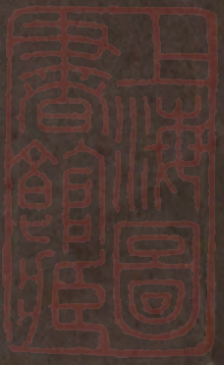
中華民國十九年至二十一年

稅則分類估價評議會議決案彙編

第一卷至第二卷



稅則分類估價評議會議決書彙編目次

議決書卷二　中華民國二十年

進口稅則暫行章程

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稅則分類估價評議會章程

稅則分類估價評議會辦事細則

進口稅則暫行章程

（中華民國十八年七月十八日財政部公佈）

一　凡應從價納稅之進口貨其完稅價格應以輸入口岸之躉發市價作爲計算根據此項躉發市價無論何種貨幣均應按照特定公布之兌換率折合海關金單位惟此項市價應視爲超過完稅價格其超過數目爲（甲）該貨稅率之數（乙）該貨完稅價格百分之七

（附註）核定完稅價格之公式如左

$$\frac{\text{躉發市價} \times 100}{100 + \text{稅率} + 7} = \text{海關金單位}$$

例如 $\frac{\text{海關金單位 } 60 \times 100}{100 + 12\frac{1}{2} + 7} = \frac{\text{海關金單位 } 6{,}000}{119.5}$

= 海關金單位 50.21 = 完稅價格

二　呈遞進口報關單時應呈驗真正發票廠家發票亦包括在內該發票應載明該貨售於進口商之價值並由進口商證明無訛所有運費保險費及其他各費亦應詳載無遺並應由進口商另具證明無訛之發票副本存關備查（註一）

三　倘貨物於未報關之前業已售出亦應檢同眞正合同與報關單一併呈

四　驗發票與合同均可視爲貨價之憑證但非必可以視爲確定之憑證關於此點其解釋應由海關酌定之海關除責令商人呈驗發票合同外並得任便行使一切有效方法例如檢查與估價有關之其他各種文件調查雙方證明之詳細售貨單據檢查商家簿册考察貨色暨於必要時從事一切訪問以及延請任何私人協助以便確定完稅價格凡已完稅放行之進口貨物其商家簿册海關仍得隨時檢查（註二）

五　進口商對於海關所定價格或分類或其所徵稅銀或費用數目認爲不滿意時可於報關單或海關他項登記歸案以後二十日內用書面向稅務司提出抗議明白聲敍反對理由在該案未解決以前該商得呈繳押款請將貨物先予放行該項押款之數須足敷完納稅銀全數及海關所定其他加征之款但此項辦法以經海關許可者爲限稅務司於接到抗議書後十五日內應將該案重行審核倘認該商抗議爲不合應將該案呈請總稅務司轉呈關務署交由稅則分類估價評議會審定之

六　稅則分類估價評議會開會時關於手續等事所發生一切問題應由多數議決此項多數議決案須陳經關務署批准並於十五日內（例假在外）公布一體遵照

七　關於貨價爭執案件如經稅則分類估價評議會決定該貨實價較抗議人原報之數超過百分之二十或以上者則海關得於征收其應納之正稅外飭令遵繳匿報稅銀十倍之罰款

關於價格上發生爭議之貨物在未輸入以前業經出售者當報關時並未呈驗合同則該合同日後如向稅則分類估價評議會呈驗擬作爲該貨價格之憑證時須經商人或其代理人證明該合同於報關時確不在輸入商人手中並經稅則分類估價評議會全體會員認爲完全滿意後方爲有效倘於進口以前已經出售之貨物查明其合同在進口時故意隱匿未向海關呈驗則該項抗議案作爲無效

八　凡報關單暨各種發票及合同均須附載聲明「茲謹證明上述事項及數目均係確實無訛」等字樣由呈請人簽字

九　本暫行章程自公布日施行未盡事宜得隨時通告修正之

（註一）中華民國二十一年八月修正

（註二）中華民國二十二年四月修正

進口稅則暫行章程第一條第一項所載躉發市價之解釋

一　凡貨物於報運進口時在輸入口岸之公開市場以普通躉發數量照普通貿易情形自由銷售或可以銷售之平均市價認爲躉發市價

二　凡貨物在輸入口岸無躉發市價可攷者得以國內其他主要市場之躉發市價作爲計算完稅價格之根據

三　凡貨物在國內市場無躉發市價可攷者在普通情形之下應以真正起岸價格外加百分之五作爲完稅價格

四　凡貨物因列左情形既無躉發市價又無真正起岸價格可以依據者其完稅價格得由海關斟酌規定之

（甲）貨物係租賃性質其所有權仍屬之他人者

（乙）貨物係負担 Royalty 而此項 Royalty 並非確定者

（丙）貨物係售於代理人或分行者

（丁）貨物係在其他特殊情形之下運銷於中國者

出口稅則暫行章程

（中華民國二十一年九月財政部公佈）

第一條　凡應從價完納出口及轉口稅之貨物應以當地海關查驗該貨時之平均躉發市價作爲完稅價格此項平均躉發市價包括該貨包裝及整理該貨等項費用但稅項並不包括在內倘該貨在輸出口岸無躉發市價可考者得以國內其他主要市場之躉發市價作爲計算完稅價格之根據

第二條　凡出口運往外洋貨物業已訂立合同售出應將載列該貨售價之真正合同與報關單一併呈驗該項合同可視爲貨價之憑證但非必可以視爲確定憑證關於此點釋其解應由海關酌定之海關除責令商人呈驗合同外並得任便使用一切有效方法例如檢查與估價有關之其他各種文件調查詳細售貨單據檢查商家簿册考察貨色暨於必要時從事一切訪問以及延請任何私人協助以便確定完稅價格

第三條　出口商對於海關所定價格或分類或其所徵稅銀或費用數目認爲不滿意時可於報關單或海關他項登記歸案以後二十日內用書面向稅務司提出抗議明白聲敍反對理由在該案未解決以前該商得呈繳押款請將貨物先予放行該項押款之數須足數完納稅銀全數及海關所定其他加徵之款但此項辦法以經海關許可者爲限稅務司於接到抗議書後十五日內應將該案重行審核倘認該商抗議爲不合應將該案呈請總稅務司核奪如經總稅務司查明該稅務司辦理允當卽轉呈關務署交由稅則分類估價評議會審定之

第四條　稅則分類估價評議會開會時關於手續等事發生一切問題應由多數議決此項多數議決案須陳經關務署批准並於十五日內（例假在外）公佈一體遵照

第五條　關於貨價爭執案件如經稅則分類估價評議會決定該貨實價較抗議人原報之數超過百分之二十或以上者則海關得於徵收其

應納之正稅外飭令遵繳匿報稅銀十倍或十倍以下之罰款

第六條　凡於價格上發生爭議之貨物業已訂立合同售出者當報關時並未呈驗合同則該合同日後如向稅則分類估價評議會呈驗擬作爲該貨價格之憑證時卽不予承認該項抗議案作爲無效

稅則分類估價評議會章程

一　本會定名爲稅則分類估價評議會直隸於關務署

二　本會之職掌如左

甲　調查並決定關務署交議關於稅則解釋及定義並貨物分類等問題

乙　裁決各國商人對於海關所定稅則分類及所估完稅價格發生爭議之案件

三　本會由關務署長就下列機關指派委員五人組織之

甲　國定稅則委員會三人

乙　總稅務司署二人一爲審榷科稅務司一爲審榷科或上海估驗處職員

四　本會應每週至少會議兩次每次開會以有委員四人出席爲足法定人數

五　關於稅則解釋及定義並貨物分類等問題應由各關稅務司陳報總稅務司經總稅務司加具意見條擬辦法轉呈關務署核奪關務署認爲必要得發交本會調查核議

六　發交本會之各項問題以多數議決之此項議決案應由會呈請關務署批准令行總稅務司轉知各關稅務司遵照

七　本會於審理商人與海關間關於分類估價或任何同類事項所發生之爭議時爲謀公平之解決起見得飭傳抗議人到案申辯併得利用專家或富有經驗者之協助其議決案經關務署批准後發生效力

八　本會關於解決稅則爭議職務之行使及行使其職務時之權限及手續應照進口稅則暫行章程所載各項條件決定之

九　本會設於上海在海關辦公凡上海以外各關發生爭議案須由本會解決者應由會在滬審理倘遇此種案情該關稅務司應備文詳陳爭議情形呈由總稅務司轉呈關務署交會核議並應一面通知抗議人得自備資斧赴滬申辯或派代理人在滬代爲辦理或檢具其所擬請攷量之一

切書狀文件經由該關稅務司或由該商直接呈會查核

十　本章程由關務署長呈經財政部長備案施行未盡事宜得隨時修正之

稅則分類估價評議會辦事細則

總則

一　本會執行職務除依照本會章程外適用本細則之規定

二　本細則未盡事宜得經多數議決呈准修正之

三　本細則經呈奉關務署長核准後施行

組織

四　本會以委員五人組織之由關務署長指派其中一人爲主席委員主席委員於不能到會時應指派委員一人臨時代理主席委員除於本會開會或審理爭議案件時執行主席職務外綜理會中一切事務

五　本會設祕書一人由關務署長指派之秉承主席委員掌管會中事務分發通告管理文書保管檔案辦理購置等事宜

本會開會及審理爭議案件時祕書得列席發表意見但無表決權

六　本會得向國定稅則委員會或總稅務司署審權科調派職員或速記生助理會務於必要時另派專員擔任

開會

七　關於執行本會章程第二條（甲）項所載之職掌卽調查並決定關務署交議稅則解釋及定義或貨物分類等問題主席委員應將每案指交委員一人調查研究繕具意見分送其他委員加具簽註於下次開會時一併提出討論

八　本會爲謀各種問題正確之解決得酌請國定稅則委員會總稅務司署審權科江海關估驗處調查研究幷於必要時得延請其他私人之協助

九　本會每星期開常會兩次於星期二五兩日上午十時舉行倘遇假期則延至假期後第一辦公日舉行遇有緊急事項得由主席委員隨時召集特別會議

十　本會開會時以委員四人列席爲足法定人數每一委員有一表決權議案由多數決定之

十一　祕書管理每次會議之議事錄在下次開會時宣讀核定

十二　本會決議案應呈送關務署核定如有他項少數意見亦應一併呈送

審理爭議案件

十三　關於執行本會章程第二條（乙）項所載之職掌卽裁決各國商人對於海關所定稅則分類及所估完稅價格發生爭議之案件時本會於收到該案後應於下次常會提出討論規定審理日期倘該案係在上海發生本會應將所定審理日期分別通知該管稅務司及商人如該案發生於其他各埠而商人所呈書狀中業已指定上海代理人者則應通知該商在滬之代理人

十四　關於商人呈送書狀由各關稅務司飭知應行載明事項如左

（甲）商號名稱所在地址及營業性質

（乙）爭議事項及其理由

（丙）審理時商人是否擬親自到場或擬委託代理人如擬委托代理人須將該代理人姓名國籍上海住址暨其與該商之關係等一併註

五　書狀應由商人或商行之負責人員簽字蓋章並須檢同與爭議有關之他種文件如各項憑證單據等一併呈驗

六　本會爲求正確之解決得任便行使一切有効方法該項方法包括下列各項卽查驗與該案有關之他種文件調驗買賣兩方證明之售貨單據檢查商家簿册考驗貨色並於必要時得從事一切訪問或延請其他私人之協助

七　凡案件不能一次審理終結者本會得定期繼續審理之

八　凡海關代表或商人於規定之審理時間均不到場或不論何方缺席時本會得就所有文件證據裁決之

九　凡商人之代理人不能於所定審理時間到場得請求展期或提前審理或請求於所定審理時間以前向會陳述一切事實

十　凡商人或其代理人於所定審理時期不能到場而於期前又不及通知本會則該商得另委代理人到場但該項代理人必須持有全權代理之

委托書

二十一　凡審理事項應由速記生紀錄此項紀錄應併載於議事錄

二十二　本會裁決案件應呈送關務署核定如有他項少數意見亦應一併呈送

二十三　本會於審理爭議案件時有維持秩序之權

案卷

二十四　本會議決各案應繕具五份呈送關務署經核定後由關務署以一份存署備案以一份送交國定稅則委員會三份交總稅務司總稅務司除以一份存案外須將其他二份分別送交該管口岸之稅務司及該商收執

二十五　所有本會議決案及他項少數意見均應保存歸檔其經核定之件應公開任人參閱

二十六　凡經關務署核定之件其關係重要者應將原文公佈之此外得摘要公佈之上項文件並應隨時刊印以供參攷

議決書卷一

中華民國十九年

稅則分類估價評議會議決書第一號

事　由　關於報運進口天然絲與人造絲之混合絲絨江海關按稅則第八十四號徵稅提出抗議由

抗議人　上海　斯克洋行

議決主文　本案所稱天然絲與人造絲之混合絲絨應按進口稅則第八十四號徵稅

事實及理由　斯克洋行報運進口天然絲與人造絲混合絲絨一箱江海關按進口稅則第八十四號從價二二、五徵稅該商提出抗議所具理由如下

（一）進口稅則第八十四號係指純絲製品而言本案貨品祇一部分爲天然絲其餘百分之六十至七十五爲人造絲自不能認爲純絲製品

（二）人造絲在商業上向無簡單稱之爲『絲』者

(三)進口稅則於天然絲貨品與人造絲貨品之課稅顯有不同大概後者之稅率較前者爲低

(四)進口稅則第八十四號係「補充」第七十六號者凡不在第七十六號範圍內徵稅之貨品概按第八十四號征稅因該兩號係屬同一稅率也

本會意見以爲解釋稅則首應注意稅則條文之內容稅則第八十四號是否係第七十六號之「補充」條文嚴格言之與本案殊無關係查稅則第八十四號之規定爲「純絲製衣服襪及其他未列名貨品」故該商抗議之能否成立全視「純絲」之如何解釋而定進口稅則中『絲』之一字係單指天然絲或係兼指天然絲與人造絲實爲本案之先決問題

各國進口稅則以『絲』包括天然絲與人造絲者如日本一九二一年進口稅則第九類附註第二項比利時一九二四年進口稅則第八類附註第二項以及一九〇二年德國進口稅則第四〇

一號至第四一二號之總標題均其先例我國進口稅則亦復同一指歸查江海關稅務司原呈稱該關驗估處專門顧問瑪高溫鑒定書以爲按進口稅則「絲貨及絲夾雜質貨品」類內所載第七十六號至第八十號係指天然絲而言第八十一號至第八十二號係指人造絲而言第八十三號至第八十五號則並未指明爲天然絲抑爲人造絲但「絲質及絲夾雜質貨品」一類既係包括天然絲與人造絲一併在內則『絲』之一字除經指定者外自係包括天然絲及人造絲兩者而言已無疑義

由是觀之稅則第八十四號「其他純絲製貨品」之規定當然包括(甲)純天然絲(乙)純人造絲(丙)天然絲與人造絲混合製品本案貨品爲天然絲與人造絲之混合品自應按稅則第八十四號徵稅

主席委員　周　典

委員　李　榦

中華民國十八年九月十三日

委員　柏　思
委員　聶普魯
委員　瑪高溫

稅則分類估價評議會議決書第二號

事　　由　請退還多徵寬緊帶七箱稅款由

抗 議 人　汕頭　柏德洋行

議決主文　所請退還多徵稅款礙難照准

事實及理由　抗議人柏德洋行於一九二九年七月二十二日由香港運入寬緊帶七箱在訂購時以爲此項貨物海關應按進口稅則第七一八號「未列名貨品」從價一二、五徵稅及該貨進口潮海關遵照總稅務司第三九〇〇號通令稅則例行議案第九號之規定按從價二二、五徵稅並致函該商解釋此項規定略謂「寬緊帶襪帶及其相類貨品統按稅則第六八一號(乙)項徵稅因織帶一項包括各種寬度之普通織帶寬緊帶襪帶寬緊布及其相類貨品無論華美素色均在其內」

該商對於潮海關徵稅辦法提出抗議所具理由如下

(一)該項貨品早經於本年二月間訂購出售其售價內稅率一項係按十八年新稅則估計而該貨品係屬未列名者

(二)該項貨品改按從價二二、五徵稅時在本年四月則在四月以前商人營業無從作正確之計算

(三)前述第九號之規定使本行無端蒙受貨價一成之損失

(四)例如本案分類徵稅之規定始終未曾公佈商人何由得知該項貨品分類之正確辦法

按上述事實全由於商人在新稅則實行之始未曾注意稅則條文而起該商以爲此項貨物從前舊稅則既經歸入第五八二號未列名貨品現時新稅則亦當歸入第七一八號未列名貨品此等解釋實係錯誤蓋新舊兩種稅則非特條文不同號列互異即從價稅亦已由一種稅率而增加至七種差別之稅率

抗議人出售貨物其價格包括稅額在內當時應向海關訊問或於其售貨合同內加入相當保障條文一將來稅額如高於估計

之數其差額當由購買者負責」等語此項辦法在新稅則甫經施行一切有待解釋之時實爲商場通行慣例也

查襪帶寬緊帶等在稅則施行之始卽已歸入稅則第六八一號(乙)項辦理嗣爲預防誤會及統一各關征稅辦法起見江海關驗估處具文呈請解釋並由總稅務司通令各關遵照此項通令僅爲解釋業經施行之條文並非頒佈新規定也

此項稅則解釋案之應否公佈係爲另一問題與本案殊無關涉查歷來稅則解釋案從未公佈則此次寬緊帶分類解釋辦法之未經公佈卽難據爲抗議之理由該商抗議本會認爲不能成立所請退還多徵稅款礙難照准

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

中華民國十八年九月十三日

委員　瑪高溫

稅則分類估價評議會議決書第三號

事　由　報運鈕扣進口江海關按稅則第六〇一號徵稅聲請抗議由

抗議人　上海　樋口公司

議決主文　本案貨品改按稅則第六〇三號徵稅

事實及理由　樋口公司報運鈕扣進口江海關認爲玻璃製品按稅則第六〇一號徵稅該商以此項鈕扣係屬磁製呈送證明文件聲請改按稅則第六〇三號徵稅本案貨品節經江海關分請化學專家化驗而其結果有認爲磁製者有認爲玻璃製者意見紛歧莫衷一是

本會查前清光緒二十八年通商進口稅則內關於鈕扣之規定與現行稅則第六〇三號相等者其文爲 "Buttons, Shirt, Agate or Porcelain" 其中 Agate 當係指玻璃摹製者而言由是觀之從前稅則對於襯衫用之玻璃鈕扣係與磁扣同等待遇現行稅則第六〇三

號雖無 Agate 或玻璃字樣但海關對於普通鈕扣無論其爲磁製或玻璃製品向按該號之規定徵稅現時此項鈕扣鑒別既甚困難而海關多年成例又係將某種玻璃鈕扣按照磁鈕扣徵稅本會以爲現行稅則第六〇三號似不妨將普通玻璃鈕扣包括在內故該商抗議認爲成立本案貨品應准按磁鈕扣徵稅

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

中華民國十八年十月八日

稅則分類估價評議會議決書第四號

事　　由　關於舊報紙分類辦法由

抗 議 人　青島　大成洋行

議決主文　本案所稱舊報紙應按稅則第四七三號（丙）項（寅）類從價七、五徵稅

事實及理由　大成洋行報運舊報紙進口膠海關按稅則第四七六號徵稅該商聲請抗議所具理由

（一）該商於一九二九年三月間曾報運舊報紙進口當時海關按稅則第四七三號（丙）項（寅）類從價七、五徵稅此次出售之貨其中稅率一項係根據前案計算如改按稅則第四七六號從價一二、五徵稅稅額較高該商無端蒙受損失

（二）查稅則第四七六號中英兩種條文所指貨品與本案所稱貨品截然不同如以舊報紙改按該項稅則徵稅是爲修改稅則

則在實行之時應先期公佈使商人有所遵循

本會查舊報紙並非紙造貨品核與稅則第四七六號之規定不相符合該商抗議認爲成立本案貨品應准改按稅則第四七三號（丙）項（寅）類徵稅

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十八年十月十二日

稅則分類估價評議會議決書第五號

事　由　關於孩帽分類辦法由

抗議人　意商義興洋行

議決主文　本案所稱孩帽應按稅則第六七七號徵稅

事實及理由　意商義興洋行報運孩帽進口江海關依據總稅務司通令第三千號第三十八案解釋稅則問題第六十號之規定按稅則第六八一號徵稅而該第六十號之規定係因稅則第六八一號中有"Millinery,"「婦女衣帽零件」字樣謂婦女用帽及孩帽均應包括在內該商提出抗議以進口孩帽售價低廉爲平民服用之品進口稅則對於冠帽既經明白規定在第六七七號所運孩帽應按該號徵稅

十月十五日本會進行審理之時抗議人曾將貨樣多種呈案帽樣均係草製若歸入稅則第六七七號(丙)項徵稅應爲從價一

二、五如歸第六八一號（乙）項徵稅則爲從價二二、五抗議人聲稱此項冠帽男孩女孩均可戴用在市上特種店鋪出售（抗議人同時承認百貨商店之 Millinery 部亦有出售）彼所運者其尺寸無過六又八分之三英寸者

查稅則第六七七號之意義至爲明顯并無別項條件減少其意義之範圍故茲可斷定該號係包括各種冠帽而言即孩帽亦在其內

惟本案若就稅則第六八一號聯帶考量則情形較爲複雜蓋該第六八一號規定之衣飾材料中有 Millinery 字樣於是冠帽何時應認爲 Millinery 何時不應認爲 Millinery 之問題隨之而起詳核 Webster's 英文字典所開 Millinery 定義之一部爲「Milliners 所製造售賣之貨品」而關於 Millinery 之解釋大英百科全書內開「近代使用此字大都以製造售賣女人衣帽之人爲限」若謂孩帽應歸入 Millinery 範圍之內殊苦無從證明再觀稅則第六八一號中

對於 Millinery 爲「婦女衣帽零件」其意義更爲明顯於此可見婦人冠帽固應歸入稅則第六八一號而孩帽則不應歸入於此項條文範圍之內也

茲再從海關行政方面詳爲觀察所謂孩帽者男孩女孩均可戴用若謂女孩帽應歸入稅則第六八一號而男孩帽應歸入第六七七號在事實上自屬不可能之舉故爲便利起見孩帽應總爲一項歸入稅則第六七七號

依據上述論點稅則問題第六十號婦孺冠帽按稅則第六八一號徵稅之規定應請准予撤銷所有孩帽改按稅則第六七七號徵稅至帽胎一項前經第一三〇號解釋稅則問題予以規定現時自可不必再爲議決

主席委員　周　典

委員　李　榦

委員　柏　思

中華民國十八年十月二十六日

委員　聶普魯

委員　瑪高溫

稅則分類估價評議會議決書第六號

事　　由　關於克勞定人造絲四十箱完稅價格由

抗　議　人　上海　甯豐兄弟貿易公司

議決主文　本案貨品應以關平銀五千五百十八兩爲完稅價格

事實及理由　甯豐公司於本年九月十八日由富蘭鏗船運進人造絲四十箱報單原填價值爲關平銀五千三百〇六兩江海關改估關平銀六千兩該公司以估價過高聲請抗議所呈證明文件有C.I.F.發票定貨單此外爲證明市價起見幷將在本地售出人造絲一箱之發票呈送備考惟其所開價格之中是否包括稅額及其他費用在內不能指實

抗議人聲稱此項人造絲品質較次在上海進口商人中經營該項貨品者祇該公司一家所有此次進口之貨係以C.I.F.價格另加佣金2½%及其他費用出售但報關則爲C.I.F.價格惟江海關

