cent but less than 30 per cent, the group will be placed in Schedule B at 20 per cent. Where the tentative unified rate is 30 per cent but less than 40 per cent, the group will be placed in Schedule C at 30 per cent. Where the tentative unified rate is 40 per cent or more, the group may be placed in Schedule D at 40 per cent or moved to the Extraordinary List.10

10 Ibid.
The fourth rule also provided that any item that was bound by a reciprocal trade agreement at a lower rate than it would have if classified according to the third and fourth rules was to continue at the trade agreement rate until that item could be reciprocally consolidated into the Ad Valorem List.

The fourth structural division of the model for tariff revision provided in the Bell Report was an Extraordinary List. Two general types of items would be included in the Extraordinary List. First, all of those items which have quotas or tariff quotas imposed upon them would be included in the Extraordinary List. Second, any item for which one of the ad valorem rates was insufficient was to be included in the Extraordinary List. In other words, those items for which a rate of 10, 20, 30, or 40 per cent was insufficient or inappropriate would, thus be specifically provided for at the most appropriate rate in the Extraordinary List.

Two criteria were to be followed in placing items in the Extraordinary List. If an article needed more exact protection in order to conform to defense needs it would be placed in this list. Or, if imports threatened serious injury to the national economy, not the particular industry concerned, then that article was to be given the necessary protection and placed in the Extraordinary List. The criteria for determining when either of these two situations existed were not provided in this model in the Bell Report.
The model for a proposed tariff revision contained in the Bell Report included, also, certain additional provisions for reducing individual duties in the United States tariff after the proposed revision had gone into effect.

Briefly,—

The revised act should also authorize the President to proclaim reductions in tariffs, in return for concessions made by other countries, by reducing rates on the Specific List and by moving any commodity group in the Ad Valorem List from its original schedule to the next schedule below, and from Schedule A to the Free List, provided the reduction did not interfere with defense needs or threaten injury to the national economy. This authority would include specifically power to renegotiate trade agreements on items which could not be consolidated in the revised tariff. 11

11 Ibid.

C. The Advantages Claimed for the Model for Tariff Revision in the Bell Report.

Certain advantages were claimed for this model for tariff simplification, consolidation and reduction of duties. The first advantage claimed was that it offered a "practical solution to the problem of tariff revision." 12

12 Ibid., pp. 44-5.

In the foregoing analysis considerable doubt was raised as to the practicality of this plan for tariff revision. The conclusion reached was that the plan was impractical as a whole in terms of the mood of Congress to delegate
its authority as expressed in recent foreign trade legislation.

The second advantage claimed for the plan for tariff revision was that it would fix the responsibility for enacting, revising, and implementing the legislation. There can be little doubt that the plan for proposed tariff revision in the Bell Report did make clear these responsibilities. But, again, the plan did not succeed in presenting a practical solution. It was not enacted into law as recommended by the Public Advisory Board for Mutual Security. Not only was the plan for tariff revision not accepted by the Congress, the plan was not recommended to the Congress by the executive branch of the Government for which it was prepared. A change in administration (Truman to Eisenhower) occurred before the Bell Report was completed. A new commission was created some months later to study trade and tariff problems (Randall Commission).

D. Summary.

The plan for proposed tariff revision in the Bell Report was for simplification, consolidation, and duty reduction. Unlike the present tariff simplification study of the Tariff Commission, a major objective of the proposed plan was duty reduction. Especially was this true for all of those items which now have rates of duty of 20 percent or less. The plan emphasized this aspect, reduction in
tariff levels, and was based on the judgment that some unilateral reduction of the tariff was important in 1953 as an offset to continued economic aid to foreign countries and that substantial simplification of the American tariff involved less protection of many detailed items of American production.

In evaluating the plan for proposed tariff revision in the Bell Report this aspect of duty reduction will be ignored. Consistently in this study, simplification and consolidation have been kept separate from the duty rates and changes in those rates. This operational rule that has been followed has applied to the duty level per se, the form of duty, and the aspects of the tariff whereby the value of imports is determined for purposes of taxation. The reason why the duty reduction aspects of the Bell Report's plan were analyzed in this chapter was that these were integral to the plan. Classification within the Ad Valorem List was to be on the basis of rate.

In evaluating the classification framework of the tariff revision plan in the Bell Report the bases of classification of commodities should be restated.

1. Agricultural commodities and mineral commodities which at present have specific rates of duty were to be isolated in the Specific List.

2. Articles which were found to need ad valorem duties other than 10, 20, 30, or 40 per cent were to be placed in
the Extraordinary List. The bases upon which this "need"
was to rest were to be either serious injury to the national
economy, or national defense requirements.

3. All other articles were to be classified into
related groups of articles. Then these groups were to be
classified by some representative rate into one of the
four schedules by their rate of duty.

The major task of classification of articles into groups
was to be done on the basis of their relatedness to each
other. The basis of relation could be any of three charac-
teristics:

1. Use or purpose
2. Manufacturing process
3. Material origin.

As pointed out above, these methods can be in conflict if
applied with equal force in classifying each item. There-
fore, this rule needed to be qualified in some way. It
was suggested that one way this rule of classification
by relation could have been amended was to add that the
basis of relationship to be used in each case was to be
the basis that was customarily used for classifying that
item in the trade in which it was usually handled. This
is the rule that has been used, as has been noted, for
classifying articles in most successful goods classifica-
13

13 Kolesnikoff, op. cit., p. 64.
Evidently the principle of classification to be followed in classifying items within the Free List was to be the same as at present. No provision for classifying them within the Free List was given in the proposed plan in the Bell Report. At present articles in the Free List in the United States tariff are classified alphabetically.
Chapter VIII
A SUGGESTED ALTERNATIVE MODEL

The models discussed in the preceding chapters represent two approaches to simplification and consolidation of the United States tariff. The revision being prepared by the Tariff Commission (discussed in chapter VI) has two related aspects. An effort is to be made at codification of tariff law, and, very likely the basic structure of the classification system now used in the United States tariff will be retained. It is to be expected that at least some of the past troublesome aspects of classification will be removed if the results of the Tariff Commission's study are adopted.

The second alternative model for tariff revision was taken from the Bell Report and discussed in chapter VII. This model involved a complete revision of the tariff structure. The proposed tariff structure contained four divisions: (1) a Free List; (2) a Specific List; (3) an Ad Valorem List; and, (4) the Extraordinary List. Classification within the Specific List was largely on the basis of economic sector origin. (Only basic agricultural and mineral products were to be included on the Specific List.) The Extraordinary List was to contain those articles needing more specific protection than could be provided by either the Specific List or the Ad Valorem List. The Ad Valorem List
was to be divided into four schedules. Classification of
groups of commodities into these four schedules was to be on
the basis of the rate of duty. Classification of items into
the groups (which were to be classified by rate) was to be
on some aspect of relatedness.

In this chapter a suggested alternative model is pre­
sented as the basis for tariff simplification and consoli­
dation. In contrast to the two previous models this one is
a general, comprehensive classification of all trade commo­
dities. The Draft Revised Tariff Nomenclature prepared by
the Study Group of the European Customs Union serves as the
basic structure. (The Draft was analyzed above in chapter
1 II.) The framework of the Draft Revised Tariff Nomencla­
ture is as follows:

Section I. Live animals; animal products.
(5 chapters and 36 items)

II. Vegetable products.
(9 chapters and 67 items)

III. Animal and vegetable fats and oils
and their cleavage products; pre­
pared edible fats; animal and
vegetable waxes.
(1 chapter and 17 items)

IV. Prepared foodstuffs; beverages,
spirits and vinegar; tobacco.
(9 chapters and 57 items)
V. Mineral products.
   (3 chapters and 5 items)

VI. Products of the chemical and allied industries.
    (11 chapters and 181 items)

VII. Artificial resins and plastic materials, cellulose esters and ethers and articles thereof; rubber, synthetic rubber, rubber substitutes (factice) and articles thereof.
    (2 chapters and 23 items)

VIII. Raw hides and skins, leather, fur-skins and articles thereof; saddlery and harness; travel goods, handbags and the like; articles of gut (other than silk-worm gut)
    (3 chapters and 20 items)

IX. Wood and articles of wood; wood charcoal; cork and articles of cork; manufactures of straw, of esparto and of other plaiting materials; basketware and wicker work.
    (3 chapters and 35 items)