方面則謂所估價格當該貨報運進口之日比較市場上同類貨物已爲最低之價

本會查克勞定人造絲在滬市爲一種新牌其品質亦屬低次江海關所估價格未免過高應以關平銀五千五百十八兩爲該貨完稅價格原定估價當依照核減

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十八年十二月二十日

稅則分類估價評議會議決書第七號

事　由　報運鮭魚子進口江海關按稅則第二五二號值百抽二七、五聲請改按稅則第二二三號徵稅由

抗議人　亨茂洋行

議決主文　本案貨品應仍按稅則第二五二號從價二七、五徵稅

事實及理由　查該商原抗議書稱稅則第二五二號所列魚子醬係專指鱣魚子醬色黑而小貨少價昂至進口之鮭魚子價值低廉行銷甚廣實非稅則第二五二號所指之魚子醬等語

本會按各英文字典對於魚子醬之解釋僉謂係各種魚子所製之醬並非專指鱣魚子醬而言且進口之鮭魚子商人向亦以魚子醬之名出售故該項紅色魚子醬之價值雖較黑色者爲低仍當以魚子醬論並仍應按稅則第二五二號魚子醬從價二七、五徵稅

中華民國十八年十二月二十日

主席委員　周　典
委員　柏　思
委員　李　榦
委員　聶普魯
委員　瑪高溫

稅則分類估價評議會議決書第八號

事　　由　爲所估筍乾完稅價格較江漢關爲高提出抗議由

抗 議 人　長沙總商會

議決主文　該項筍乾應由長岳江漢兩關會同商定劃一分等辦法分別施行

事實及理由　長沙筍乾商永昌裕福生祥等以長岳關所估完稅價格頭等值關平銀四十五兩二等值關平銀三十五兩與江漢關估價比較其間相差頗多如二等桃片江漢關估價僅爲十五兩而長岳關竟估值至四十二兩之多以至營業大受影響故呈請減低估價並請劃一兩關估價辦法以維商艱等情經查此項抗議雖係請求減低估價然其主要目的似爲請求兩關劃一估價辦法期於營業上得與漢商競爭

據查長岳江漢兩關現時對於筍乾估價辦法如左

長岳關			江漢關		
頭等	關平銀四五兩			關平銀四〇兩	
二等	甲號	關平銀三〇兩（頭等二等混合品）	二等	甲號	關平銀二二兩
	乙號	關平銀二七兩（二等）		乙號	關平銀一六兩
	丙號	關平銀二一兩（二等與較次貨混合品）			
	丁號	關平銀一九兩（二等與次貨之混合品）			
次貨	關平銀一〇兩			關平銀七兩	

觀察上列數字所應注意之點有二一爲兩關估價相差之數不若該商等所稱之甚蓋兩地運費多少不等以致價格發生差數二爲兩關間貨品分等方法之不同至該商等此次發生抗議（甲）或由於在兩關報運貨物彼此品質本有高下（乙）或由於同一品質之貨物而兩關因分等不同估價亦隨之而有差異現時問題若因（乙）項情形而發生自應設法予以救濟似應請令長岳江漢兩關會同商定劃一分等辦法分別施行至該商等所

請劃一估價等節事關變更現行出口貨物之估價成例未便遽

予照准

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十九年一月二十五日

稅則分類估價評議會議決書第九號

事由　瑞商瑞康洋行所運帽緶如何徵稅由

抗議人　瑞商瑞康洋行

議決主文　本案所稱帽緶應准按照稅則第七一八號納值百抽一二、五之從價稅

事實及理由　瑞商瑞康洋行運入帽緶江海關按稅則第六八一號值百抽二二、五徵稅該商提出抗議所具理由（一）爲稅則第六八一號所規定之織帶係專指裝飾原料而言至該商進口之緶係專供製帽之原料緶（二）爲冠帽成品按現行稅則第六七七號值百抽一二、五徵稅其原料品若反按值百抽二二、五徵稅殊失公允查此項問題之解決全視稅則第六八一號內 Braid 字樣是否將所有緶帶不問其用途如何一律包括在內本會就稅則第六八一號全體文義觀察之以爲該商此次所運帽緶純爲製帽

之主要原料揆立法原意自不屬於本條稅則範圍之內再觀稅則中文爲「織帶」其製帽用緶應予除外之意更可顯而易見該商抗議認爲成立所運帽緶應准按照稅則第七一八號完納值百抽一二、五之從價稅

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶曾魯
委員　瑪高溫

中華民國十九年二月十二日

稅則分類估價評議會議決書第十號

事　由　上海江南製紙公司所製「連史」「毛邊」兩種紙張與安東鴨綠江造紙公司同種出品估價徵稅辦法紛歧聲請抗議由

抗議人　上海　江南製紙公司

議決主文　上海江南製紙公司與鴨綠江造紙公司之「連史」「毛邊」兩種出品每擔應一律按關平銀十三兩左右徵稅

事實及理由　上海江南製紙公司以報運「連史」「毛邊」江海關按每擔關平銀十一兩五錢估價徵稅安東鴨綠江造紙公司之同種出品安東關之估價爲關平銀十兩並免去二、五附稅待遇殊失公允該公司因之聲請抗議查安東鴨綠江造紙公司與該公司等出品「連史」「毛邊」兩種紙張之市價現在每担計合關平銀十三兩左右於由有關各海關報運時應均改按每担關平銀十三兩左右徵稅至該公司呈稱安東關免徵鴨綠江造紙公司二

、五附稅一節本會無權置議

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

中華民國十九年三月十八日

稅則分類估價評議會議決書第十一號

事由　葡商奧利武公司報運進口鞋底皮粵海關按稅則第四八一號（乙）項徵稅聲請抗議由

抗議人　葡商奧利武公司

議決主文　本案所稱鞋底皮應准按稅則第四八一號（甲）項徵稅

事實及理由　葡商奧利武公司報運進口鞋底皮粵海關按稅則第四八一號「鞋底皮」（乙）項「其他」徵稅該商以所運之貨應按稅則第四八一號「鞋底皮」（甲）項「腹肩」徵稅因之聲請抗議查本案主要問題爲所運鞋底皮究竟是否「肩皮」抑係其他品質本會就呈案貨樣分別考驗此項皮張其中雖有少數介於「肩皮」與「非肩皮」之間然就大體而論實係「肩皮」故該商抗議本會認爲可以成立所運鞋底皮應按稅則第四八一號（甲）項徵稅

主席委員　周典

中華民國十九年三月二十二日

委員 李榦
委員 柏思
委員 聶普魯
委員 瑪高溫

稅則分類估價評議會議決書第十二號

事由　上海裕華毛絨紡織公司報運廢羊毛 wool shoddy 進口江海關按稅則第七一八號徵稅提出抗議由

抗議人　上海　裕華毛絨紡織公司

議決主文　廢羊毛應按稅則第八九號「綿羊毛」徵稅

事實及理由　本年一月二十五日裕華毛絨紡織公司報運廢羊毛進口經江海關按稅則第七一八號值百抽一二、五徵稅該公司以廢羊毛爲一種原料其與羊毛之關係一如廢棉花之與棉花按現行稅則所定廢棉花稅率當棉花稅率百分之六十廢羊毛似可援例按羊毛稅率百分之六十徵稅並以廢羊毛織成之呢品報運進口不過徵值百抽一二、五之稅如將原料與成品同等課稅殊失公允因特提出抗議本會審核該項廢羊毛係舊絨搗碎而成間或含有他類毛或纖維在內爲數至少無關重輕以歸入稅

則「毛及呢絨品」中並按第八九號徵稅較爲近理

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十九年三月二十二日

稅則分類估價評議會議決書第十三號

事　由　上海甯豐公司先後由"Katori Maru"船報運人造絲二件"Suwa Maru"船一百件又"Kashima Maru"船一百件進口對於江海關按出棧時市價徵稅辦法提出抗議由

抗議人　上海　甯豐公司

議決主文　本案所稱人造絲每磅應以一先令九便士另加佣金及銀行費用爲完稅價格

事實及理由　上海甯豐公司先後運入克勞定牌人造絲三批計由"Katori Maru"運到二件上年九月十九日到埠十月一日呈報進口由"Kashima Maru"運到一百件上年十月十七日到埠十一月八日呈報進口"Suwa Maru"運到一百件上年十二月三日到埠本年一月二十一日呈報進口該公司對江海關估價提出抗議所具理由以各貨俱在上年十月及十一月間進口按其品質與"Franken"船之四

十件完全相同該貨前經稅則分類估價評議會核定每件以關平銀一三七、九五兩爲完稅價格在案"Katori Maru"進口之兩件業於上年十二月抗議之下提出其餘二百件則以"Franken"船運到之四十件貨物正在評議會審理中隨卽存入關棧靜待解決該項存棧貨物應一律按照前次四十件以關平銀一三七、九五兩爲完稅價格江海關則以除"Katori Maru"運到之兩件外其餘各批因呈報進口時滙兌率之變更不能援照評議會核定"Franken"運到四十件價值徵稅查江海關稅務司呈案抄件該關曾於本年一月二十八日函囑抗議人向海關呈請退還"Katori Maru"運到兩件徵稅過額之數此項辦法至爲允當蓋此項貨物不論其是否先有聲明應按核定"Franken"運到四十件價格征稅因該兩批進口之貨出售價格既同並復應按九月間海關滙兌率（一磅合關平銀七、六四兩）計算其"Katori Maru"運到之件報單雖於十月一日呈繳但是日海關滙兌率仍應適用九

月份之匯兌率計算蓋十月份之滙兌率例應至十月二日方實行也至"Kashima Maru"與"Suwa Maru"兩船所運各貨事前既未聲請於"Franken"船四十件案解決後再行核辦其到埠及呈報進口日期亦均不在九月份匯兌率期間以內自應各按呈報進口時之匯兌率計算其完稅價格查上年十一月份之匯兌率爲每鎊合關平銀八、〇七兩本年一月份爲關平銀八、三五兩又該公司運入各貨連同前次"Franken"船四十件均係售於全記每磅價值按一先令九便士C.I.F.上海另加佣金百分之二、五計算本會前次核定"Franken"船進口克勞定牌人造絲之完稅價格以該項貨品在市場上係一種新牌號無一定之蘩發市價故以C.I.F.合同價格另加百分之四（佣金百分之二、五銀行費用百分之一、五）按上年九月份匯兌率合成關平銀計算而得之數作爲完稅價格此次抗議各貨之完稅價格本會認爲應一律按上述之估價方法並各以呈繳報單時之海關匯兌率計算

是本案三批貨物之完稅價格應如左開之數

"Katori Maru"船四百磅合關平銀二七八、一〇兩

"Kashima Maru"船一九，八四二、五磅合關平銀一四，五七一、七六兩

"Suwa Maru"船一九，八四二、五磅合關平銀一五，〇七七、三四兩

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十九年四月三日

稅則分類估價評議會議決書第十四號

事　由　德國 Schopfheim　商會訴請將製鞋寬緊布變更稅則號列由

抗議人　德國 Schopfheim　商會

議決主文　本案所稱製鞋寬緊布按稅則第七一八號從價一二、五徵稅

事實及理由　德國 Schopfheim　商會以製鞋用寬緊布按稅則第六八一號（乙）項值百抽二二、五徵稅聲請抗議所具理由以該貨物係製鞋用品若與織帶及裝飾材料同一號列且原料與製品同等課稅有失公允等情本會就稅則第六八一號全體文義觀察揆立法原意該項貨品不應屬於本條範圍之內是總稅務司第三九〇〇號通令進口稅則問題第九號對於稅則第六八一號「織帶」解釋所指之寬緊帶不應適用於製鞋用之寬緊布該項寬緊布應按稅則第七一八號從價一二、五徵稅

主席委員　周　典

中華民國十九年四月三日

委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

稅則分類估價評議會議決書第十五號

事　由　上海華豐祥布號由筑波丸進口日本本色棉布對於江海關按稅則第六號（甲）項徵稅辦法提出抗議由

抗議人　上海　華豐祥布號

議決主文　本案所稱本色棉布按稅則第四六號從價七、五徵稅

事實及理由　本年一月二十五日華豐祥布號進口本色棉布江海關按稅則第六號「本色洋標布」徵稅該號提出抗議所具理由（一）本案所稱之布寬二十八英寸長一百二十碼重十三磅品質極次（二）稅則第一號之規定爲「本色市布寬不過四十英寸長不過四十一碼」今該項布疋應按三疋計算則每疋之重爲四又三分之一磅寬二十八英寸長四十碼核與稅則第一號（甲）項之規定完全相符（三）該貨進口係用作袋布按「本色市布」納稅甚爲適當等情本會就進口稅則文義觀察以爲寬度長度之

問題在正頭分類中極多關係尤以平紋織本色棉布之在市布與洋標布之間者爲更重要從紡織上而言市布與洋標布之分別固無明確之界限本案布正之寬爲二十八英寸長一百二十碼於市布洋標布中俱不常見市布普通寬度爲三十八英寸至三十八英寸半長度爲四十碼洋標布之寬度爲三十英寸長度爲二十四碼且抗議人於本案審理時陳稱該項貨品之寬度長度係由粉商定貨時所指定者其長度爲一百二十碼如指爲市布可分爲三正如指爲洋標布則可分爲五正當然不能據爲分類標準江海關决定此案係以該布之寬度爲二十八英寸近於洋標之寬度故歸入洋標布類查該商首先主張應按市布納稅迨本會審理時該商幷稱該貨之品質價值且較最次之本色市布爲低本會詢據專家意見就該項布正之寬度而論雖近於洋標但就其他標準而言例如上漿之分量棉紗支數每英寸線數則此布既非洋標又非市布故本會認爲本案所稱之布以之歸

入稅則第六號之洋標布或稅則第一號之市布俱非所宜應按稅則第四六號值百抽七、五徵稅

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

中華民國十九年四月十四日

稅則分類估價評議會議決書第十六號

事　由　葡商奧利武公司報運進口鞋底皮粵海關按稅則第四八一號（乙）項徵稅提出抗議由

抗議人　葡商奧利武公司

議決主文　本案所稱鞋底皮應准按稅則第四八一號（甲）項徵稅

事實及理由　葡商奧利武公司報運進口鞋底皮粵海關按稅則第四八一號「鞋底皮」（乙）項（其他）徵稅該商以所運之貨實係肩皮且與前次所運經本會第十一號議決案審定之皮相同應按稅則第四八一號「鞋底皮」（甲）項「腹肩」徵稅因之於五月廿六日提出抗議並檢送皮樣五張發票一紙

查此次所送樣皮自角部量起其中四張之長短爲三十六寸一張爲三十四寸該商前次抗議案皮樣之最長者爲三十三寸兩相比較此次之皮雖略較長但就其大致而論捨按腹肩皮徵稅

外殊難歸入其他項目

按肩皮之普通長短爲三十寸至三十三寸但此種長短實不能認爲確定之限制蓋牛既有大小之分肩皮當然亦有長短之別查美國皮業協會對於肩皮之解釋於本案頗可供備參攷該會解釋文稱「所謂肩皮者卽就全張牛皮由牛尾起點上量約五十寸當前腹中心橫斷一線由此線至牛頸間之皮謂之肩皮」此項解釋肩皮之定義係以與牛尾之距離爲準所應注意者卽其距離尺寸之規定亦僅能舉其約數而不能爲確定之解釋也該商抗議本會認爲成立其所運之鞋底皮應按稅則第四八一號（甲）項「腹肩」徵稅

主席委員　周　典

委員　李　幹

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十九年七月四日

稅則分類估價評議會議決書第十七號

事　由　爲請退還關於二十三輛運貨汽車車台從價百分之十之進口稅由

抗議人　美商中國汽車公司

議決主文　退稅應毋庸議

事實及理由　緣中國汽車公司（以下簡稱抗議人）於十八年五月一日向海關呈領二十三輛運貨汽車車台之進口准單該項車台經徵百分之二二、五從價稅率由海關放行而抗議人對於上項稅率聲稱不服謂運貨汽車車台應按稅則七一四號（甲）項抽百分之十二、五之從價稅當時稅則七一四號（甲）項條文如下

「……載重一噸以上之馬達貨車……從價百分之十二、五」同時國民政府財政部對於稅則七一四號（甲）項之條文自動呈請修正如下

「……載重一噸以上之馬達貨車（貨貨車台在內）……從價……百分之十二、五」此項修正案於民國十八年五月二十九日奉國民政府一〇五二號命令批准施行

總稅務司奉轉關於上項修改之命令後即於六月九日令知江海關「對於抗議人在抗議下完納之前項二十三輛車台進口稅差額從價百分之十（即七一四號（甲）項與（乙）項稅率之差額）應准退還」抗議人遂於六月十四日由其代理人Wheelock報關行向海關領取上項退稅所有車台進口執照亦經呈繳到關由關於六月二十九日將執照上之22½%字樣用紅筆改爲12½%其上并蓋執照處之戳記及關員簽字該項退稅之總數爲三二九八、一〇海關兩嗣海關因奉七月十日總稅務司訓令根據關務署八二八號指令此項退稅不准發還抗議人聲稱在出售上項車台時預期退稅數目必可收還今海關既不允退稅抗議人實蒙與退稅數目相等之損失

本會曾於民國十八年十一月二十六日舉行本案初次之審理其時抗議人中國汽車公司之經理適赴外洋重要證據無從提出經抗議人之請求本會當准延期審理至本年七月二十二日抗議人於本會第二次審理時對於本案事實不無補充之點查抗議人之帳册內於民國十八年六月五日曾有出售車台四十輛之記載其中二十三輛即屬本案所審理者其他十七輛則係民國十八年二月以前進口故僅完納從價百分之七、五之進口稅此項四十輛之車台據抗議人聲稱約於六月十四日左右始行交貨先是抗議人於民國十八年五月三十日曾簽訂購辦貨車車台二百五十輛之合同上述之四十輛即係合同一部份之履行此項合同規定於十八年六月底或以前須交二百五十輛之貨車車台并載明訂合同之甲造（卽買方）允擔付一切進口稅項或備給免稅進口之護照其後甲造爲履行合同之規定確曾以貨車車台二百五十輛免稅進口之護照交付於抗議人

而抗議人於十八年六月亦曾利用此項護照運入二百五十輛貨車車台免納進口稅茲就上列事實試以分折本案之經過其先抗議人承認售賣車台二百五十輛幷向買方領得爲運入此項車台免稅進口之護照該抗議人因種種理由自願於存貨之內提出車台四十輛先行交付買方此中二十三輛係曾完納百分之二十二、五進口稅者是時在彼希望可以約半月後免稅進口之二百五十輛之一部份補充該項存貨抗議人所以自願先行墊交一部份貨品之故或因當時深信領取此二十三輛車台之退稅確有把握該抗議人於本案審理時曾謂上項二十三輛車台之進口稅全額彼儘可向買方索還而不必請領免稅護照因合同固明言擔負稅欵或備具護照兩項手續之中得由抗議人任擇其一也就抗議人之意蓋因護照免稅進口之車台祇免去百分之十二、五進口稅而上項二十三輛車台係曾完納百分之二十二、五進口稅者故抗議人聲稱伊實遭從價百分

之十之損失而此項損失如抗議人得早知海關退稅無可希冀本可向買方索取也

茲將抗議人前後要求准給退款所持之各種理由逐一分析之

(一)抗議人聲稱關於車台按百分之二二、五稅一節抗議人既經向海關提出正式抗議而該項進口稅確經修改減低所有關於十八年五月一日進口之二十三輛車台依新舊稅率核算之差額(計百分之十)按照普通領取存票之辦法自應退還查海關向章遇有商人對於應徵稅款提出抗議如該項抗議經海關認爲有理由時固可給予存票惟此項辦法於本案殊不適用蓋查總稅務司於本年七月十日發交江海關之令文內開關務署八二八號指令對於稅則七一四號修改之解釋有云「查稅則修改與稅則解釋性質迥異普通商人提出抗議要求退稅之辦法不能適用於本案蓋稅則七一四號條文之變更係屬修改性質與稅則解釋不同故此項修改之稅則應於通令到關日方始發

生效力」由是可知本案既係與稅則修改有關而此項修改並無追溯既往之效力則對於本案車台已付稅項自無給予存票之理由也

(二)關於抗議人所聲稱出售二十三輛車台確受損失一節是欲決定此點應先就抗議人所謂損失之性質加以分析查抗議人提出之大美查帳局報告單（此單係抗議人請由美國駐滬總領事館轉函關務署長嗣奉發交本會）似以此項損失之發生係因抗議人出售價格過於低廉之故該報告單有云「照本查帳局審查之結果則完納低率進口稅之格蘭姆貨車（載重一噸又四分之一）其售價與上項二十三輛車台之售價兩相比較或係相等或超過之再查該公司（即抗議人）帳册則上項車台之出售價格似係根據將來海關尚可退還稅款從價百分之十而定者蓋該項稅款之退還足使已繳稅額與按照從價百分之十二、五所繳數目相等也」此項報告單係將完納從價稅百

分之二二、五之二十三輛車台之售價與完納低率進口稅之同樣貨品之售價兩相比較其結果則後者並不較前者爲低於是據以斷定上述二十三輛車台之售價係根據海關可以退稅從價百分之十而定然此種分析須兩者之售價均包括進口稅在內時方爲有效據本會第二次審理之結果則上述二十三輛車台之售價其中並未包括進口稅蓋抗議人與買方所訂之合同明言訂購之車台二百五十輛（上項二十三輛係爲訂購總數之一部份）其價格不包括進口稅卽就事實而論買方對於所購車台全數係另備護照始終未付分文之進口稅也

但從其他方面觀察則抗議人所稱受有損失固亦不無理由蓋根據兩造所訂立之合同抗議人本可（一）照知買方代備護照免稅進口或（二）進口稅由買方擔負如果抗議人對於上述二十三輛車台採取第二項辦法則所付之百分之二二、五之稅額不難脫卸於買方而抗議人未採此項辦法或由於一時業務

計算上之失誤或由於深信海關對於新舊稅率差額從價稅百分之十將來可予退還在事實上所可引爲不幸者卽海關於辦事手續上先後屢示抗議人以退稅之可能查十八年六月六日總稅務司訓令明謂准予退稅而同月二十九日抗議人進口准單上之稅率復由關員由百分之二十二、五改爲百分之十二、五但按時日而論則抗議人之決意先交車台四十輛（上述二十三輛在內）係在六月五日之前而登入帳册之日期又適爲六月五日是六月六日總稅務司之訓令以及二十九日海關准單上之修改既均發生於六月五日以後則其與抗議人於六月五日先交車台四十輛一事自無關涉又查抗議人於本案第二次審理時亦自認其所以深信海關可予退稅故先交貨四十輛一層係受海關以外方面之影響在此種情形之下即使抗議人受有損失此項損失自不得謂爲海關所致也基於上述理由本會認抗議人之抗議不能成立退稅一節應毋庸議

中華民國十九年八月五日

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

稅則分類估價評議會議決書第十八號

事　由　爲「乙種富格利亞」香精江海關按稅則第四五七號徵稅提出抗議由

抗議人　上海　鑑臣進出口行

議決主文　本案所稱「乙種富格利亞」香精應按稅則第四五七號照百分之一七、五從價徵稅

事實及理由　據鑑臣進出口行（以下簡稱抗議人）致上海江海關稅務司函稱民國十九年五月十六日由「哈可撒奇」Hakosaki Maru輪船運入之某種香精名「乙種富格利亞」估驗處定爲精油按稅則第四五七號完稅聲明不服等語

查稅則第四五七號爲「未列名膠香脂蠟油脂（脂油或精油）從價一七、五」該抗議人主張所運商品應作爲未列名化學產品歸入稅則第三九四號

查稅則第三九四號爲未列名化學產品（甲）礦酸及其他重性化學產品從價七、五（乙）其他（醫藥用品魚肝油藥藥料及各種柏油製品在內）從價十二、五

關於該油之成分該抗議人曾引證原製造廠家發單其中有文一節如下

「此係證明本發單所載之貨品以重量計含有天然精油百分之十二組成香質（化學產品）百分之八十八其價格順次爲每磅三先令四又四分之三本士及六先令九又二分之一本士」

據本關估驗處化學技士之分析結果證明該品爲數種精油之混合品其中有天然者有配製者關於配製部份係以雄刈萱油製成

茲就稅則第三九四號乙項之意義詳爲觀察如「乙種富格利亞」香精不能謂爲一種化合物即不能歸入該號範圍之內因該號所稱化學產品係指化合物 Chemical Compound 而言也據本關

化學技士及其他專門人員之意見均謂「乙種富格利亞」實係一種混合物 Chemical Mixture 而非化合物 Chemical Compound 蓋合於化合物之資格者該品必須(一)具一定之化學公式(二)具顯著與特殊以及一定之化學性質與物理性質本關化學技士於解釋關於化合物之定義曾具說帖引用韋氏萬國大辭典其文如下

「化合物者係二種以上之成分以一定重量比例組合而成之質物例如水乃輕與養之化合物是也凡一定之化合物均常含有相同之原質而以相同之重量比例而化合且其內部之排列亦屬相同

本案「乙種富格利亞」香精既非具有一定之公式又無一定特殊之性質自不能名之曰化合物因之不能歸入稅則號列第三九四號乙項

然該品是否可作爲精油歸入稅則四五七號之一問題現應加

以研究據抗議人聲稱稅則第四五七號所稱之精油乃指天然精油而言至「乙種富格利亞」香精乃天然精油與人造精油之混合品故不能歸入該項號列」

關於上項問題在本會審議進行之時本關化學技士曾經提出左開之論據

韋氏 Villavecshia 分析化學（一九一八年出版）第二册第二八五頁有云「由植物之花菓皮葉泌液所得之精油與配製之精油爲數甚多」

馬爾丁氏 Martin 工業化學（一九二二年出版）第一五六頁有云「雖多數之香質可用柏油製品組合配製而成但亦有多種係由價格較廉之天然油中用分級蒸餾或其他化學方法而得者」

愛倫 Allen 商業有機化學分折第四册（一九一七年出版）第二五二頁精油成分章下有云「人造物質如薄荷基雄刈萱油愛

阿龍派柏龍諾爾硝基輪質等雖非天然精油成分但與之極爲接近故亦列入精油主要成分表內」

由上列之考證可知精油名稱在化學上商業上固不專指天然產品其組合配製之油亦應包括在內且稅則第四五七號並未明白規定所指之品必須屬於天然者故本會以爲對於稅則分類祇須係一種精油卽須認爲精油至此項精油用何種原料製成及是否係純天然精油或係純人造精油抑係天然精油與人造精油混合而成者均屬無關重要

江海關估驗處所定以「乙種富格利亞」香精歸入稅則第四五七號之原案應予維持

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

中華民國十九年八月二十二日

稅則分類估價評議會議決書第十九號

事　由　報運帽胎進口對江海關分類提出抗議由

抗議人　上海　東亞公司

議決主文　本案貨品應按稅則第一零四號從價一五徵稅

事實及理由　東亞公司報運帽胎進口江海關按稅則第一零一號從價一七、五徵稅該商於本年七月四日提出抗議其所具理由（一）本案所稱帽胎爲廢毛之半製品（二）中日協定附表甲部第四款規定獺絨冠帽每打價值在關平銀十五兩以下者按稅則第六七七號（丙）項徵稅故該商認爲本案貨品應按該項規定徵稅查稅則第六七七號係指完全製成之冠帽而言抗議人援引中日協定於本案殊不適用

此次江海關對於所稱帽胎按稅則第一零一號「未列名毛製毛棉雜製衣服女紅用品及衣着零件」徵稅係依據總稅務司

通令第三九四九號稅則問題第一零五號之決定辦理從前本會審理冠帽一案時曾將帽胎分類問題附帶討論當以此項問題業經總稅務司第一零五號稅則問題決定且抗議人亦未將此項問題陳請本會審理故認爲無另行議決之必要茲詳察稅則第一零一號之規定係指全製品而言其半製品之帽胎似不在該項規定範圍以內

故本會認爲本案貨品應按稅則第一〇四號「未列名全毛或毛髮製呢絨及其他製品徵稅」

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

中華民國十九年八月二十八日

稅則分類估價評議會議決書第二十號

事　由　報運進口華福麥乳精一百箱對海關所估完稅價格提出抗議

由

抗議人　上海　華嘉洋行

議決主文　本案貨品應按海關所估價格徵稅

事實及理由　華嘉洋行由 D'Artagnan 船報運瑞士所製華福麥乳精一百箱進口江海關估定完稅價格爲一〇，六六九、四五金單位該商於本年七月二十六日提出抗議所具理由如下

（一）依照該行規定每年銷數在十箱以上者須於年終在棧房交貨價目內付還回佣一成

（二）統計一九二九年份全年銷貨總額百分之八十五經予付還代銷人之回佣

（三）該項回佣本年確有增高將來銷貨總額勢須全付回佣

據江海關驗估處稱商家事後給予代銷人之報酬或回佣該關

向不准從完稅價格內予以扣除且此項報酬辦法普通多爲有條件的且其數目多寡亦無一定

本案關鍵在估計進口貨完稅價格時商家給予代銷人之回佣或報酬應否予以扣除

本會以爲該項報酬如不在貨物進口之時給予且承購人購貨之實價非至納稅以後不能確定則祇可由商家冒多納稅款之危險而不應由海關冒少徵稅收之危險同時從海關行政上着想若於商家給予回佣予以認可則恐生無數困難商家爲保護自己利益起見當自行設法改進其販賣方法本案所請變更江海關原定估價之處應毋庸議

主席委員　周　典
委員　李　榦
委員　柏　思
委員　聶普魯
委員　瑪高溫

中華民國十九年九月八日

議決書卷二

中華民國二十年

主席委員　周　典

委員　李　榦

委員　柏　思

委員　聶普魯

委員　瑪高溫

秘書　李祖法

議決書第二十一號

事　由　關於報運二十箱炭化砂之完稅價格由

抗議人　廣州 Honwan Trading Co.

議決主文　本案貨品應以金單位九九一・五四爲完稅價格

事實及理由　本年七月十日廣州德商 The Honwan Trading Co. 自香港由 Tung On 輪船運至廣州報運進口炭化砂二十箱所報價格爲海關金單位八五一・八三七此項價格係將訂購合同之價格按報運進口時之匯兌率折合而得至此項貨物之臺發市價經查明爲金單位九九一・五四粵海關將訂購合同所開香港銀幣之價格按該商訂貨時與銀行所定之滙兌率折合該貨價格應爲金單位一二〇五・一八該關所以採用此項折合辦法據稱係根據舊有滬關成例（閱滬關成例第二十五號）「訂貨合同內所開價格如爲外國貨幣而該國幣制有激烈變動之時則貨價應按

該貨訂立合同時之匯兌率折合之而不應按報運進口時之匯兌率折合之」滬關成例幷申明此項辦法在當時係屬保持稅收惟一之辦法

抗議人提出抗議其理由有二（一）海關估價高出市價四成商人販買貨品無從得此厚利（二）現在海關因滙兌率自一先令九¼便士降至一先令三便士乃按其當時訂立合同時之匯兌率折合假使匯兌率自一先令九¼便士漲至二先令二便士則海關恐不肯仍按一先令九¼便士折合

此項抗議之問題簡單言之卽爲從價完稅之進口貨其完稅價格究應如何計算查進口稅則暫行章程第一條規定「凡應從價納稅之進口貨其完稅價格應以輸入口岸之躉發市價作爲根據此項躉發市價無論何種貨幣均應按照特定公佈之兌換率折合海關金單位惟此項市價應視爲超過完稅價格其超過數目爲（甲）該貨稅率之數（乙）該貨完稅價格百分之七」第

四條規定「發票與合同均可作爲貨價之憑證但非必可以視爲確定之憑證」近時發表之進口稅則暫行章程第一項所載蔥發市價之解釋并經明白規定凡貨物在輸入口岸有蔥發市價者卽應以此價作爲計算完稅價格之根據如輸入口岸無蔥發市價可考者得用國內其他市場之蔥發市價其於國內市場無蔥發市價可考者方得用眞正起岸價格爲計算之根據

關於此項貨物在報運進口時之蔥發市價爲海關金單位九九一・五四抗議人與粵海關業經雙方同意

由上述各點觀之可見完稅價格應爲金單位九九一・五四至粵海關所引估計價格根據之滬關成例本會詳查此項辦法實爲補救歐戰後德幣暴跌一種特殊情形之臨時辦法向以此爲保持稅收之唯一途徑但當時亦不認此爲完全滿意且當時海關善後章程規定商人訂購貨物祇須合同眞確則其所載價格總數海關卽應認爲市價現時此項章程業已更改凡貨物輸

入之時其合同所載之價格與市價不同之時該合同之真確情形雖屬毫無疑義然海關亦可無須以其所載之價格爲估計完稅價格之根據也

故本會決議此項貨物應以金單位九九一・五四爲完稅價格

中華民國十九年九月十日

議決書第二十二號

事　由　關於蘋菓杜松燒酒分類辦法提出抗議由

抗議人　上海　正廣和公司

議決主文　本案貨品依照稅則第三五一號每箱十二充瓜脫完稅三・六六金單位

事實及理由　本年七月二十四日上海正廣和公司向 Glasgow 由 Almeas 船運到蘋菓杜松燒酒一批報運進口江海關按稅則第三五七號「未列名酒飲料」徵稅該商以所運之貨應按稅則第三五一號徵稅故提出抗議所具理由如下

（一）「杜松燒酒」名稱係適用於連同各種莓菓及香料等所蒸溜而得之煉酒

（二）本案之酒係含有一種帶蘋菓氣味之杜松燒酒

（三）蘋菓杜松燒酒之價格比較一般之和蘭杜松燒酒爲低

（四）蘋菓杜松燒酒之飲用方法與普通杜松燒酒相同

查韋氏大辭典解釋杜松燒酒之意義如下

「此酒在和蘭製造最多其製法係由搗碎之穀類（以裸麥爲尤多）連同杜松莓蒸溜而得或以香料如杜松莓大茴香子胡荽子小茴香子或松節油加入淨酒而得類似之酒杜松燒酒所含酒精重率約爲百分之四十」

據此酒瓶面所載分析報告蘋菓杜松燒酒含有最佳杜松燒酒所有之成分再加以蘋菓內可溶性之成分

海關分析員報告則謂蘋菓杜松燒酒含酒精百分之二十四游離酸百分之零・三九四其中游離酸部份證明香料係蒸溜後加入

本會意見以爲對於本案燒酒其所含酒精成分不應過於重視蓋上列字典所謂含酒精百分之四十者亦係約計之數而已其一部之香料雖係蒸溜後始行加入但此仍不足以變更該酒爲

杜松燒酒之事實準是應將此酒列入稅則第三五一號該項抗議本會認爲成立

中華民十九年九月十六日

議決書第二十三號

事由　爲由 Hakusan 船 Porthos 船 Kitano Maru 船進口鋁箔對於江海關所估完稅價格提出抗議由

抗議人　上海　天納洋行

議決主文　本案貨物應按每擔金單位一六〇爲完稅價格

事實及理由　上海天納洋行由外洋運到左開各批鋁箔

本年五月二十八日 Hakusan Maru 船運到四批計一〇五箱

本年六月六日 Porthos 船運到三批計八五箱

本年六月十二日 Kitano Maru 船運到二批計一三〇箱

江海關按金單位一六〇爲完稅價格該商於六月十九日提出抗議所具理由如下「近數月間海關徵稅方法似係根據一種原則使估價往往不能平允以致商人無確定估計稅銀之方法而蒙受損失」

爲證明上述理由起見抗議人函稱「鋁箔在製造各國其價格確已於本年三月間至本年五月間自每磅二先令一・五辨士逐漸跌至一先令十辨士上海之蘐發銀幣市價如折合金幣亦有相等之降落現在關稅既已改爲金單位計算其價格援用金幣殊有相當之理由」同時抗議人聲明鋁箔進口係從價徵稅按金單位計算今該貨之金幣原價既已跌落完稅之金單位總數自應同時減低

本會調閱報關單據查得關於上開各批之貨抗議人呈報之價格與江海關估計之價格如下

本年五月二十九日報運 Hakusan Maru 船運來之貨

箱數	物品	重量	呈報價格	估計價格
三十箱	平紋鋁箔	二三、四九半擔	金單位一四六、一七	一六〇、〇〇
三十箱	平紋鋁箔	二三、四九半擔	金單位一五九、九六	一五九、九六
二十五箱	平紋鋁箔	一八、七五半擔	金單位一五九、九六	一五九、九六

二十箱　平紋鋁箔　一四、九九半擔　金單位一四四、八〇　一六〇、〇〇

本年六月七日報運 Porthos 船運來之貨

三十箱　平紋鋁箔　二五、七四半擔　金單位一四五、五三　一六〇、〇〇

二十五箱　平紋鋁箔　二一、七九擔　金單位一四八、九七　一六〇、〇〇

三十箱　平紋鋁箔　二二、五一半擔　金單位一七八、〇〇　一七八、〇〇

本年六月十三日報運 Kitano Maru 船運來之貨

一百箱　平紋鋁箔　七四、九八擔　金單位一二五、八四　一六〇、〇〇

三十箱　平紋鋁箔　二二、五〇半擔　金單位一二九、四一　一六〇、〇〇

抗議人聲稱該行向例於定貨之時將滙兌率與銀行先行訂定同時並迫令買方將匯兌率亦先行訂定將來貨物逐批到埠海關按到埠時蔿發市價計算完稅價格稅款總數既無從於事前查悉於是出售價目亦因之難以計算且其所賺之利益僅爲售價之二厘此項二厘數目亦係按定貨時匯兌率折合之海關既按到埠市價計算稅額多少無定是以該商迭次蒙受損失爲數

每箱竟達七兩至九兩之鉅故抗議人主張凡貨物係三四月前預定者海關應按定貨時之價格爲完稅價格之根據由上述理由觀察之本案抗議實非反對海關所估之價格而爲反對海關採用以進口時之躉發市價爲計算完稅價格根據之方法

江海關沿用進口時之價格係根據進口稅則暫行章程第一條第一項所載躉發市價之解釋「凡貨物於報運進口時在輸入口岸之公開市場以普通躉發數量照普通貿易情形自由銷售或可以銷售之平均市價認爲躉發市價」

此項解釋業經由江海關通告（第一一八八號）有案上述解釋規定至爲明顯海關估計價格捨用進口時之躉發市價外實無其他辦法本案抗議本會認爲難以成立

中華民國十九年九月十九日

議決書第二十四號

事由　報運由 D'artagnan 船裝來淨白水泥七十五桶對於江海關按稅則第七一八號徵稅辦法提出抗議由

抗議人　上海　仁記洋行

議決主文　本案之貨應按稅則第五七四號「水泥」每擔金單位〇・一四徵稅

事實及理由　本年七月二十五日仁記洋行（以下簡稱抗議人）由 D'artagnan 船運到特種白水泥七十五桶向江海關報運進口（報關單第一・三六／六〇七一號）江海關按稅則第七一八號未列名貨物從價一二・五徵稅該行以特種白水泥亦爲水泥應按稅則第五七四號徵稅提出抗議

本案決定之關鍵顯須先行明瞭稅則所謂「水泥」究應包括何物就水泥原文"Cement"之廣義言之凡能黏合兩體之任何物

體均可謂之"Cement"是其意義過於寬泛茲爲稅則分類起見必須另行分劃界線本會揣測當時制定水泥從量稅率之際其原意恐係專指波蘭 Portland 水泥而言但究竟是否如此則無何項文書足資證明本會查此外尚有數種水泥就實際上利便起見亦可歸入稅則號列水泥項下茲故規定水泥之名詞其用於稅則上者非但包括波蘭水泥其與波蘭水泥近似之水化性水泥應亦包括在內此項規定與大英百科全書（十三版第四册）所開水泥之定義適相符合該項定議之原文茲節錄如下「在工程學上水泥若無形容詞之限制卽係指波蘭水泥或其變相物質或其類似物質此等物質皆係水化性之水泥蓋其硬結時能有抗拒水之作用性或於適當狀況之下能在水中硬結也」本案貨品係一種水化性水泥本會認與上項規定適相符合故該商抗議應予成立所謂「超白」特種白水泥又謂 Lafarge 應按稅則第五七四號完稅

所應注意者開恩氏 Keene's 水泥及其他非水化性之水泥與波蘭水泥並無密切類似者則應劃歸稅則第六六四號建築材料徵稅

中華民國十九年九月二十三日

議決書第二十五號

事由　關於 Ramses 船報運進口七號紅鷹手工縫針估價辦法提出抗議由

抗議人　上海　謙信洋行

議決主文　本案貨品應依照「進口稅則暫行章程第一條第一項所載蘭發市價之解釋」第三項規定以起岸價格 C.I.F. 外加百分之五計合一九四一・七五金單位爲完稅價格

事實及理由　本案係關於謙信洋行由 Ramses 船報運進口之七號紅鷹手工縫針抗議人所報之完稅價格爲金單位一四五八・五一此項價格係抗議人根據原訂賣貨合同內所載銀兩價目計算而得據江海關聲稱該貨於呈報進口之日並無蘭發市價照例應按起岸價格外加百分之五計算其完稅價格應爲金單位一九四一・七五

該商抗議所具理由爲數頗多但其主要之點則以江海關之辦法以起岸價格外加百分之五爲完稅價格殊未公允蓋近時匯價暴縮因之物價增高而物價增高率究較匯價低落率爲緩且該號縫針近日雖無交易但按其他縫針之售價本項貨品之價格似未增高

查進口稅則暫行章程第一條所載蘧發市價之解釋凡進口貨物之從價徵稅者其完稅價格以報運進口時之蘧發市價作爲計算根據如在輸入口岸以及國內其他市場無蘧發市價可考者應以起岸價格外加百分之五作爲完稅價格

故本案關鍵全在七號縫針有無蘧發市價之一點在本案審理時據稱七號縫針本埠並無存貨嗣據本會調查本批縫針爲自一九二〇年來第一次之進口貨考其長度厚度與禮和洋行進口之一號金鋼鑽牌穿眼針 No. 1 Diamond Brand Drilled Eyed Needles 極相近似惟金鋼鑽牌貨品爲市場上最著聲譽者其價值亦較其他

牌號高出數倍如卽以此聲譽較著又公認爲品質較高之貨品之躉發市價計算本案貨品之完稅價格則對於抗議人似欠公允故本會認爲對於本項貨品現時並無躉發市價江海關以起岸價格另加百分之五爲完稅價格之辦法應予維持

中華民國十九年十月二十四日

議決書第二十六號

事　由　關於"Borda"船報運進口鑲軟木瓶蓋四十箱之完稅價格由

抗　議　人　泌樂水廠代理人正廣和公司

議決主文　江海關以起岸價格外加百分之五爲完稅價格之辦法應予維持

事實及理由　泌樂水廠代理人正廣和公司（以下簡稱抗議人）於一九三零年八月十一日由"Borda"船進口鑲軟木瓶蓋四十箱對江海關估價辦法提出抗議

查此項鑲軟木瓶蓋爲祇可預先定購之貨物其價格無論爲訂立合同時所協定者抑係到貨以後可能協定者與『進口稅則暫行章程』及『蘧發市價解釋』規定之蘧發市價意義究竟是否相符實爲本案之關鍵抗議人對於合同價格認爲可以作爲蘧發市價所具理由如下

『進口報單所填價格係根據售貨人所開之真實起岸價格此項發票所開每羅一先令之價格係一九二九年十月 Wall is Crown Cork 有限公司與本公司簽訂本批貨品合同時願售於上海市場任何受主之價格故本公司認爲該項價格應卽作爲真實之躉發市價蓋任何商人均得按上述價格購買也

『茲爲補充抗議理由附呈上海東亞有限公司 East Asiatic Co., Ltd 一九三〇年四月十五日一百〇三箱軟木瓶蓋之發票一紙其起岸價格每羅爲十一便士 C.I.F.C. 此種價格亦爲當本公司購買此批貨品時該公司願將此項軟木瓶蓋售與上海任何進口商人之價格該項發票上之價格東亞公司之傭金業已包括在內應請注意

『依據上述各點躉發市價解釋第三項「凡貨物在國內市場無躉發市價可考者在普通情形之下應以眞正起岸價格外加百分之五作爲完稅價格」之規定本公司聲明認爲對於本批

貨品殊不適用因上海市場上確有蔓發市價可考也』

『茲再附呈東亞公司一九三〇年八月九日致本公司函一件內開與前次品質相同之軟木瓶蓋上海起岸價格 C.I.F.C. 每羅爲十便士八分之七該項價目爲目下可以購買之貨價較之上述第一項第二項所開價目更可以代表現時真實之市價且由此可知廠家價格較之上年年底之價格時業已低落但本公司並未以現行價格作爲真正市價』據江海關稱本案之軟木瓶蓋其上印有公司之名稱及商標祇能供泌樂公司之用因之無蔓發市價可言

江海關鑒於該項軟木瓶蓋之無蔓發市價例按蔓發市價解釋第三項之規定以 C.I.F. 價格外加百分之五作爲完稅價格查進口稅則暫行章程第一條之規定『凡應從價納稅之進口貨其完稅價格應以輸入口岸之蔓發市價作爲計算根據此項蔓發市價無論何種貨幣均應按照特定公佈之兌換率折合海

關金單位惟此項市價應視爲超過完稅價格其超過數目爲（甲）該貨稅率之數（乙）該貨完稅價格百分之七』

復查『蘷發市價解釋』第一項載『凡貨物於報運進口時在輸入口岸之公開市場以普通蘷發數量照普通貿易情形自由銷售或可以銷售之平均市價認爲蘷發市價』就進口稅則暫行章程第一條暨蘷發市價第一項合併觀察凡貨物認爲有能爲完稅價格根據之蘷發市價者必須在公開市場自由銷售或可以銷售者

本案所稱鑲軟木瓶蓋係特定製品印有泌樂公司之名稱及商標在市場上不能售諸其他公司據抗議人代表在本案審理時稱本批瓶蓋在市上無從銷售因無人欲購用之也

凡貨物均可由外洋定購但到達之時在市場上不必皆有蘷發市價假或有人從外洋定印個人或公司名義之名片其到達中國時此項名片當然不能爲在市場銷售之品

依據上述理由本案軟木瓶蓋本會認爲並無蔓發市價其完稅價格應按起岸價格外加百分之五計算江海關估價辦法應予維持至所稱C.I.F.起岸價格其『價』"C"指發票所載本批貨品之貨價而非指呈報進口商願售之價格

中華民國十九年十一月十七日

議決書第二十七號

事　由　關於報運進口留聲機唱片十六箱之估價辦法提出抗議由

抗議人　高亭公司

議決主文　本案留聲機片之完稅價格應更爲二三〇八・四六金單位

事實及理由　本年九月十日高亭公司報運高亭留聲機唱片進口其報單所填價格爲二二八三・三七金單位江海關核定該貨之完稅價格爲二六一二・九一金單位該公司提出抗議聲稱該項報關價格係根據所訂售貨合同之棧房交貨價格計算而得江海關應予認可其理由（一）因該項貨品有特殊性質祇能由進口商以棧房交貨價格直接售與零賣商店（二）因該項完稅價格在訂立合同之前抗議人曾與驗估處討論其言外之意係爲該處職員曾以所稱唱片之完稅價格每張爲〇・八一九金單位見告現時估價較高以致受有損失其損失數目爲關估價格及報