X. Paper-making material; paper and paperboard and articles thereof.
   (3 chapters and 34 items)

XI. Textile and textile articles.
    (14 chapters and 113 items)

XII. Footwear, headgear, umbrellas, sunshades, whips, riding-crops and parts thereof; prepared feathers and articles made therewith; artificial flowers; articles of human hair; fans.
    (4 chapters and 21 items)

XIII. Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials; ceramic products; glass and glassware.
    (3 chapters and 51 items)
XIV. Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewelery; coin. (2 chapters and 17 items)

XV. Base metals and articles of base metal. (11 chapters and 137 items)

XVI. Machinery and mechanical appliances; electrical equipment; parts thereof. (2 chapters and 93 items)

XVII. Vehicles, aircraft, and parts thereof; vessels and certain associated transport equipment. (4 chapters and 34 items)

XVIII. Optical, photographic, cinematographic, measuring, calibrating, precision, medical and surgical instruments and apparatus; clocks and watches; musical instruments, sound recorders and reproducers; parts thereof. (3 chapters and 52 items)

XIX. Arms and ammunition; parts thereof. (1 chapter and 7 items)

XX. Miscellaneous manufactured articles. (5 chapters and 42 items)

XXI. Works of art, collectors' pieces, and antiques. (1 chapter and 6 items)

This detailed classification for all commodities which move in world trade has two additional aspects which are of importance. First, five general rules are provided as a basis for interpreting the nomenclature. Second, specific interpretive "notes" or rules are provided for almost every chapter so that the bases for inclusion or exclusion of articles from any chapter can be accurately ascertained.
In chapter II.C.3 above only 4 interpretive rules were provided. The explanation for this is as follows. In the Draft Revised Tariff Nomenclature of the Study Group only 4 interpretive rules were given. In the United Nations publication Standard International Trade Classification the tariff nomenclature of the European Customs Union Study Group is reprinted pages 39-150. The only difference between this reprint and the original appears to be in the general interpretive notes. In the United Nations reprint five general interpretive notes are given. The additional rule provides clarity, but does not change the nature of the classification system. Presumably this modification in the general interpretive rules is the result of additional work by the Study Group. If this is the case, then these additional materials have been unavailable to this author. All five of the interpretive rules given in the United Nations publication (p.45) are included below. The reason for making this change is that the analysis in chapter II.C.3 was based on the work of the European Customs Union Study Group as published. The model presented in this chapter is based similarly on the same nomenclature; but, since the United Nations publication is readily available in the United States and the primary materials are not, the citations in this chapter will be to the United Nations reprint for the convenience of the reader who is interested in this nomenclature.

Similarly, in chapter II.C.3 above the chapters without specifically provided interpretive notes were separately cited.

The five general interpretive rules which govern classification of commodities within the nomenclature are:

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.

2. Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or
substance. The classification of goods consisting of more than one material or substance shall be according to the principles of paragraph 3.

3. When for any reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description.

(b) Mixtures and composite goods which consist of different materials or are made up of different components and which cannot be classified by reference to (a) shall be classified as if they consisted of the material or component which gives the goods their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which involves the highest rate of duty.

4. Where, in a note to a section or chapter, it is provided that certain goods are not covered by that section or chapter a reference being made to another section chapter or to a particular heading, the note shall, unless the context requires otherwise, be taken to refer to all the goods falling within that other section or chapter or heading notwithstanding that only certain of those goods are referred to by description in the note.

5. Goods not falling within any heading of the nomenclature shall be classified under the heading 3 appropriate to the goods to which they are most akin.

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In chapter II.C.3 above these rules (except 4) were analyzed. In that analysis it was indicated that the first rule represents explicit recognition of an aspect of law. Namely, that the courts in most Western nations take the
wording of laws literally, unless the law specifically indica-
tes than an absolutely literal interpretation is not to be
followed. The first rule, recognizing this aspect of law,
indicates the order of legal precedence of the classes of
terms in the nomenclature.

The second rule is provided so that the use of the
terms "and mixtures thereof", and "wholly or partly of"
could be avoided. These terms are assumed to be implied
throughout the nomenclature.

The third rule gives the principles for classifying
mixtures, composite goods, and in general goods that could
be classified under more than one heading.

The fourth interpretive rule provides that whenever
one of the specific interpretive notes refers to a given
portion of the nomenclature then the whole section is to be
considered covered by the note, "unless the context requires
otherwise". The specific reason for adding this general
interpretive note is unclear, since the original four rules
seem to be inclusive and, therefore, this additional rule
unnecessary.

Rule 5 (identical to original rule 4, analyzed in
chapter II) provides for classifying goods that were not
specifically covered by any of the 1095 items given in the
nomenclature.

The specific rules for each of the sections and the
majority of the individual chapters provide the basis for
classification of all unenumerated items. These rules are too detailed to be analyzed individually for the purposes of this chapter.

One additional aspect of the nomenclature is noteworthy. The Draft Revised Tariff Nomenclature is the product of the work of many commodity experts extending over more than twenty-five years. Efforts to achieve a uniform, commodity nomenclature for tariff purposes have (with the exceptions of the war years) continued since 1928 in Western Europe and were begun under the auspices of the League of Nations. Since World War II, the effort has been continued under the auspices of the European Customs Union. The final results, then, are not merely the work of a few commodity and legal experts in one country, but those of many experts representing various countries.

By contrast the tariff classification system used at present in the United States was constructed to be neither a general classification of all commodities, nor a comprehensive classification of all commodities. It is rather an enumeration of the principal items that the Congress declared should be dutiable. It must be used, however, to classify all commodities which do enter the United States. It must serve a purpose, therefore, for which it is poorly designed.

4 Kolesnikoff, op. cit., p. 73.
This awkward situation arises primarily because the United States uses a Free List of enumerated articles. All articles of commerce entering the United States are dutiable (par. 1558 and 1559), unless specifically exempted from payment of duties (Free List, schedule 16). Therefore, all unenumerated items must be classified by a system that was not designed to serve as a general classification of all commodities. It is not surprising that this procedure leaves much to be desired. The situation could be improved by dispensing with the Free List consisting of enumerated items, that is, all imports not definitely provided for in the dutiable list would be free of duty.

However, the Draft Revised Tariff Nomenclature is the best solution of the complex tariff problem of the United States. It provides a comprehensive classification of commodities for tariff purposes which is logical and consistent. Also, it provides a classification system which conforms to world commercial practice. A very important feature of it is the inclusion of detailed interpretive notes as an integral part of the nomenclature. Moreover, the classification can be expanded by any country in great detail (in enumerating particular types or classes of items) without affecting the logical structure of the system. Such a system, if adopted by the important trading nations of the world, would serve as a basis for cooperative efforts between governments to reduce tariff barriers. It would
also provide a classification of all trade commodities everywhere on the same basis, so that traders could, in advance, determine with reasonable certainty the classification of commodities to be imported, and therefore the relevant duties.

A revision of the American tariff on this basis would be a major change and a very substantial project. One way this revision could be accomplished would be for the Tariff Commission, under authority given to it by the "Customs Simplification Act of 1954", to adopt the classification structure of the European Customs Union Study Group as the basis for the major tariff revision it is currently authorized to accomplish. It would be possible for the Tariff Commission to use this nomenclature as an alternative, not as a substitute, for the revision it is making at present. In other words the Commission would prepare two revisions to present as alternatives to the Congress.

If the Tariff Commission attempted to revise the tariff, using the Draft Revised Tariff Nomenclature, the following procedure should be followed.

1. All specifically enumerated articles ( eo nomine designated) in the United States tariff should be classified within the items of the classification system. Where necessary, additional items or sub-items should be added to the appropriate chapters.
2. All other items, not *ex nomen* designated in the United States tariff, which are imported into the United States in significant commercial quantities would be enumerated in the items already provided, or by providing additional items or sub-items.

3. The articles or commodities in each item or sub-item of the classification would have the same rate of duty for tariff purposes as at present. For example, since golfer’s caddy carts have one rate if made of aluminum, and a different rate if constructed of wood, each of these forms of caddy carts would be separately enumerated as sub-items under the appropriate item in the classification system. This, of course, would mean that the classification system would probably contain at least as many items and sub-items as there are individual commodity classifications in Schedule A at present (5500). By this technique the Tariff Commission would not have to alter any present rate of duty.

4. After classifying all of the items within the classification system, four columns should be provided for the duties. These columns would be for: (a) the 1930-rate; (b) the negotiated rate (where applicable); (c) the Cuban preferential rate (where applicable); and, (d) the Philippine rate. The present duties for each such item and sub-item could then be inserted by the Tariff Commission. In this aspect of the revision the Bureau of Customs could aid the
Tariff Commission in providing the relevant duties.

5. As an additional aid to classification of articles, a comprehensive index should be added to the classification system. This index of articles should be at least as comprehensive as the index of commodities that has been provided for Schedule B (55,000 items), the United States' export statistics classification system. This index would be an invaluable aid to all interested parties: importers, foreign exporters, and especially the personnel whose job it is to classify goods imported for tariff purposes, i.e., the employees of the United States Bureau of Customs.

5 This idea was first suggested to the author by Owen R. Taylor, Deputy Collector of Customs at Columbus, Ohio.

The index would be an integral part of the revision in order that it would be a definite part of the law.

6. After the revision was completed it should be submitted to the Congress for ratification, or preferably for direct enactment. Any revision should have the force of legislative law and should completely supersede all law that is involved in the revision.

6 The Tariff Commission makes this same point in its Interim Report (pp. 66-7) as indicated in chapter VI.

7. Accompanying the revision as provided above, the Tariff Commission should recommend the elimination of all the differences in tariff treatment which would be exposed
as a result of the reclassification. The Tariff Commission would point out in their recommendations all of the instances that are popularly known as anomalous or illogical classifications which result in different rates of duty being assessed on similar or directly competitive articles. It would be hoped that the Congress would consolidate many of these detailed classifications (sub-items) exposed by the reclassification.

8. Additions to the index of commodities should be made by the Congress every few years as new products are developed and imported.

In order to illustrate the type of change which would result in the classification structure of the United States tariff if the Draft Revised Tariff Nomenclature were adopted, one chapter of the nomenclature will be analyzed in detail. Chapter 97 provides for toys and related articles. These items are grouped together on the basis of use. The chapter (including the specific interpretive notes) follow.

Chapter 97

Toys, games and sports requisites; parts thereof

Notes

1. This Chapter does not cover:

(a) Fireworks, or other pyrotechnic products falling within heading No. 36.05;
(b) Cord or Textile "gut" for fishing, cut to length but not made up into fishing lines (section XI);
(c) Sports clothing or fancy dress of textiles (chapter 60 or 61);
(d) Carnival articles or flags, of textile material (chapter 62);
(e) Sports footwear (chapter 64) or headgear (chapter 65);
(f) Climbing-sticks, whips, riding-crops or the like (heading No. 66.02);
(g) Articles falling within chapter 71 (for example, articles comprising precious or semi-precious stones, precious metals or rolled precious metals);
(h) Children's cycles fitted with ball-bearings and in the normal form of adults' cycles (heading 87.10);
(i) Sporting weapons or ammunition therefor (chapter 93); or
(k) Racket strings, tents or similar camping goods, or gloves (classified, in general, according to the material of which they are made).

2. An incomplete or unfinished article is to be classified as the corresponding complete or finished article, provided it has the essential character of that complete or finished article.

3. Each of the headings of this chapter is to be taken to extend to parts and accessories of the articles described therein which are recognisable as parts or accessories of such articles and are not articles of general use.

4. Heading No. 97.03 is to be taken to extend to air, spring and similar pistols of a weight less than 0.67 kilogrammes, and to air, spring and similar carbines of a weight less than 1.50 kilogrammes.

97.01 Wheeled toys designed to be ridden by children (for example, toy bicycles and tricycles and pedal motor cars); dolls' prams
97.02 Dolls
97.03 Other toys
97.04 Equipment for parlour, table and funfair games for adults or children (including billiard tables and pintables and table-tennis requisites)
97.05 Carnival articles, entertainment articles, such as conjuring tricks and novelty jokes, and Christmas tree decorations.
97.06 Appliances, apparatus, accessories and requisites for gymnastics, athletics, or for sports and outdoor games
97.07 Fish-hooks, line fishing rods and tackle, landing nets and the like; hunting requisites (for example, snares and lines)

97.08 Roundabouts and other fair amusements (other than pintables, coin-operated machines and the like falling within heading No. 97.04

The first interpretive note indicates several groups of items which might reasonably be considered as toys or sporting goods, but which are excluded from this chapter and are classified elsewhere. For example, Note 1a. excludes fireworks and pyrotechnic products from the toy chapter. Such items are to be classified in one chapter ("36. Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations").

On the other hand, in the United States tariff fireworks and pyrotechnic products (fireworks, explosives, matches) are classified in several paragraphs (par. 28a, 31b, 95, 96; 1515, 1516, 1517; 1687). These paragraphs are distributed among three of the tariff schedules, namely, the chemical schedule, the "sundries" schedule, and the free list. Perhaps there is some excuse for these items appearing in two different parts of the tariff, namely the free list and the dutiable list, but there appears to be no logical reason for finding some of the items in the chemical schedule and some of the items in the "sundries" schedule, both of which include dutiable items.

Children's cycles that are fitted with ball-bearings and are similar to adult cycles are excluded from chapter
These items are classified with other similar cycles in heading 87.10 (cycles, including delivery tricycles, not motorized). The basis for this exclusion presumably was that children's cycles of this type are handled by the same trade and therefore should be classified with adult cycles. Tricycles are, however, classified as toys in heading 97.01 of chapter 97.

In the United States tariff bicycles are classified in par. 371, and tricycles are classified in par. 397 (a metals "basket-clause"). These paragraphs are in the "Metals and Manufactures of" schedule. Clearly some of these small, wheeled-vehicles are definitely, in terms of use, considered to be children's toys, and are commonly handled in the trade as toys. However, nearly all toys are classified in the tariff in paragraph 1513, but since these items were not specifically designated in this paragraph they are classified elsewhere. It is difficult to understand the logic of this classification.

The other exclusions included in Note 1. are self-explanatory.

All toys, games and sporting equipment are to be classified in the eight headings of chapter 97. The first heading (97.01) includes wheeled toys designed to be ridden by children, and doll baby-carriages. As indicated above, the United States tariff does not include a logical segregation of such toys. Bicycles including toy bicycles, are
classified in par. 371. All other wheeled toys are classified in one of two "basket clauses" on the basis of material of chief value (metal, par. 397; wood, par. 412).

Heading 97.02 includes all dolls. In the United States tariff all dolls are provided for in par. 1513. Specific reference in par. 1513 is made to dolls containing any lace or embroideries and to dolls made of any product included in par. 31 (cellulose products). Such specific notation was necessary in par. 1513 in order to prevent dolls made of celluloid, or dolls in part of lace or embroidery from being classified in par. 31 or in par. 1529(a). This awkward notation was necessary in order to prevent dolls from being scattered for classification purposes in diverse paragraphs of the tariff.

"Other toys", not included in any of the other seven headings in chapter 97, are classified in heading 97.03. In the United States tariff such toys are largely provided for in par. 1513. With respect to both headings 97.02 and 97.03 it should be noted that a very large number of subheadings would have to be established in order to provide for each class of toys at its present rate of duty in the American tariff. Re-classification in these two headings would not reduce the amount of complexity in the tariff structure. At the present time the Tariff Commission's presentation of the United States tariff ("United States Import Duties") provides 40 categories of toys with separate rates of duty in par. 1513. These individual categories
would have to be provided as sub-headings in chapter 97 of the revision in order that rates of duty would not be altered. These 40 categories would be sub-headings in headings 97.02, 97.03, and 97.05 of chapter 97.

Heading, 97.04 would include in part those items in par. 1512 of the United States tariff ("Dice, dominoes, draughts, chessmen, and billiard, pool, and bagatelle balls, and poker chips, of ivory, bone, or other material"). Also included in this heading would be the "toy games" included in par. 1513; games n.e.s., chiefly of wood (par. 412); and playing cards (par. 1412).

Carnival articles, novelties, and Christmas tree decorations are included in heading 97.05. These items are classified in par. 1513 (stuffed toys and plaster dolls), and in par. 397 (a basket-clause) of the United States tariff.

Sporting goods equipment is classified in heading 97.06. In the United States tariff items such as golf club heads are in par. 397, tennis rackets (par. 412), badminton nets (par. 923). Other major types of sporting and athletic goods; namely, boxing gloves, baseballs, footballs, and other physical exercise equipment are in par. 1502. All of these would be logically included in heading 97.06.

Fishing equipment and hunting requisites are the items classified in heading 97.07. Fishing tackle is classified primarily in par. 1535 of the United States tariff. Fishing
nets are classified in either par. 923 (cotton) or par. 1006 (flax, etc.) and would be included in heading 97.07. Similarly, hunting snares of cotton (par. 923) would be classified in the same heading.