關價格差數之應完稅款之數

本會進行審理時抗議人幷經主張蔥發市價係指貨物銷售時之平均價格今海關計算本案唱片之完稅價格於平均一層未曾顧及等語

本案關鍵在於下列兩問題之解釋（一）抗議人所稱關員於事前曾告以完稅價格究竟是否屬實（二）江海關估定本案之價格是否爲正確之完稅價格

查本案抗議主要之一點爲抗議人於訂定合同以前曾與海關職員討論唱片價格問題係屬事實但關於所稱完稅價格係由關員見告一節抗議人僅能提出該項合同係在討論以後方始訂定此外別無證據其意似謂此項價格若非爲海關職員所見告者則抗議人不致按照該項價格訂立合同也按上述證據姑就抗議人最有利地位着想亦祇能謂討論之後在抗議人一方面認爲海關職員所告之價格爲將來貨到後可以依照徵稅之

完稅價格而不足以證明彼所認爲海關職員所見告者卽確爲海關職員所見告者也且完稅價格係根據進口時之躉發市價計算已成定例各項貨品進口時之完稅價格究爲若干任何海關職員無從預知又一九二九年七月十八日公佈之進口稅則暫行章程已將舊時海關應以合同價格爲市價之辦法予以變更現時此項規定至爲明顯任何關員似更不致對商人任意預告貨物未來之完稅價格故本會就證據而言認爲此係抗議人方面之誤解而海關不應負任何責任

查抗議人提出之合同載有下列條文『凡本合同所載買方向高亭公司所購之貨須擔承於出售時根據賣方規定之零售價格』又據本會調查此項留聲機唱片之出售價目均係由進口商規定又有若干大進口商售與零售商之價目係於零售價目內除去折扣若干此種留聲機片本爲競爭極烈之貨品故頗可根據零售價目而求得其完稅價格也

今將高亭零售價目除去此種留聲機片普通平均之折扣爲計算根據本會認爲江海關所估之價格略嫌過高其正確之完稅價格應爲金單位二三〇八・四六該商之報運單應予更正

中華民國二十年一月二十二日

議決書第二十八號

事由　關於報運自行車鈴進口對於津海關按十八年公佈進口稅則第六百六十一號徵稅提出抗議由

抗議人　天津　義德洋行

議決主文　本案所稱車鈴應歸入十八年公佈進口稅則第六八六號未經另行特載之金屬器具值百一二・五徵稅

事實及理由　抗議人義德洋行在天津由 Kulmorland 船報運進口自行車鈴津海關按十八年公佈進口稅則第六六一號「鈴鑼」徵稅該商以此項貨品爲自行車之零件應按稅則第七一五號徵稅提出抗議

本會查閱津海關呈送之貨樣認係一種機件所謂鈴者僅爲其中之一部歸入第六六一號徵稅或歸入七一五號徵稅均有未宜查該項貨品係屬完全金屬製品在十八年稅則並無明文規

定（新稅則中應歸入第二三一號）本會以爲應歸入第六八六號未經另行特載金屬器具値百一二・五徵稅

中華民國二十年二月二日

議決書第二十九號

事　由　關於進口染色素尺六絨分類問題由

抗議人　天津　日商三井洋行

議決主文　本案貨品應依海關分類辦法按照十八年稅則第三十四號徵稅

事實及理由　天津三井洋行由"Choan Maru"船自日本運染色素尺六絨進口津海關按稅則第三十四號每碼徵稅〇・〇七七金單位該商於一九三〇年十月二十七日聲稱不服提出抗議其所具理由以該項稅則所定從量稅率係以每碼值關平銀〇・四四兩爲根據本案貨品較次每碼價值爲關平銀〇・二七〇七兩今若按海關分類辦法其稅率將等於從價百分之二六・六四故請本會轉呈政府核減稅率或將本案貨品改按稅則第三十五號從價百分之十徵稅本會觀察此項抗議之意義其要點不在反

對津海關按十八年稅則第三十四號徵稅而在反對該稅則號列從量稅率之本身當一九三〇年十二月二十三日本會審理之時抗議人代表上海三井洋行 R. Okabe 君到場陳稱對於按照十八年稅則分類辦法認爲正當但謂該項稅率對於品質較次之貨品實屬太高

抗議人聲請改按稅則第三十五號徵稅一節殊有未合因該號稅則祇包括「印花織花拷花尺六絨尺九絨及燈芯絨厚燈芯絨回絨摹絲錦布芝蔴絨」也

就呈案文件樣品觀察本案貨品係屬染色素尺六絨每疋之寬爲二十二英寸長爲三十碼至三十三碼經稅則第三十四號「染色素尺六絨尺九絨寬不過二十六英寸」明白規定故此項抗議本會認爲不能成立

中華民國二十年二月十九日

議決書第三十號

事　由　關於"Tsukuba Maru"船報運進口試驗用玻璃器分類問題由

抗議人　上海　科發藥房

議決主文　本案貨品應准按照稅則第二二五號納值百抽七·五之從價稅

事實及理由　科發藥房（以下簡稱抗議人）由"Tsukuba Maru"船報運試驗用玻璃器進口海關按稅則第五八四號（乙）項「他種玻璃器」徵收百分之十五從價稅該商提出抗議據稱本案貨品係供教育及實驗之用應歸入稅則第二二五號方爲適當抗議人之代表爲充實抗議理由起見在本案審理時曾將該公司貨品目錄一份呈案查該目錄所載貨品僅限於醫藥化學工業試驗用品及科學器具此項物品大都係玻璃所製

查本案貨品雖確係玻璃器但玻璃製成之儀器及器具在稅率

方面似不應特高於其他原料製成之儀器及器具故本案貨品既確係科學儀器及器具本會以爲應准歸入稅則第二二五號從價百分之七・五徵稅

中華民國二十年三月二十六日

議決書第三十一號

事由　關於金屬（鋼）窗框分類問題由

抗議人　葛烈道鋼窗公司（中國支店）

議決主文　無配件之金屬（鋼）窗框應歸入稅則第一八六號

事實及理由　本抗議案係關於進口之鋼窗框江海關歸入稅則第二四七號「未列名金屬製品」抗議人則以爲本案貨品應在稅則第一八六號「鋼鐵板片三角水流釘字工字樑及其他建築用構造用之各色鋼鐵體段其已經鑽洞打洞合成裝成或不僅鍛打輥壓翻製者」規定之範圍以內

江海關以稅則第一八六號祇適用於建築材料本會查金屬（軟性鋼）窗框既爲丁字條等之合成品則應可歸入稅則第一八六號之內至此項窗框之螺旋鉸鏈等雖非鐵鋼所製然確爲配合成件時之必須零件與本品之稅則分類應可不生影響惟

其他附件如把手鈎閂等在配合成件之時並非必要之品卽應視作金屬製品歸入稅則第二四七號徵稅

中華民國二十年三月二十六日

議決書第三十二號

事由　關於進口之長毛絨及漿紗絨分類問題由

抗議人　盛亨洋行

議決主文　本案貨品應按稅則第九十七號徵稅

事實及理由　本年一月二十六日盛亨洋行對於江海關將長毛絨及漿紗絨按稅則第九十七號（呢絨）徵稅辦法提出抗議謂此項分類辦法與稅則原意相背因紡織機及其零件係歸入稅則第二二四號完從價七・五之稅本案貨品用於紡織機者理宜同等徵稅本年二月一日本案審理之際抗議人稱該商專營紡織機器並不經營正頭買賣至本案之絨雖可充作他項用度但本項進口之品既係專供紡織機之用者應視作機器零件歸入稅則第二二四號

本會查成正之長毛絨及漿紗絨除製作紡織機附件外兼可充

他項用途本案貨品按照該件進口時之形式不能視爲機器零件而祇可視爲製作該項零件附件之原料本案貨品應歸入稅則第九十七號徵稅該商抗議不能成立

中華民國二十年三月二十六日

議決書第三十三號

事　由　關於搪瓷連水壺之煤油烹飪爐分類問題由

抗議人　上海　禮和洋行

議決主文　本案貨品應歸入稅則第二三五號

事實及理由　本年一月二十日禮和洋行（以下簡稱抗議人）以報運進口之搪瓷連水壺煤油烹飪爐江海關按稅則第二三五號「燃煤燃油燃酒精之火爐烹飪器及其他類似之器具及其配件」徵稅提出抗議抗議人主張本案貨品應歸入稅則第五七八號「未列名搪瓷鐵器」內其理如下（一）本案貨品除爐前小門及生火具外完全爲搪瓷鐵所製成（二）本案貨品分類問題在從前進口稅則曾經國定稅則委員會核定按照第五六八號「未列名搪瓷鐵器」徵稅（三）本案貨品有大宗進口採用者以平民居多今與銅製或其他價值較高原料製之燃煤燃油燃酒精之

火爐同列一類當非政府原意

查抗議人援引舊稅則烹飪器分類問題一節殊與本案無關蓋舊稅則對於該項貨品並無明文規定該貨既係搪瓷鐵所製當時自宜歸入未列名搪瓷器至現行進口稅則則對於上述貨品業在第二三五號明白規定本會因之審定搪瓷煤油烹飪器不論有無搪瓷水壺應歸入稅則第二三五號按從價百分之二十徵稅但本議決案於搪瓷水壺單獨進口時之分類不生影響

中華民國二十年三月三十一日

議決書第三十四號

事　　由　關於增加食物或泉水香味之香蕉檸檬等菓汁分類問題由

提　議　者　江海關申請轉行核定

議決主文　本案各種菓汁按稅則第五零六號徵稅

事實及理由　查各種菓汁係稀薄之精油應歸入稅則第五零六號

中華民國二十年四月二十三日

議決書第三十五號

事　　由　關於電鐘分類問題由

抗 議 人　萬泰洋行

議決主文　本案貨品應准按稅則第二三四號徵稅

事實及理由　本年二月十日萬泰洋行以報運進口之電鐘江海關按稅則第二三七號「電力器具」徵稅提出抗議其理由如下

（一）本案所稱之鐘與普通鐘相同僅其推動力不用彈簧或重錘而代之以電池耳

（二）稅則第二三四號對於鐘之規定並未附帶任何條件自無機械（彈簧與重錘）水力（水力推動）或化學電力（乾電池）之區別本會以爲稅則第二三四號之規定各種鐘均包括在內該商抗議認爲成立

中華民國二十年四月二十七日

議決書第三十六號

事　由　關於毛氈分類問題由

抗議人　上海　美和洋行

議決主文　本案貨品應准按稅則第五三八號（丁）項徵稅

事實及理由　本年二月二日美和洋行以報運進口之毛氈江海關按稅則第九八號「氈呢，氈套」徵稅提出抗議抗議人主張本案所稱之毛氈祇充作房屋或冷藏鹽管及亞莫尼亞管隔絕內外之用應歸入稅則第六一一號「未列名建築用材料」範圍之內本會查本案之毛氈係毛髮製品不應歸入稅則第九八號因該號稅則屬於「毛及其製品類」中所稱「氈呢」當指羊毛所製者而言至謂應歸入稅則第六一一號亦有不合以其並非必爲建築材料其實稅則第五三八號（丁）項「毛髮製品」業將本案貨品規定在內矣

茲經議決本案毛氈應歸入稅則第五三八號（丁）項按從價百分之十五徵稅

中華民國二十年四月二十七日

議決書第三十七號

事　　由　關於琥珀肥皂分類問題由

抗 議 人　列豐洋行

議決主文　本案貨品應歸入稅則第五零六號

事實及理由　列豐洋行對於江海關驗估處將琥珀肥皂歸入稅則第四九九號（甲）項徵稅一節提出抗議查該項稅則包括大塊之家用及洗衣肥皂是以本案關鍵在於該項肥皂應否認爲家用及洗衣肥皂就抗議人所提證據可見該項肥皂係裝成大桶進口專售於船公司船塢以爲淨潤船隻及其機器之用者

本會查本案之肥皂既係充作上述各項用途不應歸入肥皂條文而應歸入稅則第五零六號「未列名油脂蠟」按從價百分之一二·五徵稅至進口之小包裝琥珀肥皂標明「家用」字樣者則應歸入稅則第四九九號（乙）項不在本議決案範圍之內

中華民國二十年四月三十日

議決書第三十八號

事　　由　關於「小海虎絨」分類問題由

抗 議 人　華記洋行

議決主文　本案貨品應歸入稅則第一一二號

事實及理由　華記洋行（以下簡稱抗議人）由 Comorin 船（稅單 B 60271 號）裝運之黑絲絨（小海虎絨）五箱呈報進口海關當按稅則第一一二號從價百分之四十五徵稅該商對於上述分類辦法提出抗議其理由以稅則第一一二號所稱之「絲絨」係指高貴之全絲質絲絨起岸價格 C.I.F. 每碼約十五先令本案貨品爲「小海虎絨」中文名稱截然不同該貨百分之二十四係絲質百分之七十六係棉質起岸價格亦祇兩先令三便士

查呈案貨樣係一種絲毛棉底之絲絨雖在專門名詞謂爲「小海虎絨」但在普通市場則亦以「絲絨」稱之抗議人以「絲絨

」一語祇指全絲之絲栽證諸進口稅則更可見其理由之薄弱查一九三零年三月十六日之稅則中有一條（第七十九號）其規定爲「蠶絲夾雜質織絲栽」卽爲蠶絲與其他纖維製成之「絲栽」也

本會意見以本案貨品應在稅則第一一二號規定範圍以內該商抗議不能成立

中華民國二十年五月十八日

議決書第三十九號

事　由　關於光學貨品如眼鏡架及其零件附件分類問題由

抗議人　上海　亞美洋行

議決主文　本案所稱光學貨品如眼鏡架及其零件附件應歸入稅則第六四七號按從價百分之一二・五徵稅

事實及理由　亞美洋行對於海關將眼鏡架及光學貨品之零件附件按製造原料之分類辦法提出抗議抗議人以該項分類辦法爲不合理不公允違背立法原意足以引起糾紛並使海關驗估人員得以故爲軒輊其驗貨手續亦必因此項辦法爲無謂之苛細並開商人作弊之門等語海關驗估處則以稅則對於眼鏡之零件附件未經規定祇能以製造貨品之原料作爲分類標準整個眼鏡之稅率在新稅則第五八五號規定按從價百分之二十徵稅製造之原料爲何所不問也整個眼鏡之分類如是則眼

鏡之零件附件之分類原則似不能獨異

本會意見以爲貫澈稅則之精神起見眼鏡架以及其他零件稅則上未列名者應歸入稅則第六四七號不依製造之原料分別徵稅眼鏡壳子照本案辦理

中華民國二十年五月十八日

議決書第四十號

事　由　關於蠶絲棉緞分類問題由

抗・議　人　上海　錦源洋行

議決主文　本案貨品按稅則第一一三號（甲）項徵稅

事實及理由　錦源洋行（以下簡稱抗議人）於一九三一年三月六日對於江海關將由"Mikasa Maru"船自日本進口之染色素蠶絲棉緞按稅則第一一三號（甲）項徵稅辦法提出抗議所具理由如左

（一）本案貨品按稅則第一一三號（甲）項每斤徵稅一・六〇金單位等於貨價百分之五十至七十其稅率較全絲正頭貨之納從價稅百分之四十五者爲高殊不合理

（二）在新稅則未實行以前該貨之品質較高所含絲質亦較多近因市場變動之關係此項進口貨之品質幾與全棉正頭無異

抗議人爲充實其理由起見呈送蠶絲棉緞貨樣四種並將各貨含絲成份開列如左

"R"牌　含絲百分之一・五

"K"牌　含絲百分之五

"Gin"牌　含絲百分之八

"Men Lyon"牌　含絲百分之二二三

抗議人復稱本類品質之貨應歸入稅則第一一四號(巳)項按從價百分之三十五徵稅否則請將稅則第一一三號更改爲從價百分之三十五徵稅所稱"R"牌貨應按「市布」歸入稅則第十八號(乙)項每疋徵稅二・一〇金單位

查本案首應注意者爲抗議人呈案之"R"牌蠶絲棉緞據稱祇含絲質百分之一・五迨經分析以後查見所含絲質爲百分之四・四一且非市布織是稅則第十八號(乙)項及第一類附註之規定礙難適用其次則發貨單雖開明爲"K"牌及"Gin"牌「

棉絲疋頭貨品」但在抗議人購貨合同內固稱爲「棉底緞」"Cotton Back Satin" 也

抗議人並未提出真實理由足以證明本案貨品不應稱之爲蠶絲棉緞而據抗議人意見以稅則第一一三號之稅率應改爲從價百分之三十五顯見抗議人之抗議其着眼點不在分類問題之如何而重在稅率之改訂查改訂稅率不屬本會職權以內本會意見以改訂稅率一節亦非必要蓋從量稅率如稅則第一一三號之規定包括各種不同品質之貨品價高者在內價低者亦在內也

就呈案文件及貨樣觀察本案貨品之品質爲染色素蠶絲棉緞確在稅則第一一三號（甲）項規定範圍之內

中華民國二十年五月十八日

議決書第四十一號

事由　關於轆軸皮分類問題由

抗議人　愼昌洋行

議決主文　本案貨品應按稅則第二二四號機器配件徵稅

事實及理由　抗議人愼昌洋行對於江海關驗估處將紡織機器用之轆軸皮按稅則第五三零號熟皮徵稅一節提出抗議其理由以此項轆軸皮之硝製與普通熟皮不同係特別製造以供紡織機器之用並不售充他項用途該皮固難完全認爲配件但有宜注意者卽該項貨品因氣候反應之關係不能於運出時割製配合於特種之轆軸也

就呈案貨單考察知該項貨品因有吸收濕氣之趨向因用錫裏箱包裝運送而普通熟皮則無需乎此並由貨單觀察知轆軸皮普通認爲紡織機器附件

海關驗估處所執理由則係援照從前機器絨成案辦理以該項貨品不能指定爲任何機器之零件雖其歸宿都作機器零件但難保其不移充他項用途

本會據呈案文件暨私人調查認爲本案與機器絨一案非屬完全相同機器絨案可由製造人於運進時割製成爲機器之零件至本案之轆軸皮則以性質之關係在運輸之前不能割製且查機器絨種類繁多有難與普通製毯絨區別者至轆軸皮則與其他各種熟皮甚易區別轆軸皮吸收濕氣於紡織機器外實不合其他用途既如前文所述其價值高昂亦足以防止其流作他用也

綜上所述本會以該項轆軸皮自可認爲紡織機器之附件零件按稅則第二二四號徵稅該商抗議認爲成立

中華民國二十年五月二十二日

議決書第四十二號

事　由　關於瀝青溶液分類問題由

抗議人　美孚洋行

議決主文　本案所稱瀝青溶液應歸入稅則第五七二號

事實及理由　美孚洋行報運瀝青溶液進口江海關歸入稅則第六四七號徵稅該商提出抗議其理由以本案貨品包括在稅則第五七二號瀝青範圍以內緣本案貨品僅爲一種稀薄瀝青與普通瀝青同一用途卽爲建築馬路之用者也其惟一區別之點在於應用方法之不同蓋液體冷用固體則熱用也江海關以稅則第五七二號之瀝青限於普通之固體或半固體本案貨品形式如肥皂溶液自不應列入瀝青範圍以內

本案貨品經海關化驗後確定其間瀝青與水之成份約略相等並有小量之「接觸劑」Catalytic agent 成肥皂溶液狀本會意見

以稅則第五七二號瀝青之規定並無任何限制本案貨品既爲瀝青似應包括在該項規定之內不應因爲溶液而受不平之待遇也

江海關屏除溶液於稅則第五七二號瀝青之外或以爲瀝青尙有與他種原料如毛髮石棉等混合製成之防護或防雨用品本會以爲該項製品及本案造路使用之瀝青其間似應加以分別後者之加入「接觸劑」純爲使瀝青保持其溶液狀態並不改變於瀝青之成份品質照常效用仍舊至瀝青而與其他外物如毛髮石棉等相混合則其品質向爲瀝青所無此類貨品顯然不能認爲瀝青而依照徵稅也本會以爲本案之瀝青溶液應歸入稅則第五七二號該商抗議認爲成立

中華民國二十年六月十六日

議決書第四十三號

事由　關於 Leverkusen 船自漢堡裝運進口唱機鋼針五箱之分類問題

抗議人　永亨洋行　上海博物院路二十號

議決主文　唱機鋼針應歸入稅則第六三〇號按從價百分之二五徵稅

事實及理由　永亨洋行（以下簡稱抗議人）由 Leverkusen 船自漢堡裝運唱機鋼針五箱進口該項貨品江海關按稅則第六三〇號從價百分之二五徵稅抗議人主張本案貨品應歸入稅則第二四二號・（丙）項「針其他」按從價百分之一〇徵稅抗議書稱舊稅則第六一八號對於針之規定爲「針（手工縫針在內）」按從價百分之七・五徵稅而新稅則之規定則殊不相同新稅則第二四二號「針」之下分列三子目如左

（甲）手工縫針　值百抽五

(乙)縫紉機用或針織機用　值百抽七・五

(丙)其　他　值百抽一〇

由是觀之新稅則第二四二號(丙)項「針其他」之規定係爲包括唱機鋼針等類貨品

江海關之主張則謂新稅則第二四二號(丙)項係爲包括(甲)(乙)兩項規定以外之編織用針手織用針等類貨品至其他所稱之針爲物品之零件而稅則別有規定者當然不能引伸包括在內

就普通原則而論凡用一種名詞(如「針」)不加限制用語則爲分類問題着想其解釋以普通公認之意義爲準查歷屆稅則對於「針」之規定其解釋常指縫紉針織手織用之針類而言因此係普通所認爲針之用途也至其他所稱之「針」如唱機鋼針 hy-perdermic 注射藥品用之針實爲唱機及醫藥器械之零件而非普通公認之針也

所宜注意者卽從前稅則如一九〇二年稅則一九一九年稅則對於針分列子目如第七號 No. 7 第三號 No. 3 及混合針貨七號在外等項規定顯見針之規定係專指各種縫紉用針針織用針等而言如現行進口稅則編訂之原意擬捨棄此項多年習慣似當於類目之下附列說明現行稅則既無此項說明本會祇可認爲稅則第二四二號並不包括唱機鋼針在內是該項貨品歸入稅則第六三〇號按從價百分之二五徵稅係屬正當辦法江海關原案應予維持

中華民國二十年六月二十七日

議決書第四十四號

事　由　關於白色起紋形洋表古紙分類問題由

抗議人　維昌洋行

議決主文　白色起紋形洋表古紙應歸入稅則第五二二號

事實及理由　本案抗議人維昌洋行於三月間報運白色起紋形洋表古紙進口該項貨品江海關歸入稅則第五二二號未列名起紋形紙抗議人稱稅則第五二二號專指裝飾用紙本案之紙爲一種普通之包皮用紙不能歸入該項規定之內聲請改按稅則第五一八號包皮紙或稅則第五二三號未列名紙徵稅

查本案紙張係漂白亞硫酸紙質製成如爲有色者當然歸入稅則第五一八號但該項規定業將白色及漂白之紙張予以除外自難依照辦理至稅則第五二三號亦復不能適用因未列名起紋形紙在稅則第五二二號明白規定並無何項條件也

稅則之規定既如上述本案紙張祇可按稅則第五二二號徵稅

江海關原案應予維持

中華民國二十年六月二十七日

議決書第四十五號

事　　由　關於帽緶(卽製帽用緶)分類問題由

抗 議 人　瑞康洋行　上海

議決主文　本案貨品按稅則第六四七號徵稅

事實及理由　一九三一年三月四日瑞康洋行(以下簡稱抗議人)對於江海關驗估處將纖維素及纖維素與棉製成之帽緶按稅則第一一六號絲貨徵稅提出抗議

抗議人聲請按稅則第五六四號(丁)項徵稅其理由如左

(一)此項帽緶係用人造 Crin 與 Visca 製成其硬如草與柔軟之人造絲有別

(二)此項帽緶之基本原料(纖維素)雖與人造絲之原料相同然不能因此卽歸入人造絲

(三)人造絲用於織品 Crin 與 Visca 祇用以製帽不能用於織品

纖維素雖爲本案貨品之基本原料但從本案之貨樣觀察其製品殊非人造絲之形式是此項帽緶不能歸入稅則第一一六號但亦不能歸入稅則第五六四號（丁）項緣該項貨品不能認與麥桿等同屬一類也