Carnival-rides equipment ("merry-go-rounds" and "ferris wheels", and other items) are not enumerated in the United States tariff. They are classified as "other machines... not specially provided for" in par. 372. These items of carnival equipment are classified under heading 97.08 in the Tariff Nomenclature.

In addition to the types of structural change in the United States tariff that are illustrated in the analysis of chapter 97, one other particular area deserves special comment. The classification of textiles in the Draft Revised Tariff Nomenclature is very complex. Textiles and textile articles are contained in section XI. The section begins with three pages of detailed interpretive notes. The section includes fourteen chapters.

**Chapter 50. Silk and waste silk**

51. Continuous synthetic and artificial textiles

52. Metallized textiles

53. Wool and other animal hair

54. Flax and ramie

55. Cotton

56. Discontinuous synthetic and artificial textiles
57. Other vegetable textile materials; yarn and woven fabric of paper yarn

58. Carpets, mats, matting and tapestries; pile, chenille and boucle fabrics; narrow fabrics; trimmings; tulle, knotted net fabrics; lace; embroidery

59. Wadding and felt twine, cordage, ropes and cables; special fabrics; impregnated and coated fabrics; textile articles of a kind suitable for industrial use

60. Knitted, netted and crocheted goods

61. Articles of apparel and clothing accessories of textile fabric, other than knitted, netted or crocheted goods

62. Other made up textile articles

63. Old clothing and other textile articles; rags.

In addition to the complex general interpretive notes for the entire section, eight of the fourteen chapters have separate interpretive notes.

In contrast to this complex, detailed classification of textiles in the Tariff Nomenclature, the United States tariff purports to classify all textile items (with apparent simplicity) into five schedules on the basis of material origin.

Schedule 9. Cotton Manufactures

10. Flax, Hemp, Jute, and Manufactures of

11. Wool and Manufactures of

12. Silk Manufactures

13. Manufactures of Rayon or Other Synthetic Textile.
However, closer examination of textile products classification in the United States tariff reveals the actual complexity of the textile classification. Distributed throughout the "sundries" schedule (15) are found textile items in many of the miscellaneous paragraphs of this "sundries" schedule. Even though classification of textile items might appear certain, once the item to be classified had been located in one of the five textile schedules, or in one of the miscellaneous "sundries" paragraphs in schedule 15 with an *eo nomine* designation, such is not the case.

As a next step, resort must be made to par. 1529 --- the braid, embroidery, fringe, and lace paragraph of the tariff. This complex paragraph is a major obstruction to certainty of classification of textile articles. In the Tariff Commission's publication, "United States Import Duties" eight large pages are devoted to the attempt to make the language and the classes of items definite. But, this is one area of tariff classification where certainty does not exist and where confusion reigns. This confusion is, in part, a structural problem in the American classification system; and in part, the result of a legal construction that has been applied to the term "in part" in par. 1529. The legal construction *De minimis non lex curat* (the law is no cure for trifles) has not been applied to items "in part" of braid, embroidery, fringe, or lace. Consequently, a minute amount of any one of these four items in
any textile article results in that article being classified within paragraph 1529, and not in a paragraph specifically naming the item.

In contrast to the scattered treatment and lack of certainty in classifying textiles in the United States tariff, the suggested Tariff Nomenclature provides a systematic and certain arrangement. Although the classification structure is complex and detailed, it does bring together all textile articles into one section (XI), and does provide for them in an unequivocal manner in fourteen chapters.

The analysis of chapter 97 can be extended and generalized for the entire Draft. The conclusion is clear that the suggested model for simplification and consolidation of the present United States tariff would provide for a logical, consistent, comprehensive classification system for all articles imported into the United States. Of course, a tariff law drafted in this framework and incorporating the present American tariff would still be very complex, and would reflect the ambiguities of a tariff system built up over a long period of time as part of a technique for granting special privilege to select groups.

After the original revision had been completed, additional simplification and consolidation could take place. The executive branch of the government could suggest to the Congress consolidation of sub-items as considered desirable. This process of consolidation and simplifica-
tion within the new tariff classification system could be a continuous process. Partly, as suggested, it could be performed by legislative action. Partly, if authorizing legislation similar to the Trade Agreements Act were passed, it could be performed as part of tariff bargaining. Certainly, an important aspect of any tariff revision would be the retention of the provision for continual renegotiation of tariff treatment of imported articles. An important advantage of this model, then, is that it provides a framework for tariff renegotiation to continue, and at the same time provides for a fundamental revision of goods classification for tariff purposes which could largely eliminate the basis for classification disputes.
Chapter IX
SUMMARY AND CONCLUSIONS

Different aspects of the problems involved in simplification and consolidation of the present United States tariff have now been examined. Various methods for classifying commodities into systematic frameworks were presented and analyzed. It was found that, in general, commodities could be classified on the basis of their rate of duty, alphabetically, or on a basis of relatedness. Commodities can be related to one another by: (1) material origin; (2) material of chief value; (3) use or purpose; and, (4) stage of manufacture. After developing these methods of commodity classification, they were applied in three distinct areas.

First, in an analysis of the major tariff laws of the United States since 1789, it was found that three methods of classification were predominately used: (1) chief value; (2) material origin; and, (3) use or purpose.

Second, the methods of commodity classification were used to analyze the structure of various international customs tariff nomenclatures which have been developed since 1913; the Brussels' Convention Classification of 1913; the Draft Customs Nomenclature of the League of Nations; and, the Draft Revised Tariff Nomenclature pre-
pared by the European Customs Union Study Group. These three nomenclatures represent a continual development of an international nomenclature for tariff purposes. The recommendations in chapter VIII of a model for simplification and consolidation were based on this analysis.

Third, these methods of commodity classification were also used to analyze systems of import-statistics-classification, namely the import statistics classification systems of the United States, the League of Nations, and the United Nations. A detailed analysis was made of the comparability of tariff and import classifications. It was shown that for certain reasons it would be impractical to make tariff commodity classifications and import statistics commodity classifications identical in structural detail.

The study continued with an examination of two aspects of the complexity of the present United States tariff. A description was given of those aspects of the present United States tariff which contribute to the complexity of goods classification. Attention was focused on the "Tariff Act of 1930", the reciprocal trade agreements program, import and processing taxes, quotas, the "escape-clause", and the "peril point" provisions. It was established that most of the complexity could be eliminated by re-codification.

However, this analysis explained only in small part why the high degree of uncertainty of classification exists
today for many types of imported articles. It had been assumed, at the outset, that the examination would reveal the nature and the causes of uncertainty in the classification of commodities for tariff purposes in the present United States tariff. When these causes of uncertainty could not be determined, an analysis was then made of the classification cases and of customs law.

Legal aspects of tariff language were briefly considered. Various types of legal and judicial constructions were examined and found to be the main factors in creating the anomalous and illogical classifications. The legal constructions included, for example, the rule of commercial designation, _eo nomine_ designation, classification of articles introduced to trade after the tariff became law, and others. As a result of the examination of customs law, it was concluded that two things were responsible primarily for uncertainty in classification: first, the system of goods classification which has been developed within the tariffs of the United States; and, second, the specific language (terms) which have been used in constructing the tariff, and the conflicts which have occurred in interpreting the competing provisions in tariff law.

Having described the complexity of commodity classification and having determined the nature and causes for uncertainty, two methods for simplification and consolidation of the present United States tariff were analyzed. Considered
first was the tariff simplification study being undertaken at the present time by the Tariff Commission. On the basis of the Tariff Commission's *Interim Report*, it was concluded that its study would result in some reduction in the present complexity of the United States tariff, primarily through codification of all pertinent law in this area. The basic structure of the classification of commodities for tariff purposes as found in the "Tariff Act of 1930" would probably be largely unchanged by the Tariff Commission's work. This would be so, it is believed, because of the narrow interpretations that the Tariff Commission has apparently placed on the provisions of the "Customs Simplification Act of 1954". It is not possible to determine, on the basis of the examination of the *Interim Report*, whether the causes of anomalous and illogical classifications, pointed out by this study, would be removed by following the Tariff Commission's recommendations.

A second method for tariff simplification was the proposal in the *Bell Report*. This plan for tariff revision involved simplification, consolidation, and a major reduction in tariff rates. The plan was found wanting in two respects. First, the alleged practicality of the plan was rejected because the proposal was a misreading of the legislative mood of the Congress in delegating authority to reduce duties unilaterally. Second, this plan was also found wanting in terms of the provisions for providing for
classification of articles on bases of relatedness.
Suggested amendments to the classification rules were offered to make classification more certain within the traditional legal framework of customs law in the United States.

A third method of tariff revision, the Draft Revised Tariff Nomenclature of the European Customs Union Study Group, was offered as the best solution. The advantages of this nomenclature over the other two methods are: first, adoption by the United States would increase international comparability of customs tariffs. Second, adoption by the United States would intensify the movement of other countries to use this nomenclature as the basis for their tariffs.

The incomparable advantage of the nomenclature endorsed in this study is that it is the most comprehensive answer to the problem of uncertainty in the classification of trade goods for the United States. The Tariff Nomenclature provides a consistent and logical classification of all trade items and an adequate set of interpretive rules. The basic framework is systematic and detailed. Finally, additional detail can be provided without altering the basic structure of the framework.

This last feature is a major advantage of the nomenclature since the United States' foreign economic policies are predicated on reciprocal tariff reductions and tariff
bargaining. Indeed, the policy of altering tariff restrictions by bargaining requires that "specialization" take place within the basic structure and without disturbing the established certainty of goods classification.

The need for a simplification and consolidation of commodity classification is the keystone to the expansion of United States foreign trade. As this study has demonstrated, the Draft Revised Tariff Nomenclature is the best answer to the difficulties in the present American tariff structure.
Appendix A

BRUSSELS' CONVENTION CLASSIFICATION
OF 1913

I. Live animals.
1. Horses
2. Cattle
3. Sheep
4. Goats
5. Swine
6. Poultry
7. All other live animals (excluding fish and live crustacea)

II. Food and beverages.
8. Fresh meat,a
9. Poultry and game, dead
10. Meat, prepared or preserved (including bacon, preserved poultry and game)
11. Edible fats
12. Margarine and artificial butter
13. Milkb
14. Butter
15. Cheese
16. Caviare
17. Fish, crustacea and shellfish
18. Eggs of poultry and game
19. Honey

Cereals:
20. Wheat
21. Rye
22. Barley
23. Oats
24. Maize
25. Other cereals (including spelt and meslin)
26. Rice
27. Cereal Flour
28. Other milling products

29. Malt
30. Alimentary pastes
31. Fresh vegetables
Dried vegetables:
32. Pulse
33. Other dried vegetables
34. Potatoes
35. Fruit (including dried fruit)
36. Coffee (including roasted coffee)
37. Cocoa, raw
38. Cocoa, prepared (including chocolate)
39. Tea
40. Sugar, raw and refined
41. Spices
42. Vegetable oils
43. Salt
44. Other foodstuffs (including especially preserved vegetable products)
45. Wine
46. Beer
47. Spirituous liquors (spirits of wine, brandy, liqueurs, etc.)
48. Spring waters and natural or artificial mineral waters, gaseous or non-gaseous
49. Other beverages (juice of lemon and orange, lemonade, etc.)

III. Materials, raw or simply prepared.
50. Hides, raw, salted, roughly tanned, and raw peltry
51. Ivory
52. Bones and "cornillons"
53. Manure (including chemical manures)
54. Hair and feathers
55. Live plants and natural flowers
56. Roots and forage (including forage beetroots)
57. Bran
58. Oilcake
59. Hops
60. Sugar beets
61. Seeds
62. Rubber
63. Resins, gums and vegetable wax
64. Tobacco
65. Wood of all kinds, including sawn
66. Charcoal
67. Dye-woods, tanning bark and other colouring and tanning materials
68. Wood pulp
Ores:

69. Copper
70. Iron
71. Lead (including argenti-ferous)
72. Zinc
73. Manganese
74. Tin
75. Other ores

Common metals:

76. Aluminium
77. Copper
78. Tin
79. Iron and steel
80. Nickel
81. Lead
82. Zinc
83. Other common metals
84. Precious and semi-precious stone, rough or simply cut but not mounted (including coral and fine pearls)
85. Marble and alabaster
86. Other stones
87. Mineral oils and their derivatives

88. Coal, including coke and manufactured fuel
89. Lime
90. Cement
91. Sulphur

Textiles:

92. Wool
93. Silk
94. Cotton
95. Jute
96. Hemp and Flax
97. Ramie, hennequin and other textile fibres
98. Other raw materials

IV. Manufactured articles.

99. Starch
100. Soap
101. Wax candles and tapers and tallow candles
102. Perfumery and cosmetics
103. Colours, dyes and varnish
104. Chemical products (including non-potable alcohol)
105. Medicinal preparations
106. Cigars and cigarettes
107. Other tobaccos (including tobacco extracts)
108. Peltry, prepared and manufactured
109. Leather and prepared hides
110. Leather boots and shoes
111. Leather gloves
112. Other leather manufactures

Yarn:

113. Wool
114. Silk, natural or artificial
115. Cotton
116. Jute
117. Hemp, flax, ramie and other textile fibres
118. Cordage

Tissues:

119. Wool
120. Silk, natural or artificial
121. Cotton
122. Jute
123. Hemp, linen, ramie, and other textile fibres
124. Embroidery, lace, passementerie and embroidered tulle
125. Hosiery
126. Ladies' hats, trimmed (modes)
127. Other hats of all kinds
128. Lingerie
129. Wearing apparel for women
130. Wearing apparel for men
131. Other made-up articles
132. Rubber manufactures of all kinds
133. Wooden furniture
134. Other wood manufactures.

Paper:

135. Wallpaper
136. Other paper and cardboard
137. Manufactures of paper and cardboard
138. Books and music, engraved or printed
139. Other products of the graphic arts
140. Works in marble, plaster, cement and stone
141. Tiles, bricks, paving blocks, pipes, other than of earthenware or porcelain
142. Earthenware and porcelain
143. Other pottery
144. Mirrors
145. Window glass
146. Hollow glass
147. Other glassware
148. Iron and steel, simply hammered, drawn or rolled
149. Other manufactures of iron and steel

Manufactures:

150. Aluminium
151. Copper
152. Tin
153. Nickel
154. Lead
155. Zinc
156. Jewellery, goldsmiths' wares and similar articles of precious metals
157. Other jewellery, including gilt, silvered, nickelled, etc.
158. Locomotives and tenders
159. Locomobiles
160. Electrical machinery and apparatus
161. Motive machines (other than locomotives, locomobiles and electrical machinery), steam boilers, turbines, pumps, etc.
162. Machine tools
163. Machines for weaving, finishing, bleaching, printing, or dyeing fabrics, ribbons, etc., machines for carding, combing, heckling, spinning, frames for embroidery and other machinery for the textile industry
164. Sewing machines, embroidering and knitting machines, hand or pedal worked
165. Machines for sugar factories and refineries, for distilleries, vinegar factories, breweries and malt-houses
166. Agricultural machinery
167. Other machines and mechanical apparatus and separate parts
168. Tools
169. Carriages and waggons for railways and tramways
170. Motor cars
171. Motor cycles and other similar vehicles
172. Cycles
173. All other vehicles
174. Ships and boats
175. Musical instruments
176. Scientific instruments and apparatus
177. Clocks and parts thereof
178. Arms and ammunition
179. Gunpowder and other explosives
180. Matches
181. All other manufactured products
182. Works of art and trophies, etc., for collections
183. V. Gold and silver, unworked, and gold and silver coin.

183. Gold, not worked
184. Silver, not worked
185. Gold coin
186. Silver coin

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a. This includes refrigerated meat.
b. Condensed milk and milk powder are also comprised in this category.
c. Peas, beans, lentils, etc., shelled, crushed, etc.
d. Including especially pepper, pimento, saffron, vanilla and cinnamon.
e. Oils, alimentary or otherwise, with the exception of essential oils.
f. Rubber manufactures include boots and shoes, tissues and clothing of rubber, as well as tyres of all kinds.
g. Furniture other than of wood is classified according to the material of which it consists.
h. Ruled books are considered as paper manufactures.
i. This heading includes only tools used for manual labour, excluding machine tools.
j. Including goods vans and trucks of all sorts.
k. Including aircraft.
l. Watches and parts thereof are included in this category.

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Appendix B

DRAFT FRAMEWORK

FOR A CUSTOMS TARIFF NOMENCLATURE

Section I. Living Animals and Products of the Animal Kingdom.