本會意見以 Crin 與 Visca 製成之帽緶應歸入稅則第六四七號

中華民國二十年六月二十七日

議決書第四十六號

事由　關於絨線分類問題由

抗議人　上海市中國呢絨工廠業同業公會

議決主文　復製羊毛製成之絨線應按稅則第八十七號（乙）項徵稅

事實及理由　一九三一年四月六日上海市中國呢絨工廠業同業公會（以下簡稱抗議人）對於江海關將絨線按稅則第八十七號（甲）項每擔徵稅三五・〇〇金單位辦法提出抗議所具理由如左

（一）該項進口絨線係由廢羊毛攙雜其他纖維如廢棉花之類製成應歸入稅則第八十七號（乙）項按從價一二・五徵稅

（二）稅則第八十七號（甲）項祇包括純毛製成之高級絨線

（三）本案所稱絨線如歸入稅則第八十七號（甲）項稅率將及從價百分之二五負擔過重

當本案審理之際抗議人代表將本案貨樣以及針織純毛線呈

案據稱該兩種性質之絨線繳納同等之從量稅但前者係廢羊毛與復製羊毛或復製羊毛含有其他纖維百分之一至百分之十者所製成其價值較完全新羊毛製者低廉甚多且本案絨線爲製正頭貨品之原料稅率理宜減低以維護此中國幼穉之毛織正頭業

據海關化驗員化驗該項絨線報告稱該項貨品概爲復製之羊毛並有其他外物如棉花人造絲等之痕跡

該項絨線所含之夾雜纖維雖爲量極屬細微固可認爲製造未純之故但本會意見以復製羊毛絨線似應歸入稅則第八十七號(乙)項「毛絨線，其他」按從價一二·五徵稅該項絨線爲單股與針織及手織絨線之在單股以上者至易區別也

其他毛絨線如非混合製品應歸入稅則第八十七號(甲)項

中華民國二十年七月六日

議決書第四十七號

事　由　關於「日本蜜柑」Mandarin Orange 分類問題由

抗議人　日本果實野菜商　青島

議決主文　本案貨品應歸入稅則第三四五號

事實及理由　本案抗議人青島日本果實野菜商對於「日本蜜柑」Japanese Mandarin Oranges or "Mikan" 歸入稅則第三四五號辦法提出抗議原抗議書請將該項貨品歸入稅則第三二六號所據理由以該項貨品如按稅則第三四五號橘子徵稅稅額將及貨價百分之七十與美國橘子所納之稅率比較似欠公允

在本案審理之時抗議人對於價值問題雖亦頗注意但側重於辯論「日本蜜柑」是否卽係稅則中「橘子」所指之貨品當時該抗議人之代表始終稱本案貨品爲 Mandarin 或 Mikan 揣其意旨似以輸入本市場之美國橘子係應歸入稅則「橘子」之惟一貨品

本案先決問題厥爲「日本蜜柑」是否橘子之一點查名家著述之涉及本問題者如威爾孫 Mr. E. H. Wilson. Y. M. H. 於其所著"A Naturalist in Western China" 一書中之記述如左

「中國爲若干果品之原產地現已廣播於全球者如橘子檸檬柚子桃子及日本李子是也

四川西部產鬆皮橘 (Citrus Nobilis) 頗多所可惜者卽該品不能保藏妥善但其外皮於剝落之後曬之使乾卽藥中所稱之 Chien-yun-pi 也」

又 "The Encyclopaedia Sinica" 內開

「橘、中國大概爲甜橘蜜柑 Tangerines 與金橘之原產地據稱可供食品之橘子有八種以上產於中國東南沿海各地及各島嶼蜜柑 C. Nobilis 大而皮鬆呈深橘紅色其形平扁中有無子者一種味至甘美其他良種四川有之」

茲須注意者稅則第三四五號規定之橘子二字係普通之名稱

括各種橘子在內就事實論市場上稱述該項名詞若不加其他形容詞時卽係指一種與「日本蜜柑」極爲相似之橘子而言也

日本產品較美國產品之價值低廉頗多而同納每担二・六〇金單位之從量稅負担實重稅額亦高然本會不能因此卽可主張日本產品不按橘子徵稅蓋旣係橘子不能以之歸入其他稅則也稅則第三四五號係明白規定橘子本會意見以該項規定包括各種橘子在內

膠海關將「日本蜜柑」歸入稅則第三四五號之辦法應予維持

中華民國二十年七月十四日

議決書第四十八號

事由　關於藥皂分類問題由

抗議人　禮和洋行

議決主文　本案貨品應歸入稅則第五〇〇號

事實及理由　本案抗議人禮和洋行對於江海關以含有 "Pittylen" 之藥皂歸入「香肥皂、化粧香肥皂」之辦法提出抗議據稱該項肥皂含有藥料應請歸入稅則第四四四號「未列名藥品之內」查該項製品雖含有小量之 "Pittylen" 但仍爲一種肥皂現行稅則關於肥皂之規定在第四九九及第五〇〇兩號其第四四九號（甲乙兩項）係指家用及洗衣肥皂而言本案貨品顯然不屬該項規定之內本會以本案之藥皂應按稅則第五〇〇號「香肥皂、化粧香肥皂」徵稅

中華民國二十年七月二十日

議決書第四十九號

事由　關於報運進口之鍋爐及暖器分類問題由

抗議人　上海　愼昌洋行

議決主文　本案之鍋爐及暖器應歸入稅則第二三五號

事實及理由　本年四月二十五日愼昌洋行（以下簡稱抗議人）對於江海關將報運進口之鍋爐及暖器按照稅則例行議案第二六〇號 No. 19/260 核定「燒煤鍋或燒油鍋及專爲用熱水或熱汽取暖之暖器應按照稅則第二三五號從價值百抽二十徵稅」之辦法歸入稅則第二三五號徵稅一節提出抗議

本案所稱鍋爐卽壓力低微而其尺寸大至可供工業用者如 Britannica 與 Ideal 等類抗議人主張歸入稅則第二二一號「蒸汽鍋爐、省熱器、乾汽機、機械燃煤機及其他鍋爐間用之他種機械」按值百七、五徵稅其理由如左

（一）歸入前項規定之鋼製高壓力鍋爐祇須裝置一汽門其作用能使之與鑄鐵製之低壓力鍋爐相同則後項鍋爐按照稅則例行議案歸入稅則第二三五號之辦法與前者比較有失公允

（二）鑄鐵製之低壓力鍋爐雖有作爲取暖之用者但用於工業上之染色漂白工廠者爲數亦復不少兩者進口之時殊難預定其作爲何用

（三）低壓力之鍋爐確爲發生汽力者應歸入「蒸汽鍋爐」本會以本案主要之點在於「蒸汽鍋爐」之解釋及其對於稅則第二二一號適用之範圍查英文百科字典內開「蒸汽鍋爐」之定義如左

「蒸汽鍋爐爲一種使水化爲蒸汽之器具利用此種蒸汽使煤或其他燃料之潛力藉蒸汽引擎變作機械力」換言之蒸汽鍋爐爲一種器械蒸汽由之發生成爲最後之機械力依據上述之定義本會意見以"Arco"鍋爐爲低壓力之鑄鐵鍋爐不能視作前

述稅則第二二一號規定之蒸汽鍋爐因其爲蒸汽暖器也此點即抗議人代表亦承認之准上所述故 Britannica 與 Ideal 等類鍋爐除非其構造可以牽動蒸汽引擎透平等而產生機械力以供工業之用外殊不在稅則第二二一號所稱之蒸汽鍋爐範圍之內

緣上所述本會核定該項鍋爐不能入歸稅則第二二一號而仍應歸入稅則第二三五號江海關原定辦法應予維持至所稱暖器原爲取暖之器具應歸入稅則第二三五號

中華民國二十年八月七日

議決書第五十號

事由　關於鹹性染毛料 Fur Bases 分類問題由

抗議人　卜內門洋鹹有限公司

議決主文　本案貨品歸入稅則第四四五號「未列名安尼林染料及其他煤膏染料」按從價百分之二五徵稅

事實及理由　本年四月十六號卜內門公司（以下簡稱抗議人）對於江海關將鹹性染毛料歸入稅則第四四五號按安尼林染料徵稅之辦法提出抗議抗議人主張本案貨品應歸入稅則第四四三號「未列名化學產品」按一二・五徵稅該商開列各種未列名之鹹性染毛料如左

鹹性染毛料一　Para-phenylene Diamine

鹹性染毛料二　Para-amido-ortho-cresol

鹹性染毛料三　Para-amido-phenol

鹹性染毛料六　Ortho-amido-phenol

鹹性染毛料八　Dimethyl para-phenylene diamine sulphate

鹹性染毛料九　Diamine anisole Sulphate

鹹性染毛料十　Diamine phenetoi sulphate

鹹性染毛料十一　Para-amido-diphenylamine

鹹性染毛料MC
鹹性染毛料MA　} 該項貨品之組織不詳惟可將貨樣呈案備核

觀上所述可見抗議人以「鹹性染毛料一」爲Para-phenylene Diamine在本案審理時所有論辯復以該項產品爲集中點據原抗議書稱本案主要爭點亦爲Para-phenylene Diamine及其他組織相類之「簡質」Intermediates之分類問題該商並稱各種鹹性染毛料之組織均相類似本案既側重「鹹性染毛料一」故本會之決定當以該項產品爲衡

查原抗議書以「鹹性染毛料一」爲Para-phenylene diamine而當審理

之時該商聲稱該項產品所含 Para-phenylene-diamine 祇爲百分之九二・四五餘爲他種組織至其他確實之性質須詢問英國廠家始能確定等語按"Colour Index"（一九二四年版）爲染料顏料協會之正式出版品據其記載「鹹性染毛料一」與純粹 Para-phenylene-diamine 在商業上實有分別「鹹性染毛料一」與其他鹹性染毛料同列第八七五號視爲安尼林染料至純粹之 Para-phenylene-diamine 則列入第三三五頁視爲一種「簡質」所宜注意者卽純粹之 Para-phenylene-diamine 於某種情形之下亦視爲染料而與各種鹹性染毛料成爲一組歸入第八七五號也

德國染業自有一種 Index 名爲 Farbstoff Tabellen（凡兩卷）其中與「鹹性染毛料一」相等者視爲染料列入第九二三號（第一卷）屬於總標題 Anilinschwarzgruppen 之下

查該項刊物第二卷第二四四頁則以 Para-phenylene-diamine 爲間質用以製造 Azofarbstoffen (Azodyes) Azinfarbstoffen (Azin-dyes) 與 Schwefelfarbs to-

ffen(Sulphur-dyes)該項德國參攷書籍對於純粹之 Para-phenylene-diamine
亦視爲染毛料(zum farben Von Pelzen)
爲行政上之便利以及染料顏色之分類劃一起見海關顯須擇
一標準以資遵守而適於海關參攷者莫若 "Colour Index," 該刊物
所舉之鹹性染毛料既均歸入染料至其他鹹性染毛料亦既認
爲組織相同本會得謂本案之各種鹹性染毛料可視爲安尼林
染料應歸入稅則第四四五號該商抗議認爲不能成立

中華民國二十年八月十三日

議決書第五十一號

事　　由　關於某種油品分類問題由

抗 議 人　上海　利達洋行

議決主文　本案貨品按稅則第四九六號徵稅

事實及理由　本年六月八日利達洋行（以下簡稱抗議人）對於江海關核定某種油品「煮過之胡蔴子油」"0000 Boiled Linseed Oil" 之徵稅辦法聲請抗議據稱該項貨品爲純淨之胡蔴子油應歸入稅則第四九六號

據江海關意見本案貨品原爲稅則規定之胡蔴子油惟經煮過以後不復成爲普通之胡蔴子油蓋煮之較久已變成「凡立水」其性質與胡蔴子截然不同應按稅則第四七九號「凡立水」徵稅又據海關化驗員所發證書稱該貨係石印凡立水爲胡蔴子油所製

本年七月十日於本案審理之時據抗議人代表稱本案貨品爲純粹之胡蔴子油雖曾用「吹氣法」但未加入其他物質稅則第四九六號祇規定胡蔴子油未加任何限制似應按照該項規定納稅等語

本會查閱關於本案之各種專門書籍該項貨品各家名稱不同如「澄油」「石印油」「石印凡立水」等而考其實際祇爲濃厚之胡蔴子油而已（卽用熱或吹氣法使其比重與黏性增加）故本會以本案貨品應歸入稅則第四九六號該項抗議認爲成立

中華民國二十年八月十三日

議決書第五十二號

事由　關於小枝雪茄煙分類問題由

抗議人　瑞成源商號

議決主文　本案所稱小枝雪茄煙應按稅則第三八六號（乙）項徵稅

事實及理由　本案抗議人汕頭瑞成源商號自香港報運小枝次等雪茄煙進口潮海關按稅則第三八六號（乙）項雪茄煙徵稅該商提出抗議以稅則第三八六號（乙）項規定之雪茄煙稅率爲每千枝二四金單位本案之小雪茄煙據稱每千枝之價值爲國幣七元負担實屬過重

依據稅則例行議案核定辦法海關對於「小雪茄煙」向係視爲紙煙歸入稅則第三八五號但「小雪茄煙」之解釋初未明白規定以致各關解釋互異辦法參差本抗議案顯因現時潮海關變更從前寬泛之解釋而改按江海關嚴格之規定該項規定以「

小雪茄煙」係指式樣尺寸與紙煙相同用菸葉包裹而非用紙捲之者本會以「小雪茄煙」按紙煙徵稅及按雪茄煙徵稅其間殊難尋一明確之界限且此種辦法亦復不合進口稅則之規定蓋稅則上所稱之雪茄煙不論其尺寸式樣如何也該商抗議不能成立本會以爲嗣後各種雪茄煙不論其式樣如何尺寸大小均應按稅則第三八六號徵稅

中華民國二十年八月二十日

議決書第五十三號

事　由　關於純毛嗶嘰估價問題由

抗議人　天津　德義洋行

議決主文　津海關所估該貨價格應予維持

事實及理由　本年三月六日抗議人天津德意洋行報運純毛嗶嘰十三箱進口所報價值爲三，七〇七・七二金單位係上年九月間所訂定之真正合同價值津海關則按照該貨陳報進口日所認爲最確當之天津市場上之躉發市價核定其完稅價格爲三，八四七，〇〇〇金單位

查該商陳報之價值與津海關所估之價值其間相差甚微稅項方面相去亦復無幾（卽四八金單位）如非爲原則之爭執則本案似可不至發生所謂原則者卽從價稅貨品之完稅價格究應按眞正之合同價值計算乎或應按陳報進口時之市場實價計

算乎就事實言津海關對於本案貨品按照陳報進口日之市價所估計之價值抗議人並未表示反對則該項價值本會應可認爲確實故現時問題僅爲完稅價格是否應以該項價值或以真正之合同價值作爲計算根據也

變動不居爲物價特性之一因有此項特性故「蔓發市價」一語經詳細解釋爲「凡貨物於報運進口時在輸入口岸之公開市場照普通貿易情形自由銷售或可以銷售之平均市價」貨物之合同價值固可影響將來交貨時之蔓發市價但兩者未必卽能符合無間蓋時期懸隔其間難免無他種原因影響市面也故合同價值與蔓發市價之關係進口稅則暫行章程第四條業經明白規定爲「發票與合同均可視爲貨價之憑證但非必可以視爲確定之憑證」

依照現行章程之規定本會以抗議人所稱之合同價值不能作爲計算本案貨品完稅價格之根據其向海關備案之合同祇能

證明該項合同係屬正確而海關礙難因此真正之合同價値卽可承認爲蔥發市價該商抗議不能成立

中華民國二十年九月二十四日

議決書第五十四號

事由　關於進口報稱燒酒Samshu之酒類分類問題由

抗議人　公發號　汕頭

議決主文　本貨案品應歸入稅則第三九三號(舊稅則)火酒Spirits of Wine項下按每英加侖〇・一八金單位徵稅

事實及理由　上年十二月四日汕頭商人公發號(以下簡稱抗議人)報運酒類進口聲稱爲燒酒Samshu經潮海關檢驗後歸入火酒項下Spirits of wine徵稅該商對於上述分類辦法提出口頭抗議當將貨樣交由江海關化驗查得該貨係屬火酒Spirits of Wine含有酒精百分之六二。七並將化驗結果通知該商去後直至本年三月二十八日始向潮海關提出正式抗議所具理由如左

(一)火酒Spirits of Wine或酒精alcohol其淨質爲百分之九四本案之酒類所含酒精祇及百分之五十至六十

(二)海關化驗報告稱本案酒類含有酒精百分之六二・七而其他組成之分子及其成數並未提及

(三)稅則第三五七號(舊稅則)適用於未列名之酒精飲料至得按該號徵稅之燒酒 Samshu 其所含酒精之最高成數究爲若干商人無由得知

本會經將江海關呈送之貨樣與火酒 Spirits of Wine 互相比較復向專家諮詢僉以本案貨品係屬火酒 Spirits of Wine 蓋 Spirits of Wine 與 Samshu 雖均含有酒精然前者係從蕃薯糖糖漿等蒸溜而得後者係從發酵穀物蒸溜而得兩者氣味不同至易區別本案貨品所含百分之六二・七之酒精雖較淨火酒 Rectified Spirits of Wine 爲低較之普通燒酒 Samshu 所含成分則爲高

查稅則第三九三號(舊稅則)之規定爲「火酒」並未註明爲何種力量之火酒本案貨品既經證實其爲火酒其所含酒精之成數雖屬較低自亦應歸入該項規定之內該商抗議不能成立

中華民國二十年九月三十日

議決書第五十五號

事　由　關於人造絲襪碎幅分類問題由

抗議人　聯商洋行　廣州

議決主文　本案貨品按現行稅則第六四七號未列名貨品從價一二・五徵稅

事實及理由　聯商洋行由"Cheong Shing"船報運人造絲襪碎幅進口粵海關依據稅則例行議案第二八一號核定辦法將該項人造絲襪碎幅視作「廢絲」按稅則第一〇五號從價百分之三十徵稅該商對於上述分類辦法於本年六月三十日提出抗議按「廢絲」二字從廣義解釋雖可將人造絲碎幅包括在內惟本會以爲稅則第一〇五號所稱之廢絲係指市場上普通所稱之廢絲而言蓋卽製絲時所得之廢料也故本案貨品應歸入稅則第六四七號稅則未列品貨品按從價一二・五徵稅至粵海關所根據之稅則

例行議案第二八一號並應查照修正

中華民國二十年九月三十日

議決書第五十六號

事　由　關於無軌電車實心橡皮車輪胎分類問題由

抗議人　上海製造電氣公司

議決主文　本案貨品應歸入稅則第六二一號（丙）項按從價百分之二十徵稅

事實及理由　抗議人上海製造電氣公司由"Lycaon"船裝運實心橡皮車輪胎（英國鄧祿普有限公司出品）五十於本年一月三十一日到達上海江海關按稅則第六二一號「橡皮樹膠及其製品」（丙）項「未列名製品（脚踏車汽車人力車等車輪胎在內）」從價百分之二十徵稅該商對於上述分類辦法提出抗議

抗議人主張本案貨品應歸入稅則第二三〇號（丙）項「鐵道或電車道用之未列名材料」按從價百分之五徵稅其所具理由如左

（甲）本公司爲一種公用事業本案之車輪胎係供無軌電車載客之用並非販賣性質

（乙）無軌電車在普通公認之解釋殊與汽車不同蓋自身並不發生動力也

（丙）本年二月一日現行稅則未施行以前與上述（甲）項尺寸式樣相同之實心橡皮車輪胎用於同一目的者係按舊稅則第六九六號（乙）項百分之十徵稅

本年四月十七日本案審理之際抗議人代表中某君一方面承認上述理由祇係道義之立場不能影響稅則分類一方面另舉理由以證本案貨品應歸入稅則第二三〇號（丙）項之主張據稱江海關驗估處將本案貨品歸入稅則第六二一號之辦法頗屬奢侈分類查該號規定有「脚踏車汽車人力車車輪胎在內」等語如再加「車輪胎在內」數字則本案可成簡單問題但編訂稅則者似於車輛種類應行包括在內者特別注意又查緊接稅

則第二三〇號之第二三一號其規定爲「未列名車輛及其配件（車輪胎除外）又第二二九號（乙）項爲「汽車其他各種汽車零件附件（車輪胎除外）」該項車輪胎在舊稅則歸入第六九六號海關向例承認該項貨品之爲鐵道或電車道需用品如當時編訂稅則者有改變成例之意似應於稅則第二三〇號（丙）項加入「車輪胎除外」字樣由此點觀之在編訂稅則者之心意中實含有一種區別

查抗議人所陳各節固有見地但本會殊不能同意所稱稅則第二二九號（乙）項及第二三一號均有「車輪胎除外字樣」而第二三〇號（丙）項則無上述字樣自係實情至在稅則第六二一號（丙）項例舉車輪胎有脚踏車汽車人力車而無軌電車則未經列入亦係實情但本會以爲「車輪胎除外」字樣之所以列入稅則第二二九號（乙）項及第二三一號者因該兩號之規定包括各種配件（第二二九號（乙）項爲附件）其除外各件自有列

舉之必要至稅則第二三〇號（丙）項爲「鐵道或電車道用之未列名材料」車輪胎已歸入稅則第六二一號（丙）項則「車輪胎除外」字樣在本號殊非必要又稅則第六二一號（丙）項之特別列舉「脚踏車汽車人力車」者以其均爲普通之進口貨也條文末尾有一「等」字可以明白表示編訂稅則之原意並非僅以脚踏車車輪胎汽車車輪胎或人力車車輪胎爲範圍其他車輪胎與之性質相同如無軌電車者亦當歸入該項規定之內也

本會以爲無軌電車之實心橡皮胎應歸入稅則第六二一號（丙）項按從價百分之二十徵稅本案貨品係該商自用之品及從前按照舊稅則徵收較低之稅率等節不能據爲變更稅則分類之理由

中華民國二十年九月三十日

議決書卷三

中華民國二十一年

主席委員　周　典

委員　李　榦

委員　聶普魯

委員　巴閏森

委員　多樂桑

秘書　李祖法

議決書第五十七號

事　由　關於牛奶糖粉估價問題由

抗議人　魯麟洋行　廣州

議決主文　本案貨品應以七一九・一九金單位爲完稅價格

事實及理由　本年五月十二日抗議人廣州魯麟洋行 Messrs. Reuter, Brocklemann and Co. Canton 對於粵海關所估牛奶糖粉十箱之完稅價格七一九・一九金單位提出抗議據粵海關陳報本案之經過情形如下

抗議人初以發票所載起岸價格英金四十六鎊外加百分之五折合五九四・〇三金單位爲完稅價格向海關陳報進口查該發票係由漢堡魯麟洋行 Messrs. Heyn Brocklemann and Co. 所出粵海關向視該行爲廣州魯麟洋行之本店該商所報價格既未呈驗廠家發票又無售貨合同可資證明且從前進口曾報較高之價

格因向市場調查得有大進口商家同種貨品之合同數紙據以估計該貨之完稅價格應爲七一九・一九金單位該商於接收上項核定辦法通知之時當卽提出口頭抗議嗣復請求將原報價格改按棧交售價 ex godown selling price 六十八磅十二先令卽六三二・二八金單位爲計算稅項根據粵海關檢查該行簿册未能獲得交易上可靠之證明該商雖於數日後復行呈驗顧客蓋章之貨單二紙爲預備訂定合同之張本者而粵海關因其未在陳報進口之時提出認爲證據不足抗議人於是提出正式抗議請以報案之六三二・二八金單位作爲完稅價格其反對粵海關所估價格之理由如下