Chapter

1. Living animals (except fish, crustaceans and molluscs)
2. Meat
3. Fish, crustaceans and molluscs
4. Milk and dairy produce; eggs and honey
5. Raw materials and other raw products, of animal origin

Section II. Products of the Vegetable Kingdom.

6. Living plants and products of floriculture
7. Alimentary vegetables, plants, roots and tubers; straw and forage
8. Edible fruits
9. Colonial produce and spices
10. Cereals
11. Milling products; malt; starch and fecula
12. Oil seeds and oleaginous fruits; various grains, seeds and fruits; industrial and medicinal plants
13. Raw materials for dyeing and tanning; gums, resins and other vegetable saps and juices.
14. Materials for plaiting and carving; other raw materials and raw products, of vegetable origin

Section III. Fatty Substances, Greases, Oils and Waxes, of Animal or Vegetable Origin; Alimentary Fats.

15. Fatty substances, greases, oils and waxes, of animal or vegetable origin; alimentary fats

Section IV. Products of the Food-preparing Industries; Beverages, Alcoholic Liquors and Vinegars; Tobacco.

16. Preparations of meat, of fish, of crustaceans and of molluscs
17. Sugars and confectionery
18. Cocoa and preparations thereof
19. Preparations with a basis of flour or fecula
20. Preparations of fruits, vegetables, pot-herbs and other...
plants or parts of plants

21. Miscellaneous preparations
22. Beverages, alcoholic liquors, and vinegars
23. Residues and waste from the food-preparing industries
24. Tobacco

Section V. Mineral Products.

25. Earths and stones; limes and cements
26. Ores, slag and ash
27. Mineral fuel; mineral oils and natural bituminous substances; products of the distillation thereof

Section VI. Chemical and Pharmaceutical Products; Colours and Varnishes; Perfumery; Soap, Candles and the Like; Glues and Gelatines; Explosives; Fertilisers.

28. Chemical and pharmaceutical products
29. Prepared chemical and other products, for use in photography
30. Colouring and tanning extracts; graphite and pencils; colours, lacs, varnishes and mastics
31. Essential oils and essences, artificial aromatic materials, perfumery and cosmetics
32. Soap, candles and other articles made from waxes, oils or fats, and the like
33. Glues, gelatines and dressings
34. Explosives, fireworks, matches and other articles made of inflammable material
35. Fertilisers

Section VII. Skins, Hides, Leather, Peltries (Fur Skins) and Articles Made of These Materials.

36. Skins, hides and leather
37. Articles made of skins, hides and leather
38. Peltry (fur skins)

Section VIII. Rubber and Articles Made of Rubber.

39. Rubber, gutta-percha, balata and substitutes therefor; articles made of these materials

Section IX. Wood and Cork and Articles Made of These Materials; Goods Made of Plaiting Materials.

40. Wood and articles made of wood; furniture
41. Cork and articles made of cork
42. Articles made of straw, cane, and other vegetable materials for plaiting

Section X. Paper and Its Applications.

43. Materials used for the manufacture of paper
44. Paper and cardboard, articles of paper and cardboard, and bookbinders' wares
45. Booksellers' wares and products of the graphic arts

Section XI. Textile Materials and Textile Goods.

46. Silk, floss silk and artificial silk
47. Wool, horsehair and other animal hair
48. Cotton
49. Flax, hemp, jute, ramie and other vegetable textile materials
50. Wadding and felts; rope and ropemakers' wares; special fabrics and articles used for technical purposes
51. Hosiery
52. Clothing, underwear and ready-made apparel of all kinds
53. Rags and scraps of textile material

Section XII. Footwear, Hats, Umbrellas and Sunshades; Articles of Fashion.

54. Footwear
55. Hats and caps
56. Umbrellas, sunshades and walking-sticks
57. Prepared ornamental feathers and articles made of feathers; artificial flowers and other articles of fashion; fans

Section XIII. Wares of Stone and of Other Mineral Materials; Pottery; Glass and Glassware.

58. Ware of stone and of other mineral materials
59. Pottery
60. Glass and glassware

Section XIV. Precious Metals; Pearls and Precious Stones; Coin (Specie).

61. Precious metals; pearls and precious stones
62. Coin (specie)

Section XV. Base Metals and Articles Made Therefrom.

63. Iron, cast iron, steel
64. Copper
65. Nickel
66. Aluminum  
67. Lead  
68. Zinc  
69. Tin  
70. Other base metals and alloys thereof  
71. Cutlery; miscellaneous wares made of base metal, not elsewhere included  

Section XVI. Machinery and Apparatus; Electrical Material.  
72. Boilers, machinery, mechanical apparatus and appliances, and detached parts thereof  
73. Electrical machinery and apparatus and articles for electrical use, and detached parts thereof  

Section XVII. Means of Transport.  
74. Railway rolling-stock and railway and tramway material  
75. Cycles, automobiles and other vehicles  
76. Air-craft and water-craft  

Section XVIII. Scientific and Precision Instruments and Apparatus; Watch- and Clock-makers' Wares; Musical Instruments.  
77. Scientific, optical and precision instruments and apparatus, and other instruments and apparatus not elsewhere included  
78. Watch- and clock-makers' wares  
79. Musical instruments  

Section XIX. Arms and Ammunition.  
80. Arms  
81. Ammunition  

Section XX. Miscellaneous Goods and Products Not Elsewhere Included.  
82. Wares of carved or moulded material or of artificial plastic material  
83. Brushware, brushes and sieve-ware  
84. Games; toys; articles for Christmas trees; sporting requisites  
85. Wares of various materials (articles of personal ornament or use; dress-buttons and trimmings, etc.; pen-holders and pencil-holders; articles for smokers)  

Section XXI. Works of Art and Articles for Collections.  
86. Works of art and articles for collections.
Appendix C

BRUSSELS NOMENCLATURE OF 1949

DRAFT REVISED TARIFF NOMENCLATURE

Section I. Live Animals; Animal Products.

Chapter

1. Live animals
2. Meat and edible meat offals
3. Fish, crustaceans and molluscs
4. Dairy produce; bird’s eggs; natural honey
5. Raw materials and other unmanufactured products of animal origin

Section II. Vegetable Products.

6. Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
7. Edible vegetables and certain roots and tubers
8. Edible fruit; fruit peel
9. Coffee, tea, mate and spices
10. Cereals
11. Products of the milling industry; malt and starches
12. Oil seeds and oleaginous fruit; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
13. Raw vegetable materials of a kind suitable for use in dyeing or in tanning; lacs; gums, resins and other vegetable saps and extracts
14. Vegetable plaiting and carving materials and other vegetable raw materials and unmanufactured vegetable products

Section III. Animal and Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal and Vegetable Waxes.

15. Animal and vegetable fats and oils and their cleavage products; prepared edible fats; animal and vegetable waxes

Section IV. Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco.

16. Preparations of meat, of fish, of crustaceans or molluscs
17. Sugars and sugar confectionery
18. Cocoa and cocoa preparations
19. Preparations of cereals, flour or starch; pastrycooks' products
20. Preparations of vegetables, fruit or other parts of plants
21. Miscellaneous edible preparations
22. Beverages, spirits and vinegar
23. Residues and waste from the food industries; prepared animal fodder
24. Tobacco

Section V. Mineral Products.

25. Salt; sulphur; earths and stone; plastering materials; lime and cement
26. Ores, slag and ash
27. Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes

Section VI. Products of the Chemical and Allied Industries

28. Inorganic chemicals; organic and inorganic compounds of precious metals, of rare earth metals, of radioactive elements and of isotopes
29. Organic chemicals
30. Pharmaceutical products
31. Fertilizers
32. Tanning and dyeing extracts; dyes, colours, paints and varnishes; putty, fillers and stoppings; inks
33. Essential oils and essences; perfumery; cosmetics and toilet preparations
34. Soap, washing preparations, wetting-out agents, detergents, emulsifiers, lubricants, artificial waxes, polishing, cleansing and preserving preparations, candles and other products manufactured from fats, oils or waxes
35. Albuminous substances, glues and gums
36. Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations
37. Photographic and cinematographic goods
38. Miscellaneous chemical products

Section VII. Artificial Resins and Plastic Materials, Cellulose Esters and Esters and Articles Thereof; Rubber, Synthetic Rubber, Rubber Substitutes (Factice) and Articles Thereof

39. Artificial resins and plastic materials, cellulose esters and ethers; articles thereof
40. Rubber, synthetic rubber, rubber substitutes (factice) and articles thereof
Section VIII. Raw Hides and Skins, Leather, Furskins and Articles Thereof; Saddlery and Harness; Travel Goods, Handbags and the Like; Articles of Gut (Other Than Silk-worm Gut).

41. Raw hides and skins (other than furskins) and leather
42. Articles of leather; saddlery and harness; travel goods, handbags and the like; articles of animal gut (other than silk-worm gut)
43. Furskins and artificial fur; manufactures thereof

Section IX. Wood and Articles of Wood; Wood Charcoal; Cork and Articles of Cork; Manufactures of Straw, of Esparto and of Other Plaiting Materials; Basketware and Wicker Work.

44. Wood and articles of wood; wood charcoal
45. Cork and articles of cork
46. Manufactures of straw, of esparto and of other plaiting materials; basketware and wicker work

Section X. Paper-making Material; Paper and Paperboard and Articles Thereof

47. Paper-making material
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard
49. Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans

Section XI. Textiles and Textile Articles

50. Silk and waste silk
51. Continuous synthetic and artificial textiles
52. Metallized textiles
53. Wool and other animal hair
54. Flax and ramie
55. Cotton
56. Discontinuous synthetic and artificial textiles
57. Other vegetable textile materials; yarn and woven fabric of paper yarn
58. Carpets, mats, matting and tapestries; pile, chenille and boucle fabrics; narrow fabrics; trimmings; tulle, knotted net fabrics; lace; embroidery
59. Wadding and felt; twine, cordage, ropes and cables; special fabrics; impregnated and coated fabrics; textile articles of a kind suitable for industrial use
60. Knitted, netted and crocheted goods
61. Articles of apparel and clothing accessories of textile fabric, other than knitted, netted or crocheted goods
62. Other made up textile articles
63. Old clothing and other textile articles; rags

Section XII. Footwear, Headgear, Umbrellas, Sunshades, Whips, Riding-crops and Parts Thereof; Prepared Feathers and Articles Made There-with; Artificial Flowers; Articles of Human Hair; Fans.

64. Footwear, gaiters and the like; parts of such articles
65. Headgear and parts thereof
66. Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
67. Prepared ornamental feathers and articles made of feathers or of down; artificial flowers; articles of human hair; fans

Section XIII. Articles of Stone, of Plaster, of Cement, of Asbestos, of Mica and of Similar Materials; Ceramic Products; Glass and Glassware.

68. Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
69. Ceramic products
70. Glass and glassware

Section XIV. Pearls, Precious and Semi-precious Stones, Precious Metals, Rolled Precious Metals, and Articles Thereof; Imitation Jewellery; Coin

71. Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
72. Coin

Section XV. Base Metals and Articles of Base Metal

73. Iron and Steel and Articles thereof
74. Copper and articles thereof
75. Nickel and articles thereof
76. Aluminum and articles thereof
77. Magnesium and beryllium and articles thereof
78. Lead and articles thereof
79. Zinc and articles thereof
80. Tin and articles thereof
81. Other base metals employed in metallurgy and articles thereof
82. Tools, implements, cutlery, spoons and forks, of base metals; parts thereof
83. Miscellaneous articles of base metal
Section XVI. Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof.

84. Boilers, machinery and mechanical appliances; parts thereof
85. Electrical machinery and equipment; parts thereof

Section XVII. Vehicles, Aircraft, and Parts Thereof; Vessels and Certain Associated Transport Equipment.

86. Railway and tramway locomotives, rolling stock and parts thereof; railway and tramway track, fixtures and fittings; traffic signalling equipment of all kinds (not electrically operated)
87. Vehicles, other than railway or tramway rolling stock, and parts thereof
88. Aircraft and parts thereof; parachutes; catapult and other similar launching gear; ground flying trainers
89. Ships, boats, and floating structures

Section XVIII. Optical, Photographic, Cinematographic, Measuring, Calibrating, Precision, Medical and Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments; Sound Recorders and Reproducers; Parts Thereof.

90. Optical, photographic, cinematographic, measuring, calibrating, precision, medical and surgical instruments and apparatus; parts thereof
91. Clocks and watches and parts thereof
92. Musical instruments; sound recorders and reproducers; parts and accessories of such articles

Section XIX. Arms and Ammunition; Parts Thereof.

93. Arms and Ammunition; parts thereof

Section XX. Miscellaneous Manufactured Articles.

94. Furniture and Parts thereof; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings
95. Articles and manufactures of carving or moulding material
96. Brooms, brushes, feather dusters, powder-puffs and sieves
97. Toys, games and sports requisites; parts thereof
98. Miscellaneous manufactured articles
Section XXI. Works of Art, Collectors' Pieces, and Antiques.

99. Works of art, collectors' pieces and antiques

Appendix D

THE LEAGUE OF NATIONS' MINIMUM LIST

Section I. Food Products, Beverages, Tobacco.

Chapter

1. Live animals, chiefly for food.
2. Meat and preparations thereof
3. Dairy products, eggs and honey
4. Fishery products, for food
5. Cereals
6. Manufactured products of cereals, chiefly for human food
7. Fruits and nuts, except oil-nuts
8. Vegetables, roots and tubers, chiefly used for human food, and their preparations. n.e.s.
9. Sugar and sugar confectionery
10. Coffee, tea, cocoa and preparations thereof; spices
11. Beverages and vinegars
12. Feedings stuffs for animals. n.e.s.

Section II. Fatty Substances and Waxes, Animal and Vegetable.

14. Oil-seeds, nuts and kernels
15. Animal and vegetable oils, fats, greases and waxes and their manufactures. n.e.s.

Section III. Chemicals and Allied Products.

16. Chemical elements and compounds; pharmaceutical products
17. Dyeing, tanning, and colouring substances (not including crude materials)
18. Essential oils, perfumery, cosmetics, soaps and related products
19. Fertilizers

Section IV. Rubber.

20. Rubber and manufactures thereof. n.e.s.

Section V. Wood, Cork.

21. Wood, cork and manufactures thereof

Section VI. Paper.

22. Pulp, paper and cardboard and manufactures thereof
Section VII. Hides, Skins and Leather and Manufactures Thereof N.E.S.

23. Hides and skins and leather
24. Manufactures of leather, not including articles of clothing
25. Furs, not made up

Section VIII. Textiles.

26. Textile materials, raw or simply prepared
27. Yarns and thread
28. Textile fabrics and small wares
29. Special and technical textile articles

Section IX. Articles of Clothing of all Materials and Miscellaneous Made-up Textile Goods.

30. Clothing and underwear of textile materials; hats of all materials
31. Clothing of leather and fur
32. Footwear, boots, shoes and slippers
33. Made-up articles of textile materials other than clothing

Section X. Products for Heating, Lighting and Power, Lubricants and Related Products N.E.S.

34. Products for heating, lighting and power, lubricants and related products

Section XI. Non-metallic Minerals and Manufactures Thereof N.E.S.

35. Non-metallic minerals, crude or simply prepared n.e.s.
36. Pottery and other clay products
37. Glass and glassware
38. Manufactures of non-metallic minerals n.e.s.

Section XII. Precious Metals and Precious Stones, Pearls and Articles Made of These Materials.

39. Precious metals and precious stones, pearls and articles made of these materials

Section XIII. Base Metals and Manufactures Thereof N.E.S.

40. Ores, slag, cinder
41. Iron and steel
42. Non-ferrous base metals
43. Manufactures of base metals n.e.s.

Section XIV. Machinery, Apparatus and Appliances N.E.S. and Vehicles.

44. Machinery, apparatus and appliances n.e.s., other than electrical

45. Electrical machinery, apparatus and appliances

46. Vehicles and transport equipment n.e.s.

Section XV. Miscellaneous Commodities. N.E.S.

47. Miscellaneous crude or simply prepared products n.e.s.

48. Manufactured articles n.e.s.

Section XVI. Returned Goods and Special Transactions.

49. Returned goods and special transactions

Section XVII. Gold and Specie.

50. Gold and specie

Notes: a Excluding certain oils and fats which may be used either for food or for other purposes.

b Excluding beasts of burden and other live animals which are not chiefly used for food.