一、抗議人之售價其中除去各項用費尙含有相當贏利當可作爲市價乃海關反以與抗議人處於競爭地位兩商家之售價作爲市價

二、該商競賣價格雖已較低於其他一二商家但在市場上於

品質相同之貨品尙有售價更廉者爲備證明起見並呈South Coast Commercial Agency與廣州Yan On Drug Co.於本年三月二十四日所訂合同之抄件計牛奶糖二箱重兩會cwt.每會之價爲四十九先令十便士二分之一廣州輪船交貨關稅不在內

三、如照粵海關核定之價值勢將不能與聲譽卓著之牌號競爭

查原抗議書指定上海魯麟洋行爲代表人但本案經過兩次審理所稱代表均未到場故本會祇就呈案文件從事核辦就原抗議書及粵海關呈報各點觀察該商原報價格並非真正之完稅價格已無疑義查該商陳報進口時提出之文件似祇漢堡總公司之發票一紙如廠家發票、合同、貨單、或其他文件足以證明當地躉發市價者均未之見又查進口稅則暫行章程規定商家於呈遞進口報關單時應並呈廠家發票如貨物於

未報關前業已出售者亦應檢同真正合同與報關單一併呈驗此次該商呈案之發票其正確與否姑不具論至以起岸價格外加百分之五礙難作爲完稅價格蓋該項計算辦法祇適用於市場上無棧交躉發市價之時而本案貨品則在市場上可得躉發市價也粵海關所估價格係根據廣州市場上一大進口商所購牌號品質包裝相同之牛奶糖之價格且本會經另調查在本案貨品報進粵海關之前江海關曾有同樣之貨品進口所用價格與粵海關所估計者極爲相近

本會認爲粵海關所估七一九・一九金單位之價格應予維持該商抗議不能成立

中華民國二十年十月七日

議決書第五十八號

事　由　關於醋柳酸 acetylosalicylic acid 完稅價格問題由

抗　議　人　魯麟洋行　廣州

議決主文　本案貨品應按海關所估價格徵稅

事實及理由　魯麟洋行報運醋柳酸兩批進口據報之完稅價格（一）三箱爲三一四・六六金單位（二）一箱爲一一三・九八金單位粵海關核定其完稅價格（一）爲五四〇・〇〇金單位（二）爲一五〇・〇〇金單位該商於本年四月十四日提出抗議抗議人爲證明陳報之完稅價格起見特檢具購進本案貨品之發票計三箱之價值爲美金一七一・三六元 C.I.F.C. 香港一箱之價值爲美金五三・二〇元 C.I.F. 香港總計爲美金二二四・五六元此外並檢呈四箱貨品之售貨合同其售貨日期爲十九年十一月每磅價值爲美金〇・六一 C.I.F. 廣州其中所含

關稅係照十一年進口稅則計算每一合同之上並註明匯兌率以訂定合同之日期爲準

本年六月二十八日本案審理之際抗議人代表稱十九年十一月間將本案貨品售於抗議人時該貨每磅之價值爲美金〇・五一元 C.I.F. 香港對於抗議人所報完稅價格之如何計算未能確實解釋惟對海關所估價格認爲合於新訂之公會價格由上述之證明及文件觀察似抗議人之抗議其着眼點不在海關之估價而在進口稅則暫行章程第一條查該暫行章程規定貨品之徵稅應以陳報進口日之躉發市價爲計算根據本案貨品係於貨到四箇月以前出售茲抗議人請求按照貨到以前四箇月之貨價徵稅其貨品雖按金價售出而抗議人乃請以金幣售價按照售貨日之匯兌率折成銀幣該項銀幣數目復按進口日之匯兌率折成金幣以核計應徵之稅項

上項請求與現行進口稅則暫行章稅第一條之規定實相違反

蓋貨物之完稅價格應以陳報進口日之躉發市價爲計算根據
也該商抗議不能成立
中華民國二十年十月九日

議決書第五十九號

事　　由　關於汽車輪胎及橡皮管估價問題由

抗 議 人　亨茂公司

議決主文　本案之汽車輪胎及橡皮管係該項牌號初次進口之貨其進口稅應以起岸價格外加百分之五計算

事實及理由　本案係報關行亨茂公司代美國孟高華公司上海代理人張君於本年七月二十五日由「坡克總統號」船報運進口之汽車輪胎及橡皮管

抗議人陳報完稅價格一，五九五．〇〇金單位爲證實此項價格起見並據聲稱該項數目外加稅項及裝卸費用卽爲製造商代理人張君在上海公開市場所願接受之售價並將孟高華之發票電信呈案以示張君得准按上述之價格出售

估驗處增加本案汽車輪胎及橡皮管之完稅價格爲二，〇〇

一・〇〇金單位此係根據第二級胎管平均價格計算蓋認第二級之品質與本案貨品大略相同並據估驗處稱本案貨品爲初次進口之貨在進口以前市場上並無此類胎管因之本埠亦無售價可攷

查以性質相似之車胎歸爲一類從徵稅上着想自屬便利可行但本案之車胎在進口時市場上並無此種牌號如依照上述方法徵稅殊嫌不妥因貨品入市之前並無蘧發市價可攷也故本會核定本案貨品之完稅價格以起岸價格外加百分之五爲計算根據該商抗議認爲成立

中華民國二十年十月二十二日

議決書第六十號

事　　由　關於"Sardo"刺繡絲光棉紗分類問題由

抗 議 人　巴特司洋行　上海

議決主文　本案貨品應按十八年稅則第六五號從價百分之十徵稅

事實及理由　本年一月九日巴特司洋行對於江海關將發票所開之「絲光紗」視作2/15絲光刺繡線按十八年稅則第五十二號(乙)項(丑)類徵稅辦法提出抗議抗議人稱本案貨品係充作"Sardo"鏤孔花帶製造之用該項原料爲手織用品應視爲棉紗按從價百分之七。五徵稅

查本案貨品係成球進口每球約四百碼據海關紡織技士稱該項貨品爲絞扭或雙線而成該貨之性質似偏於線之方面爲多但其品質甚粗逕歸入刺繡線似覺不合本會茲經核定本案貨品應按十八年稅則第六五號未列名棉貨從價百分之十徵稅

中華民國二十年十一月十四日

議決書第六十一號

事　由　關於 Lisle 線分類問題由

抗議人　廣州市機織衫襪同業公會

議決主文　本案貨品應歸入稅則第五一號(乙)項(二十年稅則)

事實及理由　本年三月十四日廣州市機織衫襪同業公會對於粵海關將 Lisle 線歸入稅則第五二號(丙)項「棉線，其他」按從價一二・五徵稅辦法提出抗議謂(一)該項 Lisle 線爲一種棉紗係充製造原料不能直接消費(二)財政部電知該會棉紗稅率爲值百抽七・五(三)進口稅則規定汗褲之稅率爲從價百分之十(稅則第六十一號)茲對於汗褲原料之 Lisle 紗徵稅至百分之一二・五似不平允

紗線之間欲定一明白之界限自非容易但爲實行起見其辦法似可規定凡歸入稅則「棉紗」者以充作機器紡織或機器針

織用之捲圓錐形或成絞之紗線普通長逾八百四十碼者爲限以期與充作縫紉編結刺繡各項用途之「棉線」有所分別茲依上述之解釋本會以本案貨品應視作棉紗歸入稅則第五一號(乙)項按從價七・五徵稅

該商抗議認爲成立至總稅務司通令第四零五六號稅則例行議案第一六二號係粵海關據以規定本案貨品課稅辦法者並應查照修正

中華民國二十年十一月十四日

議決書第六十二號

事　　由　關於進口白鋅估價問題由

抗 議 人　小林洋行　上海

議決主文　本案貨品應以三，五六〇・九四金單位爲完稅價格

事實及理由　本年七月二日小林洋行對於江海關所估五月二十七日由"Soyo Maru"船自日本進口白鋅一百五十箱之完稅價格提出抗議

抗議人陳報之價格爲二，九四一・〇五金單位謂該項價格係根據實際出售價格核算同時某商報運進口與本案同樣之貨品並陳報同一之價格業經海關核准放行查海關所估該貨之價格爲三，九七五・〇〇金單位據稱該項價格係根據與本案白鋅品質相似之貨陳報進口時之價格計算至抗議所稱經關核准放行之貨其價格較低品質亦次

本會經在上海市場詳細調查認爲江海關所估價格失諸過高該貨陳報進口之日其公平躉售棧交價格每箱重二二四磅者爲上海規元四〇兩根據此項數目以定本案一百五十箱之完稅價格應爲三，五六〇・九四金單位江海關原估價格應照此修正

中華民國二十年十一月十四日

議決書第六十三號

由　事　關於傳印橡皮氈分類問題由

抗議人　利達洋行　上海

議決主文　本案貨品應歸入稅則第六三七號按從價一二・五徵稅

事實及理由　本年十月二十日利達洋行對於江海關將報運進口之傳印橡皮氈歸入稅則第六二一號(丙)項之辦法提出抗議據稱本案貨品爲棉質纖維與橡皮之集合體祇供膠印或石印輥軸之用不能充作他項用途應歸入稅則第六三七號「印刷及石印材料」範圍以內

江海關將該項橡皮氈歸入「橡皮製品」係因橡皮車輪胎亦祇一部分爲橡皮而稅則上特以該貨列入該項規定之內故本案貨品遂援例辦理至該貨品或不充作他項用途然抗議人若謂不能充作他項用途則海關自執異議也

本案審理時查得該貨貨樣橡皮一項確爲主要部份但所用棉質纖維亦屬同等重要該貨雖稱爲「橡皮」顯然完全以其商業名稱爲分類之標準似欠公允

本會以爲該項貨品應歸入稅則第六三七號「未列名印刷及石印材料」之內該商抗議認爲成立

中華民國二十年十二月三十日

從略

議決書第六十四號

議決書第六十五號

事由　關於散裝碾碎胡椒分類辦法由

抗議人　上海希時公司

議決主人　本案貨品應按稅則第二九五號徵稅

事實及理由　希時公司於二十年十二月二十二日對於江海關將散裝碾碎胡椒按稅則第二九五號徵稅提出抗議所具理由如下

（一）此項貨品顯已包括於稅則第三四七號之內本號祇稱散裝胡椒並未別爲碾碎或未碾碎

（二）商場習貫普通簡稱胡椒係指碾碎胡椒而言海關方面則謂本案貨品按稅則第二九五號徵稅係鑒於向來辦法稅則第三四七號祇以未碾碎胡椒爲限據本會審查之結果胡椒二字如未附加任何註釋照商場習慣解釋係指未碾碎胡椒子而言與抗議人所稱係指碾碎胡椒者適得其反

本會以本案貨品按稅則第二九五號徵稅係屬適當該商抗議不能成立

中華民國二十一年三月二十四日

議決書第六十六號

事由　關於粗製紙煙嘴分類問題由

抗議人　克司洋行

議決主文　本案貨品應歸入稅則第六零九號（甲）項從價一五徵稅

事實及理由　抗議人天津克司洋行對於粗製假琥珀紙煙嘴按稅則第三九一號烟用雜貨從價五零徵稅之辦法提出抗議據稱本案貨品應歸入稅則第六零九號（甲）項未加工琥珀從價一五徵稅津海關將該項貨品歸入烟用雜貨據稱係根據二年以前上海驗估處所稱對於該項粗製烟嘴之分類辦法茲須注意者二年以前係施行民國十八年稅則其第六三零號規定琥珀稅率並未如民國二十年稅則第六零九號琥珀之分（甲）未加工（乙）加工之兩子目且十八年稅則琥珀與烟用雜貨又同爲從價二二・五之稅率當時上海驗估處對於該項貨品之分類諒係以

便利統計爲其主要之目的但現行稅則關於琥珀條文業已更改而兩號所定之稅率亦復高低不同則該項貨品本會以爲應按未加工假琥珀歸入稅則第六零九號(甲)項從價一五徵稅該商抗議認爲成立

中華民國二十一年五月九日

議決書第六十七號

事由　關於麥片 Force 分類問題由

抗議人　怡昌洋行　上海

議決主文　本案貨品應歸入稅則（二十年稅則）第三零零號「未列名食品」從價百分之二十徵稅

事實及理由　二十年九月二十八日怡昌洋行對於江海關將麥片 Force 歸入稅則第三零零號一案提出抗議聲稱本案貨品係雜糧之一以小麥製成雖經調製可口但仍保留其所有雜糧之性質應歸入稅則第三零五號（乙）項從價一二·五徵稅

江海關認該貨爲未列名食品歸入稅則第三零零號係遵照稅則例行議案第二五三號（總稅務司通令第四二六一號）之規定辦理該項規定以稅則第三零五號「雜糧粉及其他未列名雜糧（乙）其他」不包括製成之食品如 Bran Flakes, Force, Grapenuts,

Shredded Wheat. 等在內

稅則列行議案第二五三號以製成之直接消費食品不列入稅則第三零五號（乙）項而祇包括原料之粉及雜糧本會認爲該項辦法甚屬確當

本案「麥片」既「全爲小麥而用蒸氣烹製輾成小片復再烘烤」者本會以該項貨品應歸入稅則第三零零號該商抗議不能成立

中華民國二十一年五月十二日

議決書第六十八號

事由　關於補酒 Serravallo's tonic（金鷄鐵質酒）分類問題由

抗議人　意商施務露代表意大利商務代辦

議決主文　本案貨品應歸入稅則第三八四號

事實及理由　本年二月二十九日意大利商務代辦代表意國的里鴉斯德商人施務露對江海關將補酒（金鷄鐵質酒）歸入稅則第三八四號之辦法提出抗議所具理由如左

（一）該項貨品之製造與其販賣均視爲醫藥品故醫師揄揚飲用之

（二）該項貨品非可自由飲用者其用量之限制在標籤之上載明

（三）該項貨品德國藥譜稱作補酒病人以之補血

抗議人爲補充抗議理由起見復將各地醫生證明書萬餘件彙

訂成册以證明補酒之醫藥性並附分析證書一件內稱補酒所含酒精成分爲百分之一三・九一

查樣瓶包紙載稱補酒內含鐵質及金鷄納霜係以確當分量溶解於品質優良之酒中因其美味及酒力而增加治病作用之能力

本會由所得各項證據觀之該項貨品雖具有醫藥性質但爲一種品質優美而含有酒精之酒歸入稅則第三八四號「未列名酒飲料」甚屬確當該商抗議不能成立

中華民國二十一年五月十二日

議決書第六十九號

事　　由　關於印有文字等紙模報運出口或轉口稅則分類辦法由

抗 議 人　商務印書館　上海

議決主文　本案貨品准予免稅

事實及理由　商務印書館以海關對於該館運赴香港及天津分廠備印刷教科書等用之印有文字等紙模徵收稅項提出抗議其主要理由以此項紙模印有文字等係屬抄本書籍性質抄本書籍於出口或轉口時既不徵稅此項紙模亦應一律免徵至江海關徵稅之理由則以現行出口及轉口稅則對於所稱紙模並未明白列入免稅品中

查書籍雜誌及其他普通印刷品等因具增進教育及文化之性質規定免稅由來已久印有文字等之紙模雖未明白列入出口及轉口稅則之免稅品中惟本會詳查稅則內關於印刷品免稅

各條範圍極爲寬廣謂爲包括該項紙模在內似無不可蓋此項紙模有類於加工抄本文件也該商抗議認爲成立上項解釋適用於由外洋進口之印有文字等之紙模及報運出口或轉口之國製印有文字等之紙模

中華民國二十一年六月十五日

議決書第七十號

事　　由　關於軟鋼箍稅則分類問題由

抗 議 人　德義洋行

議決主文　本案貨品應按進口稅則第一七二號徵稅

事實及理由　德義洋行報運貨品四百九十五捲進口發票上載明係鐵箍津海關按稅則第一七二號徵稅該商提出抗議所具理由爲此項貨品係當作鐵箍買進其名稱又爲鐵箍關於箍字之意義稅則並未規定其範圍故此項貨品應照稅則第一五四號每担納稅金單位零・七七

津海關認爲稅則所稱之箍係指具有彎曲性之鋼鐵箍大都供打包或箍箱之用者本案貨品質硬而無彎曲性不適製箍之用應歸入稅則第一七二號照「其他未鍍鋅鋼鐵」完稅

本會以津海關對於箍字之解釋與該字之尋常意義適相符合

本案貨品既不適於製箍且不用以製箍歸入稅則第一七二號納稅係屬適當該商抗議不能成立

中華民國二十一年六月十七日

議決書第七十一號

事　由　關於軟質切薄熟皮分類問題由

抗議人　禮和洋行　上海

議決主文　本案貨品應歸入稅則第五三零號按値百抽十五徵稅

事實及理由　禮和洋行報運某種熟皮進口據稱此項熟皮係爲一種軟質切薄鞋底皮江海關按照稅則第五三零號納稅該商提出抗議謂應歸入稅則第五二九號納稅所具理由爲（一）此項熟皮在廠方發票上係用軟質切薄鞋底皮名稱（二）此項熟皮係備製軟鞋鞋底及拖鞋鞋底之用者（三）稅則第五二九號對於鞋底皮之種類並未有所限制但抗議人同時對於下列各節亦認爲確實卽（一）本案討論之軟質切薄熟皮係一種特製之熟皮（二）其買賣單位係以尺寸計算與頂層皮及他種特製皮等數種相同非如普通鞋底皮之以重量計算者（三）在外洋則稱「凡納

皮」惟德國最大硝皮廠則於運銷中國時用切薄鞋底皮之名稱

本會查該項軟質熟皮就抗議人呈驗之樣品觀之確可用以製造軟底拖鞋等之鞋底惟稅則第五二九號所列之鞋底皮祇包括商場習稱之鞋底皮此項解釋與「熟皮詞彙」內所釋註者適相符合該詞彙謂「切薄熟皮之種類尋常有（一）依其割製程序而定者如襯墊用熟皮有主層皮二層皮背層皮等名稱（二）亦有視其用途而定者如柔韌皮（鞋底內層用）手套皮蠟光皮（鞋面用皮）囊箱皮（經用「派洛雪令」或色素硝製完成者）等等……在襯墊用熟皮中其由皮之面層割製者爲上品由下層剖製者則爲次品」

基於上述理由本會認爲該商抗議不能成立

中華民國二十一年六月十七日

議決書第七十二號

事　由　關於蜜製蛋黃徵稅辦法由

抗議人　禮和洋行及安利洋行　漢口

議決主文　本案貨品應歸入出口稅則第二十二號「未列名動物產品」

事實及理由　本年四月二十一日禮和與安利兩洋行之漢口支行對於海關將蜜製蛋黃按出口稅則第二十二號「未列名動物產品」從價七・五之徵稅辦法共同提出抗議

據抗議人稱濕蛋黃係按從量徵稅每担計關平銀一兩五錢至蜜製蛋黃與濕蛋黃所含蛋質爲九與七之比則蜜製蛋黃之稅應爲關平銀 $1.50 \times \frac{9}{7}$ 即每担一兩九錢三分方爲允當抗議人又稱英國對於多種濕蛋黃禁止進口其由中國運往英國之濕蛋黃均爲蜜製蛋黃如按現行出口稅率計算則英國進口之濕蛋黃所負之稅較諸運往歐洲大陸之濕蛋黃（用硼酸或鹽以及

安息酸保藏者）所負者爲高

查現時蜜製蛋黃之價值每担在關平銀三十八兩左右濕蛋黃則每担爲二十兩兩種貨價較之從前低落甚多依據此項最近市價計算則濕蛋黃之出口稅爲百分之七・五與密製蛋黃之稅其百分率正屬相同

查出口稅則（民國二十年）第三號（乙）項規定「冰濕蛋白冰濕蛋黃黃白不分之冰濕蛋（蜜製蛋品不在內）每担徵稅關平銀一兩五錢」是蜜製蛋黃予以除外而歸入稅則第二十二號按從價七・五徵稅此項除外之規定至爲明顯不容有其他解釋故所稱蜜製蛋黃比照濕蛋黃所含蛋質徵稅一節依照現行稅則實屬無從核議該商抗議不能成立

中華民國二十一年七月一日

議決書第七十三號

事　由　關於金屬帶扣分類問題由

抗議人　新漢運洋行　廣州

議決主文　本案貨品應歸入稅則第二二四號「機器配件」

事實及理由　本年四月六日抗議人廣州新漢運洋行對於粵海關將金屬帶扣歸入稅則第二一五號未列名金屬器具按從價二零之徵稅辦法提出抗議聲稱該項帶扣應歸入稅則第六二六號「機器帶」從價一二・五徵稅或以之歸入稅則第二一八號「製造機械工具配件」從價百分之五徵稅

本會以爲金屬帶扣不能歸入稅則第六二六號因該號規定之「機器帶」係指皮之尺寸合於皮帶之用者非尋常之機器皮帶也至將帶或帶扣歸入稅則第二一八號亦屬不合因其用於製造機械工具者爲量甚微

本案金屬帶扣分類之主要問題爲此項在使用以前必須依式切割方克應用之機器配件應否視作機器配件按照海關向來辦法對於 Card clothing, lickerin wire 與 fillets 等均按機器配件繳納稅款此等貨品於應用以前亦須依式切割總之此類貨品在製造方面業經完成祇須在使用之前重加割製且除作機器配件外別無用途依此條件以核定機器配件之辦法本會認爲適合稅則精神並與本會前呈轆軸皮一案（議決書第四十一號）之決議亦屬相符本案金屬帶扣既與上述之條件適相符合自應歸入稅則第二二四號機器配件從價七・五徵稅

中華民國二十一年七月六日

議決書第七十四號

事由 關於底布分類問題由

抗議人 永亨洋行 上海

議決主文 本案貨品應按稅則第二二四號機器配件從價七·五徵稅

事實及理由 本年四月二十六日上海永亨洋行對於江海關將底布 foundation cloth 歸入稅則第六四七號按從價一二·五徵稅之辦法提出抗議聲稱該項貨品應歸入稅則第二二四號未列名機器配件從價七·五徵稅抗議人提出抗議其理由謂製成之鋼絲布 Cardings 係按稅則第二二四號機器配件納稅今底布乃其原料反負較高稅率實不合理

查江海關不將該項底布按機器配件徵稅係遵照本會議決案第三二號核定之成正長毛絨及漿紗絨不能作爲機器配件之議決辦理但此兩案並不完全相同底布質地非常堅硬除製作

鋼絲布外不合其他用途至長毛絨與漿紗絨則至易充作製毯及其他貨品之用故就事實而論該項底布若依照本會議決書第四十一號核定轆軸皮之議決按機器配件徵稅似較相宜本會近曾核定金屬帶扣應歸入稅則第二二四號機器配件其根據之原則爲該項貨品除充作機器配件外無其他用途且進口時之狀態已爲完全製成品祇須加割剪手續卽可使用查本案底布與上述原則尙相符合該項貨品應歸入稅則第二二四號機器配件抗議人之抗議認爲成立

中華民國二十一年七月十一日

議決書第七十五號

事由　關於鍍錫鐵針分類問題由

抗議人　新漢運洋行　廣州

議決主文　本案貨品應歸入稅則第二一五號

事實及理由　本年四月十五日新漢運洋行對於粵海關將報運進口之鍍錫鐵針歸入稅則第二一五號之辦法提出抗議所具理由如左

（一）就原料言本案別針 Pins 之分類辦法確甚正當惟未注意其用途

（二）該項別針以之連綴物品其用途正與針 Needles 相似故在舊時英語中有"Pin-needles"之稱因之抗議人申請本會注意稅則第二四二號（丙）項「針其他」之規定以該項規定係指手工縫紉或縫紉機或針織機用外之其他針類本案貨品現時簡稱作「別針」顯應歸入該項規定之內

查海關之分類辦法係遵照本會議決案第四十三號之決議辦理該項決議以稅則第二四二號（丙）項祇包括（甲）（乙）兩項規定以外之編織用針手織用針等本案別針其意義非普通公認之針因之不能歸入稅則第二四二號本會以鍍錫鐵針歸入稅則第二一五號「未列名電鍍或未電鍍金屬器具」從價百分之二〇徵稅之辦法甚屬確當該商抗議不能成立

中華民國二十一年七月二十日

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IMPORT TARIFF PROVISIONAL RULES

(As Promulgated on July 18, 1929 by the Ministry of Finance)

1. The duty-paying value of any import liable to an ad valorem rate of duty shall be determined on the basis of the wholesale market value of the goods at the port of importation. This latter value shall be converted from other currencies into Customs Gold Units at the official rates fixed for this purpose and shall be considered to be higher than the duty-paying value by

(a) The amount of the duty on the goods, and

(b) 7 per cent. of the duty-paying value of the goods. X

2. *Bona fide* invoices, including manufactures' invoices, showing the cost of the goods to the importer and certified by him as being correct, must be produced when import applications are handed in. Freight, insurance, and all other charges must be shown. A certified copy of every invoice must be supplied for retention by the customs.*

3. If the goods have been sold before presentation to the Customs of the application to pay duty, the *bona fide* contract must also be produced together with the application.

4. Invoices and contracts will be regarded as evidence of the value, but not necessarily as conclusive evidence, and in this respect their interpretation will rest with the Customs. Besides demanding the production of invoices, and of contracts, the Customs authorities shall be free to employ all available means to determine the correct duty-paying value of the goods. Such means shall include the inspection of other documents which may concern the valuation of the cargo; the calling for detailed sale-bills certified by both parties; the inspection of firms' books; the examination of the goods; and the making of such enquiries and the obtaining of such private assistance as may be necessary. In the case of duty-paid goods already imported, the Customs retain the right to examination firms books.†

5. The importer, if dissatisfied with the decision of the Customs as to the value or classfication of imported goods, or the amount of duty or charges assessed thereon, may within twenty days after the filing of the Application to pay Duty

or other Customs entry, file a portest in writing with the Commissioner of Customs, setting specifically his objection thereto. Pending a decision in the case, the merchandise—at the discretion of the Customs—may be released to the importer upon payment of a deposit sufficient to cover the full amount of Duty and such additional duties as may be claimed by the Customs. Upon the filing of protest the Commissioner shall, within fifteen days thereafter, review his decision, and if the protest is not sustained the case shall be referred to the Inspector General of Customs with the request that it be submitted to the Kwan-wu Shu for the consideration and decision of the Tariff Board of Enquiry and Appeal.

6. Questions regarding precedure, etc., which may arise during the sittings of the Tariff Board shall be decided by the majority. The final finding of the majority of the Board, which must be ratified by the Kwan-wu Shu and announced within fifteen days after its submission to the Kwan-wu Shu, shall be binding.

7. Regarding disputes arising from the valuation of goods, should the Board decide that the correct value of the goods is higher by 20 *per cent* (or more) than that upon which the complainant originally claimed to pay Duty, the Customs authorities may, besides the full Duty, levy an additional Duty, not exceeding ten times the Duty sought to be evaded.

If the goods—the value of which is in dispute—were sold previous to importation, but no contract was produced at the time the goods were applied for, then the contract if produced at the hearing of the Board as evidence of the value, will be considered as such evidence only when it is clearly proven by the merchant or his agent, to the complete satisfaction of all the members of the Board, that the contract was not in the hands of the importer at time of declaration of the goods. In cases where goods have been sold previous to importation and it is ascertained that the contract was withheld from Customs inspection at time of importation, then case will *ipso facto* be dismissed.

8. All applications, invoices and contracts must bear the following declaration signed by the applicant:

"I hereby certify that the above particulars and figures are correct."

9. This Provisional Rule is effective as soon as it is promulgated. It is subject to change at any time upon notice being given.

X The formula for ascertaining duty-paying value is:—

$$\frac{\text{Wholesale market value} \times 100}{100 + \text{Duty rate} + 7}$$

e. g. $\dfrac{\text{C. G. U. } 60 \times 100}{100 + 12\frac{1}{2} + 7} = \dfrac{\text{C. G. U. } 6{,}000}{119.5} =$

C. G. U. 50.21 = Duty-paying value.

*Revised, Aug. 25, 1932

†Revised, April, 24, 1933

DEFINITION OF THE TERM "WHOLESALE MARKET VALUE" AS USED IN RULE I, SECTION I, OF THE IMPORT TARIFF PROVISIONAL RULES.

1. The term "wholesale market value" of a commodity as used in Rule I, Section 1, of the Import Tariff Provisional Rules is defined to mean the average price at which, on the date of application to import and on the open market at the port of importation, the commodity is freely offered for sale, in the ordinary commercial acceptance of the term, or is capable of being sold, in the usual wholesale quantities and in the ordinary course of trade.

2. In the absence of a wholesale market value at the port of import, the price ruling on the principal markets of China may be taken as a basis for arriving at the duty-paying value.

3. In case the commodity is of such a nature that no wholesale market value is obtainable in China, then the duty-paying value shall be, in all ordinary circumstances, the true c.i.f. price plus 5%.

4. In case where neither the wholesale market value of goods nor their true c.i.f. price is ascertainable, because:

   (a) only a lease of such goods or the right of using the same but not the right of property therein has been sold or given; or

   (b) such goods having a royalty imposed thereon, the royalty being uncertain, or being for other reasons not a reliable means of estimating the value; or

   (c) such goods are sold to agents or branch-houses; or

   (d) such goods are sold, in or imported into, China in any other unusual manner or condition not herein provided for:

   the duty-paying value of such goods shall be determined by the Customs.

EXPORT (and Interport) TARIFF PROVISIONAL RULES

(As Promulgated on Sept. 1932, by the Ministry of Finance)

1. The duty paying value of an export liable to *ad valorem* export and interport duties shall be the average wholesale market value of the goods at the time of examination by the Customs. This value shall include cost of packing and reconditioning incurred in preparing the goods for export, but shall exclude duty. In the absence of a wholesale market value at the port of export, the price ruling in the principal markets of China may be taken as the basis for arriving at the duty paying value applicable.

2. In the case of exports abroad sold under contract, the *bona fide* contract showing the exporter's sale price must be produced together with the application. Such contracts may be regarded as evidence of the value, but not necessarily as conclusive evidence, and in this respect their interpretation will rest with the Customs. Besides demanding the production of contracts the Customs authorities shall be free to employ all available means to determine the correct duty paying value of the goods. Such means shall include the inspection of other documents which may concern the valuation of the cargo; the calling for detailed sale-bills; the inspection of firms' books; the examination of the goods; the making of enquiries and the obtaining of such private assistance as may be necessary.

3. The exporter, if dissatisfied with the decision of the Customs as to the value or classification of the goods to be exported, or the amount of duty or charges assessed thereon may, within twenty days of the filing of the application to pay duty or other Customs entry, file a protest in writing with the commissioner of Customs, setting forth specifically his objection thereto. Pending a decision in the case the merchandise—at the discretion of the Customs—may be released to the exporter upon payment of a deposit sufficient to cover the full amount of duty and such additional duties as may be claimed by the Customs. Upon the filing of the protest the Commissioner shall, within fifteen days thereafter, review his decision, and, if the protest is not sustained, the case shall be referred to the Inspector General of Customs who shall consider it, and, if

confirming the attitude taken by the Commissioner of Customs, shall submit the case to the Kuan-wu Shu for the consideration and decision of the Tariff Board of Inquiry and Appeal.

4. Questions regarding procedure, etc., which may arise during the sittings of the Tariff Board shall be decided by the majority. The final finding of the majority of the Board which must be ratified by the Kuan-wu Shu and announced within fifteen days (not including holidays) after its submission to the Shu, shall be binding.

5. Regarding disputes arising from the valuation of goods, should the Board decide that the correct value of the goods is higher by 20% (or more) than that upon which the complainant originally claimed to pay duty, the Customs authorities may, besides levying the full duty, levy an additional duty not exceeding ten times the duty sought to be evaded.

6. If for goods—the value of which is in dispute sold under contract, no contract was produced at the time the goods were applied for, then the contract, if produced at the hearing of the Board as evidence of the value, will not be accepted as such and the case will *ipso facto* be dismissed.

Note:—These Provisional Rules become effective as soon as they are promulgated. They are subject to change at any time upon notice being given.

CONSTITUTION AND REGULATIONS OF THE TARIFF BOARD OF ENQUIRY AND APPEAL

1. The Kwan-wu Shu shall establish a Tariff Board of Enquiry and Appeal.

2. The duties of this Board shall be:—

(a) to investigate and give decisions on all questions regarding Tariff interpretation, definition and classification of goods, etc., which may be referred to it by the Kwan-wu Shu; and

(b) to give decisions on cases where merchants of any nationality dispute the correctness of the tariff classification or the duty-paying value of their goods as assessed by the Customs.

3. This Board shall consist of five members, all of whom shall be appointed by the Director of Kwan-wu Shu, three of them to be nominees of the National Tariff Commission, and the remaining two to be nominees of the Inspector General of Customs, one of whom shall be the Tariff Secretary of the Inspectorate General of Customs and the other a member either of the Tariff Secretariat or of the Shanghai Appraising Department.

4. Members of the Board shall meet at least twice a week. At such meetings four shall form a quorum.

5. All questions regarding tariff interpretation, definition and classification of goods, etc., shall be submitted by the Port Commissioners to the Inspector General of Customs, who shall transmit the same to the Kwan-wu Shu with his comments and recommendations, and the Kwan-wu Shu shall, if necessary, refer them to the Board for investigation and decision.

6. Decision of the Board on such questions shall be decided by majority. They shall be submitted by the Board to the Kwan-wu Shu for ratification. Such ratifications will be communicated by the Kwan-wu Shu to the Inspector General of Customs for transmission to the Port Commissioners.

7. When the Board is summoned to consider and give decisions on any dispute between a merchant and the Customs regarding the classification or the valuation of goods for the

assessment of duty, or any kindred matter, it shall have the right not only to call upon the complainant to state and defend his case, but also to make use of the aid of experts or others whose knowledge and experience may be required in the reaching of a just decision. Decisions of the Board shall be submitted to the Kwan-wu Shu for ratification, without such ratification, no decision shall be considered as valid.

8. The occasions when the Board may be called on to hear and give decisions on tariff disputes, and its powers and proceedure while so acting, shall be determined by the conditions set forth in the Provisional Rules appended to the Import Tariff.

9. The Board shall be located at Shanghai with its offices in the Custom House. Any case arising at a port other than Shanghai, requiring the services of the Board, must be referred to and heard by the Board in Shanghai. In such a case the Commissioner of Customs at the Port concerned shall forward to the Inspector General for submission to the Board through the Kwan-wu Shu, a detailed statement of the matter in dispute, and shall inform the complainant that he is at liberty either to proceed to Shanghai, at his own charges, to defend his case, or to appoint a proxy at Shanghai to do so, or to submit to the Board either through the Commissioner of the port or directly, whatever statements and documents he may wish to be considered by the said Board.

10. The present Constitution and Regulations shall be effective upon the approval of the Director of Kwan-wu Shu, and upon a copy being deposited with the Ministry of Finance. Revisions may be effected when deemed necessary.

RULES AND PROCEDURE OF THE TARIFF BOARD OF ENQUIRY AND APPEAL

General

1. In the performance of its duties, the Board shall follow the rules and procedure as hereinunder set forth subject to the constitution and regulations of the Board.
2. The rules and procedure of the Board as hereinunder set forth shall be subject to revision by majority vote.
3. The rules and procedure of the Board shall come into force upon ratification by the Director of Kwan-wu Shu.

Organization of the Board

4. The Board shall be composed of five members one of whom shall be designated by the Director of Kwan-wu Shu to be the Board's chairman. In his absence the chairman shall designate one member as temporary chairman. The chairman, or, in his absence, the acting chairman shall preside at the meetings or hearings of the Board and shall in general superintend the affairs of the Board.
5. A secretary of the Board shall be designated by the Director of Kwan-wu Shu. The secretary shall, under the direction of the chairman, superintend and perform the routine duties usually associated with that office: send out notices, attend to the Board's correspondence, keep the records and archives, purchase office requirements as may be necessary for the use of the Board. The secretary shall sit in the meetings and hearings of the Board and may express his views, but shall not be entitled to vote.
6. The Board may request the National Tariff Commission or the Tariff Secretariat of the Inspectorate General of Customs to assign special clerks or stenographers for carrying out the routine work of the Board or may engage special clerks or stenographers for that purpose as may be necessary.

Meetings

7. In the performance of its duties as set forth in Section (A) of Article (2) of the Constitution of the Board, namely, to investigate and give definitions and classification of

goods etc., which may be referred to it by the Kwan-wu Shu, the chairman shall, upon receipt of each question, hand it over to one member of the Board who shall make the necessary investigation and study and prepare a tentative written opinion. A copy of such written opinion shall then be given to each of the other members of the Board, each of whom shall put down in writing his opinions in respect of the question under consideration. The question shall then be submitted to discussion in the next meeting under schedule.

8. In order to enable the Board to reach a judicious and accurate decision, the Board may turn over the question to the National Tariff Commission, the Tariff Secretariat of the Inspectorate General and/or the Appraising Department of the Shanghai Customs for investigation and study or obtain whatever outside assistance it considers necessary.

9. Members of the Board shall meet twice a week on Tuesday and Friday at 10 a.m. except on a Government holiday when the meeting is to be postponed to the first working day after the holiday. In the event of urgent business, special meetings may be convened at the call of the chairman.

10. Four members of the Board shall constitute a quorum. Each member shall be entitled to one vote. Questions are to be decided by majority.

11. The secretary shall keep the minutes of each meeting. The minutes shall be read and approved by the members of the Board at the next meeting.

12. The Board shall, besides forwarding its decision to the Kwan-wu Shu, also send in each instance dissenting opinion or opinions, if any, for the consideration of the Kwan-wu Shu.

Hearings

13. In the performance of the duties as set forth in Section (B) of Article (2), of the Constitution of the Board, namely, to give decisions on cases where merchants of any nationality dispute the correctness of the tariff classification or the duty-paying value of their goods as assessed by the

Customs, the Board, upon receipt of each case, shall discuss the case at the next meeting under schedule, naming a date on which the hearing is to take place. If the case originated in Shanghai a notice of the date of the hearing shall be served by the Board to the Commissioner of Customs and the merchant. If the dispute arose in ports other than Shanghai, notice shall then be served to the Shanghai proxy of the merchant if one has been named in the original statement submitted by the merchant.

14. The Commissioners of Customs at the various ports shall be requested to inform the merchants that every statement submitted shall contain the following information:—

(a) The name of the firm, the location, and the nature of business,

(b) The subject matter in dispute and reasons in support of the case,

(c) Whether the merchant desires to be represented at the hearing in person or by proxy. If by proxy —the proxy's name, Shanghai address, nationality, and connection with the merchant must be given.

15. The statement shall be signed and/or chopped by the merchant or by a responsible official of the merchant's firm, and accompanied by such other papers as may have a bearing on the case in dispute, such as exhibits, bills, etc.

16. The Board shall be free to employ all available means to come to a correct decision. Such means shall include the inspection of other documents as may have a bearing on the subject; the calling for sale-bills certified by both parties; the inspection of the firm's book; the examination of the goods; and the making of such enquiries and the obtaining of such private assistance as may be necessary.

17. When the case cannot be completed in one hearing, the Board may continue the hearing on such dates as it deems fit.

18. In the event of both the representative of the Customs and the merchant or either one of them failing to appear at the scheduled hour of the hearing, the Board may decide the case on record and on the basis of the evidence on hand.

19. In the event of the proxy of the merchant being unable to appear on the scheduled date of hearing, the merchant may request that the hearing be postponed, or moved up on the calendar; or that the testimony be taken in advance.

20. In the event of the merchant or his proxy being unable to attend the hearing without sufficient time to inform the Board, the merchant may appoint another proxy, but such proxy must have with him a proper letter of authority.

21. The proceedings of the hearings shall be recorded by a stenographer and they shall be incorporated in the minutes of the meeting.

22. As in the case of questions referred to the Board for investigation, the Board shall, besides submitting the decision reached in the hearing, also forward in each instance the dissenting opinion or opinions, if any, for the consideration of the Kwan-wu Shu.

23. The Board shall have the power to preserve order during the hearings.

Records

24. The Board shall forward five copies of each decision to the Director of Kwan-wu Shu who, if he ratifies the decision, shall keep one copy for his own archives, forward one copy to National Tariff Commission and three copies to the Inspector General of Customs. The latter shall retain one copy and forward the remaining two to the Commissioner of Customs at the port where the case arose, one copy to be retained by the Commissioner and the other to be forwarded by him to the merchant concerned.

25. All decisions and dissenting opinions of the Board shall be preserved and filed and decisions which have been ratified shall be open to inspection by the public in the office of the Board.

26. Decisions which have been ratified by the Kwan-wu Shu and which the Board might deem sufficiently important shall be published in full. If the Board shall not deem it necessary to publish some decisions in full, it shall cause abstracts of such decisions to be made for publication. Such decisions and abstracts shall be published from time to time for the information of Customs officers and the public.

Tariff Decisions

Vol. I

1930

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 1 *Port:* Shanghai

Subject: Tariff classification of artificial silk and silk mixed velvet.

Case brought up by: O. Schoch Ltd., Shanghai.

Decision

In Brief: Artificial silk and silk mixed velvet should be classified under Import Tariff Article No. 84.

Text:

O. Schoch, Ltd., in a letter addressed to the Commissioner, Shanghai, protested against the Customs appraisers' action in classifying one case of artificial silk and silk mixed velvets under Import Tariff Article No. 84 (22½%), for the following reasons:

(1) Import Tariff Article No. 84 expressly calls for products "which consist wholly of silk." As the product in question consists only partly of natural silk, the rest (about 60-75%) being composed of artificial silk, it cannot be considered to "consist wholly of silk."

(2) Commercially, artificial silk, or rayon, is never referred to as just silk.

(3) The Import Tariff itself differentiates between natural silk and artificial silk products; and, as a rule, the latter are subject to a lower rate of duty.

(4) Import Tariff Article No. 84 is an "omnibus" paragraph to take care of all products not covered by No. 76, the rate of duty for these two articles being the same.

At the outset it must be pointed out that, in the interpretation of any tariff article, our chief attention is to be directed to the contents of the article itself. Whether Article No. 84 is, or is not, a so-called "omnibus" paragraph to Article No. 76 is a question which is, strictly speaking, irrelevant to the present case. Article No. 84 explicitly provides for "Clothing, Hosiery, and all other products which consist wholly of Silk, not otherwise enumerated." The arguments of the Appellant stand or fall in accordance with the various interpretations that may be given to the words "wholly of silk." The salient question is whether by

the word "silk" in the Import Tariff is meant merely natural silk, or both natural and artificial silk. Upon the answer to this question, our decision must necessarily depend.

The word "silk," as occurring in the import tariffs of certain foreign nations, is not infrequently made to include both natural silk and artificial silk. Such are the essences of Note 2 to Group IX of the Japanese Import Tariff of 1921; of Note 2 to Section VIII of the Belgian Import Tariff of 1924; and of the General Heading for Articles 401-412 inclusive of the German Import Tariff of 1902 (as subsequently amended).

In our own Import Tariff, evidences point towards the same conclusion. To use the words of Mr. H. E. McGowan, technical adviser to the Shanghai Appraising Department, in a comment respecting the present case: "Under the general heading 'Silk Goods and Silk Mixtures,' Tariff Headings Nos. 81-80 specify natural silk, Tariff Heading Nos. 81-82 specify artificial silk, whilst Tariff Headings Nos. 83-85 do not specify whether artificial silk or natural silk is referred to; but as both natural silk and artificial silk are included under the General Heading of 'Silk Goods and Silk Mixtures' it would seem obvious that the term 'silk,' unless otherwise specified, is intended to include both *artificial* and *natural* silk."

Hence Article No. 84, which covers "all other products which consist wholly of silk," must include products of (a) pure natural silk, (b) pure artificial silk, and (c) natural silk and artificial silk mixtures. As the product in question is a mixture of natural and artificial silk, it should be classified under Import Tariff Article No. 84.

T. CHOW
Chairman
K. LEE
Member
C. BOS
Member
C. NEPRUD
Member
H. E. MCGOWAN
Member

September 13, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 2 *Port:* Swatow

Subject: Refund for difference between 22½% and 12½% on 7 cases of elastic ribbons and garters ex the s.s. "Kalgan" from Hongkong, 22nd July 1929.

Case brought by: Bradley & Co., Swatow.

Decision

In Brief: The refund requested should not be allowed.

Text:

The Appellant states that he ordered and sold the above mentioned goods on the basis of duty at 12½% believing that they would be classified by the Customs under Tariff Heading No. 718 as unenumerated. On the arrival of the goods, however, he was called upon to pay 22½% in accordance with the instructions of I. G. Circular No. 3900, Tariff Decision No. 9. In explaining the ruling the Swatow Commissioner wrote, to the applicant in part, as follows:

"Elastic braid, garter elastic and similar products to pay under Tariff No. 681 (b), because the term braid is held to include ordinary braid, elastic braid, garter elastic, elastic webbing and similar products, fancy or plain and of any width."

In submitting his case for the consideration of this Board the Appellant bases his appeal for assessment at a lower rate on the following grounds:

"(1) We bought these goods in February of this year and sold them forward a few days later, having based our duty calculations, in good faith, on the new 1929 Tariff, wherein the goods were unenumerated.

"(2) The ruling whereby the goods are assessed at 22½% *ad valorem* was not made until April of

this year. Consequently it was impossible for anyone doing such business *before* April to make a correct calculation.

"(3) The ruling has involved us, through no fault of our own, in loss to the extent of 10% of the value of the goods.

"(4) We understand that such rulings as the one in question in regard to classification and assessment are never published nor are they circulated to merchants, hence it was inevitable that we should be ignorant of the correct classification."

This is simply a case where a firm did not exercise ordinary care in defining the sales conditions under which it sold some cases of elastic braid and elastic garters which were imported under a new Tariff with the terms of which the firm was not fully conversant. The Appellant, Messrs. Bradley & Co., Ltd. of Swatow, apparently took it for granted that because under the old Tariff such goods were classified under Tariff Heading No. 582 for unenumerated goods, they would fall under the corresponding heading No. 718 in the new Tariff. There is no justification for such an assumption, as not only are there many changes in the wording of the Tariff but also 136 headings have been added and there are now seven *ad valorem* rates instead of one.

In selling the goods on duty paid terms and allowing 12½% for duty the Appellant should either have enquired at the Custom House as to the duty treatment or have had a clause in his sales contract to the effect that if the duty would be more than 12½% the difference would be met by the buyer. Such a stipulation would have been in accord with the practice commonly followed when a new Tariff is introduced and interpretations are yet to be made.

Elastic garters and elastic braid were covered by Tariff Heading No. 681 (b) from the moment the Tariff

was enforced. As it was thought that there might be some doubt in the minds of some as to the correct classification of the goods it was thought advisable, for the sake of uniformity of practice at all of the ports, that the Shanghai Appraising Department should raise the question, whereupon an interpretation was laid down and circulated to all the ports. It was therefore not a case of issuing a new rule to be enforced from the day it was received but rather a case of explaining, or enlarging upon, a term already in force.

Whether such interpretations of tariff terms should be published is a separate question with little, or no bearing on the case. The fact is that such interpretations have not been published in the past and therefore no argument of any real worth can be deduced from the fact that this particular ruling was not published.

The appeal is therefore not sustained and the refund requested cannot be allowed.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

September 13, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 3 *Port:* Shanghai

Subject: Tariff classification of certain common buttons declared by the Appellant to be made of porcelain but considered by the Shanghai Appraising Department to be of glass.

Case brought up by: Messrs. Higuchi & Co., Shanghai.

Decision

In Brief: Under Tariff Heading No. 603; the heading being extended to include common glass as well as common porcelain, buttons.