Appendix E

STANDARD INTERNATIONAL TRADE CLASSIFICATION

(Sections and Divisions Only)

Section 0. Food

Division

00. Live animals, chiefly for food
01. Meat and meat preparations
02. Dairy products, eggs and honey
03. Fish and fish preparations
04. Cereal and cereal preparations
05. Fruits and vegetables
06. Sugar and sugar preparations
07. Coffee, tea, cocoa, spices, and manufactures thereof
08. Feeding stuff for animals (not including unmilled cereals)
09. Miscellaneous food preparations

Section 1. Beverages and Tobacco

11. Beverages
12. Tobacco and tobacco manufactures

Section 2. Crude Materials, Inedible, Except Fuels

21. Hides, skins and fur skins, undressed
22. Oil-seeds, oil nuts and oil kernels
23. Crude rubber, including synthetic and reclaimed
24. Wood, lumber and cork
25. Pulp and waste paper
26. Textile fibres (not manufactured into yarn, thread or fabrics and waste)
27. Crude fertilizers and crude minerals, excluding coal, petroleum and precious stones
28. Metalliferous ores and metal scrap
29. Animal and vegetable crude materials, inedible, n.e.s.

Section 3. Mineral Fuels, Lubricants and Related Materials

31. Mineral fuels, lubricants and related materials

Section 4. Animal and Vegetable Oils and Fats

41. Animal and vegetable oils (not essential oils), fats, greases and derivatives
Section 5. Chemicals

51. Chemical elements and compounds
52. Mineral tar and crude chemicals from coal, petroleum and natural gas
53. Dyeing, tanning and colouring materials
54. Medicinal and pharmaceutical products
55. Essential oils and perfume materials, toilet, polishing and cleansing preparations
56. Fertilizers, manufactured
57. Explosives and miscellaneous chemical materials and products

Section 6. Manufactured Goods Classified Chiefly by Material

61. Leather, leather manufactures, n.e.s., and dressed furs
62. Rubber manufactures, n.e.s.
63. Wood and cork manufactures (excluding furniture)
64. Paper, paperboard and manufactures thereof
65. Textile yarn, fabrics, made-up articles and related products
66. Non-metallic mineral manufactures, n.e.s.
67. Silver, platinum, gems and jewellery
68. Base metals
69. Manufactures of metals

Section 7. Machinery and Transport Equipment

71. Machinery other than electric
72. Electric machinery, apparatus and appliances
73. Transport equipment

Section 8. Miscellaneous Manufactured Articles

81. Prefabricated buildings; sanitary, plumbing, heating and lighting fixtures and fittings
82. Furniture and fixtures
83. Travel goods, handbags and similar articles
84. Clothing
85. Footwear
86. Professional, scientific and controlling instruments; photographic and optical goods, watches and clocks
89. Miscellaneous manufacturing articles, n.e.s.
Section 9. Miscellaneous Transactions and Commodities, N.E.S.

91. Postal packages
92. Live animals, not for food
93. Returned goods and special transactions

Appendix F

A SAMPLE OF THE DETAIL IN THE
STANDARD INTERNATIONAL TRADE CLASSIFICATION

Group Item

Section 0. Food

Division 00. Live animals, chiefly for food.

001 Live animals, chiefly for food.

001-01 Bovine cattle, including buffaloes
001-02 Sheep and lambs
001-03 Swine
001-04 Poultry
001-09 Live animals (chiefly for food), n.e.s.

Division 01. Meat and meat preparations.

011 Meat: fresh, chilled or frozen.

011-01 Meat of bovine cattle (beef, veal)
011-02 Meat of sheep or lambs (mutton, lamb)
011-03 Meat of swine (pork)
011-04 Poultry, killed or dressed
011-09 Fresh, chilled or frozen meat not included in items 011-01 through 011-04 (including edible offals, horsemeat and game)

012 Meat: dried, salted, smoked or cooked, not canned.

012-01 Bacon, ham and salted pork
012-02 Smoked, dried or salted beef and veal
012-03 Smoked, dried or salted meats not included in items 012-01 and 012-02

013 Meat canned and meat preparations, canned and not canned.

013-01 Sausages of all kinds not in airtight containers
013-02 Meat and meat preparations in airtight containers
013-09 Meat extracts and preparations of meat, n.e.s. (including natural sausage casings)
Division 02. Dairy products, eggs and honey.

021

Milk and cream: fresh.

021-01

Milk and cream: fresh (including butter-milk, skim milk, sour milk, sour cream and whey)

022

Milk and cream: evaporated, condensed or dried
Appendix G

SCHEDULE A IMPORT CLASSIFICATION

Group 00. Animals and Animal Products, Edible.

Subgroup

1. Animals, edible, except for breeding
2. Meat products
3. Animal oils and fats, edible
4. Dairy products
5. Fish and fish products, except shellfish
6. Shellfish and products
7. Other edible animal products

Group 0. Animals and Animal Products, Inedible.

8. Hides and skins, raw, except furs
9. Leather
10. Leather, rawhide, and parchment manufactures
11. Furs and manufactures
12. Animal and fish oils, and greases, inedible
13. Other inedible animals and animal products

Group 1. Vegetable Food Products and Beverages.

14. Grains and preparations
15. Fodders and feeds, n.e.s.
16. Vegetables and preparations
17. Fruits and preparations
18. Nuts and preparations
19. Vegetable oils and fats, edible
20. Cocoa, coffee, and tea
21. Spices
22. Sugar and related products
23. Beverages


24. Rubber and allied gums and manufactures
25. Naval stores, gums, and resins
26. Drugs, herbs, leaves, roots, etc.
27. Oil seeds
28. Vegetable oils and waxes, inedible
29. Dyeing and tanning materials
30. Seeds, except oil seeds
31. Nursery and greenhouse stock
32. Tobacco and manufactures
33. Miscellaneous vegetable products
Group 3. Textile Fibers and Manufactures.

34. Cotton, unmanufactured
35. Cotton semimanufactures
36. Cotton manufactures
37. Jute and manufactures
38. Flax, hemp, and ramie, and manufactures
39. Other vegetable fibers and manufactures
40. Wool, unmanufactured
41. Wool semimanufactures
42. Wool manufactures
43. Hair and manufactures, n.e.s.
44. Silk and manufactures
45. Synthetic fibers and manufactures
46. Miscellaneous textile products


47. Wood, unmanufactured
48. Sawmill-products (lumber)
49. Wood manufactures
50. Cork and manufactures
51. Paper base stocks
52. Paper and manufactures


53. Coal and related fuels
54. Petroleum and products
55. Stone, lime, cement, gypsum and gypsum products
56. Glass and products
57. Clay and products
58. Other nonmetallic minerals and manufactures, except precious stones and imitations
59. Precious and semiprecious stones, imitations, and industrial diamonds

Group 6. Metal and Manufactures Except Machinery and Vehicles.

60. Iron ore and concentrates
61. Steel mill products
62. Iron and steel manufactures
63. Ferro-alloys, ores and metals, n.e.s.
64. Aluminum and manufactures
65. Copper and manufactures
66. Brass and bronze manufactures
67. Lead and manufactures
68. Nickel and manufactures
69. Tin
70. Zinc and manufactures
71. Other nonferrous ores, metals, and alloys, except precious
72. Precious metals, jewelry, and plated ware

Group 7. Machinery and Vehicles.
73. Electrical machinery and apparatus
74. Engines, turbines, and parts, n.e.s.
75. Other machinery, except agricultural
76. Agricultural machinery and implements
77. Vehicles and parts

Group 8. Chemicals and Related Products.
78. Coal-tar products
79. Medicinal and pharmaceutical preparations
80. Industrial chemicals
81. Pigments, paints, and varnishes
82. Fertilizers and fertilizer materials
83. Explosives, fireworks, and ammunition
84. Soap and toilet preparations

85. Photographic goods
86. Scientific and professional instruments, apparatus, and supplies, n.e.s.
87. Musical instruments, parts, and accessories
88. Toys, athletic and sporting goods
89. Firearms and parts
90. Books, maps, pictures, and other printed matter, n.e.s.
91. Clocks, watches, clockwork mechanisms, and parts
92. Art works and antiques
93. Miscellaneous articles, n.e.s.

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I, Richard Edwin Shannon, was born in Hardin, Montana, February 26, 1926. I received my secondary education in the public schools of Lewistown, Montana and Perry, Missouri. My undergraduate training was obtained at William Jewell College, from which I received the degree of Bachelor of Arts in 1949. From The Ohio State University, I received the degree of Master of Arts in 1950. While in residence at The Ohio State University, I taught in the Department of Economics. During the academic year 1953-54 I served as Visiting Lecturer in Economics at Kenyon College, Gambier, Ohio. Since 1954, I have been Instructor in Economics at The Ohio State University while completing the requirements for the degree of Doctor of Philosophy.