Text:

Messrs. Higuchi & Co. in a letter addressed to the Commissioner, Shanghai, protested against the decision of the Appraising Department in ruling certain buttons imported by them to be glass instead of porcelain. Certain affidavits were submitted in support of their contention that the buttons were made of porcelain.

The Shanghai Appraising Department based its position on a report made by the Customs analyst.

Samples were also submitted by the Appraising Department to outside chemists and varying reports were received: some reported the buttons to be glass and others declared them to be porcelain.

The heading in the 1902 issue of the Import Tariff, which corresponds to Heading No. 603 in the present Tariff, reads:—

"Buttons, Shirt, Agate or Porcelain."

As it can hardly be contended that the word "agate" meant real agate, but denoted rather an imitation agate of glass, it is to be seen that formerly the heading was understood to cover shirt buttons of glass.

Although no reference is made to agate, or glass, in the present wording of the Heading, *i.e.* Tariff Heading

No. 603, still the practice has been to continue to pass common buttons whether of porcelain or glass under that heading.

In view of the apparent difficulty in deciding whether certain buttons are of glass or porcelain and in view of the fact that it is a practice of long standing to pass certain glass buttons as porcelain, the Board is of the opinion that Tariff Heading No. 603 might reasonably be extended to include common buttons of glass. It is therefore decided that Messrs. Higuchi & Company's shipment of buttons, over which the protest has been lodged, are to pay duty under Tariff Heading No. 603.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

October 8, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 4. *Port:* Tsingtao

Subject: Tariff classification of old newspapers.

Case brought up by: Messrs. J. Busch & Co., Tsingtao.

Decision

In Brief: Old newspapers are to be classified, for duty-paying purposes, under Tariff Heading No. 473 (3) (c), duty 7½% *ad valorem.*

Text:

Messrs. J. Busch & Co. in a letter addressed to the Commissioner of Customs, Tsingtao, protested against the classification under Tariff Heading No. 476 of a consignment of old newspapers imported by them, on the following grounds:

> That in March 1929 they imported similar cargo which the Customs classified under Tariff Heading No. 473 (3) (c)=7½% *ad valorem;* that they had based their calculations for the sale of the present shipment on that classification; and that, if the higher rate of duty under Tariff Heading No. 476 (12½% *ad valorem*) is enforced it would be a distinct loss to them through no fault of their own, the change in classification and duty-rate not having been published by the Customs.
>
> They also express the opinion that paragraph No. 476 cannot be applied to old newspapers without an amendment to the present Tariff, which cannot be put in force without due proclamation to the public, in order to enable merchants to make their calculations accordingly, as this paragraph in its English as well as Chinese text clearly refers to entirely different articles.

It is the opinion of this Board that old newspapers, not being paperware, or an article made of paper, cannot properly be classified as such; therefore the classification of this commodity under Tariff Heading No. 476 is hereby rescinded and old newspapers are to be classified for duty-paying purposes under Tariff Heading No. 473 (3) (c), duty 7½% *ad valorem*.

The protest is therefore sustained and duty is to be levied on the consignment in question according to the revised classification.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

October 12, 1929

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 5 *Port:* Shanghai

Subject: Tariff classification of children's hats.

Case Brought up by: The Compagnia Italiana d'Estremo Oriente.

Decision

In Brief: Children's hats should come under Tariff Article No. 677.

Text:

In a letter from the Compagnia Italiana D'Estremo Oriente (hereinafter to be referred to as the Appellant) to the Director of the Shanghai Appraising Department dated September 2, 1929, the Appellant appealed against the Appraising Department ruling to the effect that children's hats come under Tariff Article No. 681, which ruling was based upon T.Q.S. No. 60, in which the decision was given that women's and children's hats of all kinds should pay duty as "Millinery," at 12½% for those made of cotton and 22½% for all others. The Appellant claimed that children's hats imported by the Compagnia were usually sold at low prices to comparatively poor classes; and, inasmuch as hats and caps are specifically provided for in the Tariff, it was suggested that children's hats might be construed to form a part of the contents of Tariff Article No. 677, and to pay duties accordingly.

At a subsequent hearing held on October 15, 1929 at 10 a.m., the Appellant supplied a number of samples of the articles the tariff classification of which is in dispute. The sample hats were all made of straw, the duties on which would be 12½% *ad valorem* if classified under No. 677 (c) but would be 22½% if classified under No. 681 (b).

The Appellant contended that these hats were worn by children of both sexes, that they were largely sold in

specialty stores, (although he admitted that they were also to be found in the millinery department of department stores), and that the size of children's hats carried by the Appellant never exceeded 6⅜.

The wording of Tariff Article No. 677 is explicit. It simply states "Hats and Caps"; and no qualification has been introduced to narrow down the meaning. It may be safely concluded, therefore, that Tariff Article No. 677 implies "Hats and Caps" of all kinds, children's included.

The case, however, presents a decidedly complicated aspect when Tariff Article No. 681 is jointly considered. There we find, among a rather lengthy article containing products and materials for decorative and ornamentative purpose, the word "Millinery." The question then arises when is a hat to be considered "Millinery" and when not. In Webster's Dictionary "Millinery" is defined, in part, as "articles made and sold by milliners." On the word "Milliner," the Encyclopedia Britannica has the following to say: "The modern use of the word is confined chiefly to one who makes and sells bonnets and hats for women." Nowhere can we find any support to the argument that "children's hats" are to be included under the word "Millinery." The Chinese version of Tariff Article No. 681 is even more explicit; in the place of "Millinery" it says "婦女衣帽零件," the literal translation of which is "Clothing, hats, and accessories thereof, for *women*." The case is clear, therefore, that whereas women's hats must fall under the meaning of the word "Millinery" in Article No. 681, "children's hats" cannot legitimately be included.

Let us also consider the case from the point of view of practical administration. Inasmuch as "children's hats" are used interchangeably by both boys and girls, it would be impossible to classify girls' hats under Tariff Article No. 681 and boys' under No. 677, where the latter undoubtedly should belong. It seems to be more convenient to take

"children's hats" as a whole, and put them under one Tariff Heading, namely, No. 677.

It is therefore recommended that T. Q. S. decision No. 60 be set aside, and that "children's hats" be classified as "Hats and Caps" under Tariff Article No. 677.

No separate decision of "hat bodies" in necessary, as the question of tariff classification thereon has been satisfactorily settled in T. Q. S. No. 130.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

October 26, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 6 *Port:* Shanghai

Subject: Duty-paying value of 40 cases artificial silk yarn (Tubise Collodion IVa)

Case brought up by: Messrs. Neill Faron & Bros. Co., Shanghai

Decision

In brief: To pay duty on a total value of Hk. Tls. 5518.00.

Text:

In a letter addressed to the Commissioner of Customs, Shanghai, Messrs. Neill Faron & Bros. Co. (hereinafter referred to as the Appellant) protested against an appraisement by the Shanghai Customs whereby their declared value of Hk. Tls. 5306.00 on 40 cases of artificial silk yarn ex s.s. "Franken" on the 18th September, 1929 had been raised to Hk. Tls. 6000.00.

In support of the value declared the Appellant submitted the shipper's C. I. F. invoice and a dealer's sale note covering the 40 cases in question; he also submitted, as evidence of the market value, an invoice for one case artificial silk yarn sold locally, but was unable to state definitely whether or not the amount stated on this invoice included duty and other charges.

The Appellant stated that the yarn in question is of a very inferior quality, that he is the only importer in Shanghai of such low grade artificial silk yarn and that he had sold the cargo to Messrs. Chun Kee & Co. at the C. I. F. value, plus 2½% commission and all other charges.

It was admitted by the Appellant that although he had sold the cargo for the C. I. F. value plus commission and other charges, he had only declared the C. I. F. value.

The Shanghai Customs contended that the value appraised was the lowest prevailing on the market for

artificial silk yarn of the same quality as the lot in question, on the day of application to import same.

In view of the fact that Tubise Collodion is a comparatively new brand on this market and is, besides, of rather inferior quality, it is the opinion of this Board that the value appraised by the Shanghai Customs for the 40 cases artificial silk yarn in question is too high and that a fair duty-paying value is Hk. Tls. 5518.00. It is therefore recommended that the Customs appraisement of the value be reduced accordingly.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

December 20, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 7. *Port:* Shanghai

Subject: Classification of a shipment ex the s.s. Woosung Maru as "Caviare" under Tariff No. 252 (27½%) instead of as salmon eggs as declared under Tariff No. 223.

Case brought up by: James Magill & Co.

Decision

In Brief: It should be classified under 252 (27½%) as "Caviare."

Text:

The Appellant contended in their original protest that the term "Caviare" is only applicable to the high class luxury obtainable from the roe of sturgeon which is black in colour, small in size and high in price, whereas the importation in question is salmon roe obtainable at low price and consumed in large quantity, and is therefore not "Caviare."

The Board in its investigation has found that all the standard dictionaries agree that the prepared roe of fish other than sturgeon is also known as "Caviare" and further that the roe in question has always been sold by the trade under the name of "Caviare." It is therefore the unanimous opinion of the Board that the red variety of "Caviare," although much cheaper than the black variety, must also be considered as "Caviare" and as such must be classified under Tariff No. 252, at 27½%.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

December 20th, 1929.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 8. *Port:* Changsha

Subject: High valuation for duty paying purpose of dried bamboo shoots as compared with valuation by Customs at Hankow.

Case brought up by: Chamber of Commerce at Changsha.

Decision

In Brief: The Commissioners of Customs at Changsha and Hankow be requested to work out jointly a common system of grading the products to be followed by both ports in the application of the Tariff.

Text:

This is a case where certain merchants at Changsha who deal in dried bamboo shoots complain of high valuation for duty paying purpose by the Customs at Changsha as compared with the valuation of what is claimed as the same kind of product by the Customs at Hankow. The merchants state that Hk. Tls. 45.00 and Hk. Tls. 35.00 have been placed as the value for the first grade and second grade bamboo shoots respectively by the Changsha Customs, whereas similar products have been assessed at much lower value in Hankow. They quote, for example, one specific instance where certain second grade dried bamboo shoots (桃 片) was assessed at Hk. Tls. 42.00 in Changsha, and Hk. Tls. 15.00 at Hankow. It is claimed that this discrepancy in valuation has given rise to a situation that has made impossible for the dealers in Changsha to do any business. The merchants therefore request that the value at Changsha be reduced and that the valuation at both ports be made the same.

It is to be noted that the protest is really not so much against high valuation as against unequal valuation at the two ports and, further, that it does not aim so much at

redress of grievance on specific instances of unequal treatment as at the rectification of a situation so as to enable them to compete with the merchants at Hankow.

Inquiry at Hankow and Changsha has brought to light that the valuation assessed at the two ports at present are as follows:—

	Changsha		*Hankow*	
1st quality	Hk.Tls.45.00			Hk.Tls.40.00
2nd quality A	Hk.Tls.30.00	(mixture of 1st quality with 2nd quality)	A	Hk.Tls.21.00
B	Hk.Tls.27.00	(2nd quality)	B	Tk.Tls.16.00
C	Hk.Tls.21.00	(mixture of 2nd with slightly inferior quality)		
D	Hk.Tls.19.00	(mixture of 2nd quality with inferior goods).		
Inferior Goods	Hk.Tls.10.00			Hk.Tls.7.00

There are two points to be noted from the above figures. First they show that the differences in valuation at the two ports are really not as big as the instance quoted by the merchants tends to show. On the contrary the difference is such that it could be explained by the difference in the cost of transportation for the product in question to reach the two ports. Secondly they also show that the two ports follow different systems of grading the product.

It is clear that the discrepancy in valuation complained of by the dealers in Changsha could arise either because the product claimed by the merchants to be the same are actually not the same, or, if the contention of the merchants is true, because the system of grading the product is different at the two ports. Only, however, when the complaint is raised on account of the latter, can it be justified.

To rectify this it is recommended that the commissioners of Customs at Changsha and Hankow be requested to work out jointly an official system of grading this product to be followed by both ports in the application of the Tariff. The Board deems it inadvisable to make values of the products for duty paying purpose absolutely the same in both ports, since this involves a change of the rule governing the derivation of duty paying value for export. However, if a common system of grading should be instituted, the only justifiable ground for complaint by the merchants would have been removed.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

January 25th 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 9. *Port:* Shanghai

Subject: Classification for duty-paying purposes of hat braids *i.e.*, braid for making hats.

Case brought up by: Messrs. O. Schoch, Ltd., Shanghai.

Decision

In Brief: To pay duty according to Tariff Heading No. 718.

Text:

Messrs. O. Schoch Ltd., in a letter addressed to the Commissioner of Customs, Shanghai, protested against the Customs classification under Tariff Heading No. 681 of a shipment of hat braids, on the grounds that the item "Braid" in Article No. 681 is not meant to include braid used as the raw material for making hats, but is intended solely for braids used for ornamental and decorative purposes; and that it is illogical to charge 22½% *ad valorem* duty on the raw material when the finished article is charged only 12½%. They contended that the braid in question should be treated as an unenumerated article and classified under Tariff No. 718, duty 12½% *ad valorem.*

The classification of the braid in question rests entirely on whether the term "Braid" in Article No. 681 is meant to include, or not to include, braid of all kinds irrespective of the use for which it is intended.

It is the opinion of this Board that the general wording of Tariff Heading No. 681 indicates that it was not the intention of the framers of the Tariff to include under that heading braid such as the commodity in question which is used solely as the basic material in the manufacture of certain kinds of hats. This becomes particularly apparent when we take into consideration the Chinese text of the

Tariff, namely, "織帶," which cannot be construed to cover the commodity in question, hat braid or "製帽用緶." The protest, therefore, is sustained and the braid in question is to pay duty according to Tariff Heading No. 718, duty 12½% *ad valorem*.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

February 12th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 10. *Port:* Shanghai

Subject: Differential treatment in the valuation for duty paying purposes of certain paper manufactured by the Kiangnan Paper Manufacturing Co., Shanghai, and similar paper manufactured by the Oryokko Paper Mill Co. of Antung.

Case brought up by: The Kiangnan Paper Manufacturing Co., Shanghai.

Decision

In Brief: The paper in question manufactured by the Oryokko Paper Mill Co., Antung, and the Kiangnan Paper Manufacturing Co., Shanghai, is to pay duty on a value of Hk. Tls. 13.00 per picul.

Text:

On the 12th January, 1930, the Kiangnan Paper Manufacturing Co. protested against certain paper manufactured by them being appraised by the Customs for duty-paying purposes at a value of Tls. Tls. 11.50 per picul, whilst similar paper, the product of the Oryokko Paper Mill Co., Antung, was charged duty on a value of Hk. Tls. 10.00 per picul; also that a surtax of 2½% *ad valorem,* from which the Oryokko Co. was exempted, was levied on the product of the Kiangnan Paper Co.

Investigation having proved that the present market value of *mao pien* and *lien shih* paper manufactured by both the Oryokko Paper Mill Co. and the Kiangnan Paper Manufacturing Co. is approximately Hk. Tls. 13.00 per picul, the exporting ports concerned should assess duty accordingly.

The question of surtax is beyond the competence of this Board.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

March 18th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 11. *Port*: Canton

Subject: Tariff classification of certain sole leather declared by Appellant to be "Shoulders" Tariff No. 481 (a), but considered by the Canton Appraising Department as falling under "Others," 481 (b).

Case brought up by: Messrs. Oliveira and Co.

Decision

In Brief: Under Tariff Heading No. 481 (a).

Text:

This is a case wherein Messrs. Oliveira and Co. of Canton dispute the tariff classification given to certain sole leather imported by them: the Canton Customs classifying the leather under 481 (b) as "Sole Leather, others" while the Appellant considers the shipment to fall under 481 (a) as "Sole Leather, bellies and shoulders." The question is simply to decide whether the samples which were forwarded together with the protest can be classified as "shoulders" or not.

In the opinion of this Board some of the samples are on the border line between the two grades but the shipment as a whole cannot very well be classified other than as "shoulders."

The protest is therefore sustained and the shipment is to pay duty under Tariff Heading No. 481 (a).

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

March 21st, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 12. *Port:* Shanghai

Subject: Classification for duty-paying purposes of wool shoddy.

Case brought up by: The Yu Hwa Woollen Mill, Shanghai.

Decision

In Brief: Tariff Heading No. 89, "Sheep's Wool" is to include wool shoddy.

Text:

On the 25th January, 1930, the Yu Hwa Woollen Mill protested against the classification by the Shanghai Appraising Department of a consignment of wool shoddy under Tariff Heading No. 718, duty 12½% *ad valorem* on the grounds that wool shoddy is a raw material which bears the same relation to wool that waste cotton bears to raw cotton, and that since there is a heading in the Tariff for waste cotton which is taxed at 60% of the duty-rate on raw cotton, it is only fair that there should also be a heading for wool waste, including shoddy etc., which should be taxed at 60% of the duty-rate on sheep's wool. It was further claimed that the cloth which is manufactured from wool shoddy is, on import from abroad, only taxed at the rate of 12½% *ad valorem*, and it is illogical to charge the same rate of duty on the finished article as on the raw material which is used in the manufacture of same.

This Board is of the opinion that since the commodity in question is actually reclaimed sheep's wool (any possible percentage of other wool or fibre content being negligible) it is desirable to include it under one of the Tariff Headings in the Section of the Tariff dealing with "Wool and Woollen goods." The logical classification, therefore, is under Tariff Heading No. 89, which may be extended to include wool shoddy.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

March 22nd, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 13. *Port:* Shanghai

Subject: Duty paying value of certain shipments of artificial silk yarns, 2 cases ex "Katori Maru," 100 cases per s.s. "Suwa Maru," and 100 cases ex s.s. "Kashima Maru."

Case Brought up by: Messrs. Neill Faron Bros. & Co., Shanghai.

Decision

In Brief: To pay duty on a value based on Sh. 1/9 per lb. plus commission and bank charges.

Text:

In a protest dated 10th February, 1930, addressed to the Commissioner of Customs, Shanghai, Messrs. Neill Faron Bros. & Co., Ltd. of 119 Broadway, Shanghai, object to the values assessed on three shipments of artificial silk yarn (Tubize Collodion 1Va): 2 cases ex s.s. "Katori Maru," which arrived on 19th September 1929, were applied for on the 1st October 1929; 100 cases ex s.s. "Kashima Maru," which arrived on the 17th October 1929, were applied for the 8th November 1929; and 100 cases ex s.s. "Suwa Maru," which arrived on the 3rd December 1929, were applied for on the 21st January 1930.

The argument advanced by the Appellant in his protest is as follows:

"All these shipments were imported in October, November, 1929. They are exactly the same quality as 40 cases per s.s. 'Franken' for which the Board decided that the duty paying value per case should be Hk. Tls. 137.95. The 2 cases per s.s. 'Katori Maru' were delivered in October, 1929 under protest; the other 200 cases were left in bond pending the settlement of our dispute with the Customs regarding the previous 40 cases. We protest that the duty paying value of all these cases should follow what has been decided regarding the 40 cases, namely, Hk. Tls. 137.95 each case."

The position taken by the Shanghai Customs is that, with the exception of the two cases ex s.s. "Katori Maru," the same value per case as was decided by the Tariff Board for the 40 cases ex s.s. "Kranken" cannot prevail as different exchange rates were in force at the time the other shipments were applied for.

From the copy of the correspondence exchanged, which was enclosed in the Shanghai Commissioner's Despatch forwarding the protest, it is seen that the Appellant was advised by letter on the 28th January, 1930 that he should apply for a special drawback for the amount of duty considered to have been overpaid by him on the two cases ex s.s. "Katori Maru." The Shanghai Customs was correct in its decision, as, regardless of whether or not any specific mention had been made that duty was being paid under protest on the 2 cases ex s.s. "Katori Maru," the shipment would be entitled to pay on the same value as the 40 cases ex s.s. "Franken" as the two lots were sold on the same terms and the September Customs exchange rate (£1 = Hk. Tls. 7.64) was applicable to both shipments. Although the application for the two cases ex s.s. "Katori Maru" was handed in on 1st October the Customs exchange rate in force at the time was the September rate as the October exchange rate was not posted until the 2nd October.

As regards the two shipments ex s.s. "Kashima Maru" and "Suwa Maru" respectively, not only was no mention made anywhere that either shipment was bonded pending a decision on the 40 cases ex s.s. "Franken," but the shipments neither arrived, nor were applied for, during the period when the September exchange rate was in force. It is clear therefore that the correct duty paying values must be in accordance with the exchange rates which prevailed when the respective shipments were applied for, the November (1929) exchange rate of Hk. Tls. 8.07 to the Pound Sterling in the case of the shipment ex s.s. "Kashima Maru" and the January (1930) exchange of Hk. Tls. 8.35 for the shipment ex s.s. "Suwa Maru."

From documents submitted by the Appellant it is seen that all of the shipments, including the 40 cases ex s.s. "Franken," were sold on indent to Messrs. Chuen Kee & Co.

on basis at Sh. 1/9 per lb. C.I.F. Shanghai plus 2½% commission.

The duty-paying value decided upon by the Tariff Board for the shipment ex s.s. "Franken" was in effect the C.I.F. indent price plus 4% (2½% for commission and 1½% for bank charges) converted into Haikwan Taels at the September exchange rate. It was considered at the time that no definite wholesale value had been established for Tubize Collodion, the brand being a comparatively new one on the market.

The Board is of the opinion that the same method of valuation should be employed for the three shipments in dispute. Therefore, by applying the Customs exchange rates mentioned above, which prevailed when the different applications were handed in, the respective duty paying values on the three shipments should be as follows:

"Katori Maru" shipment of 400 lbs.—Hk. Tls. 278.10.

"Kashima Maru" shipment of 19,842½ lbs.—Hk. Tls. 14,571.76.

"Suwa Maru" shipment of 19,842½ lbs.—Hk. Tls. 15,077.34.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

April 3rd, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 14.

Subject: Classification for duty-paying purposes of elastic webbing (boot elastic).

Case brought up by: The Chamber of Commerce, Schopfheim, Germany.

Decision

In Brief: Elastic webbing (boot elastic) is to pay duty according to Tariff Heading No. 718—12½% *ad valorem.*

Text:

The Chamber of Commerce at Schopfheim, Germany, protested against the classification for duty-paying purposes of elastic webbing used in the manufacture of shoes, under Tariff Heading No. 681 (b) duty 22½% *ad valorem,* on the ground that, such webbing being used in the manufacture of shoes, it is inappropriate that it should be classified under the same heading as braid and decorative materials; furthermore, that classification under Heading No. 681 (b) would subject the material in question to the same rate of duty as the finished article of which it is only a component part.

It is the opinion of this Board that the general wording of Tariff Heading No. 681 indicates that it was not the intention of the framers of the Tariff to include under that heading the commodity in question. Therefore the term "Elastic Webbing" used in the interpretation of the item "Braid" in Tariff Heading No. 681, as given in I.G. Circular No. 3900, T.Q.S. No. 9, is not to include elastic webbing for shoes (boot elastic) which in future is to be classified for duty-paying purposes under Tariff Heading No. 718=12½% *ad valorem.*

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

April 3rd, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 15. *Port:* Shanghai

Subject: Classification for duty-paying purposes of a consignment of grey cotton cloth ex s.s. Tsukuba Maru from Japan.

Case brought up by: The Hwa Feng Hsiang Piece Goods Co., Shanghai.

Decision

In Brief: To pay duty under Tariff Heading No. 46 at 7½% *ad valorem.*

Text:

On 25th January 1930 The Hwa Feng Hsiang Piece Goods Co. protested against the classification for duty-paying purposes by the Shanghai Appraising Department of a consignment of grey cotton cloth as T-Cloth under Tariff Heading No. 6 on the following grounds:

(1) The cloth in question is 28″ × 120 yds. long ×13 lbs. and is of a very inferior quality.

(2) Tariff Heading No. 1 states "Grey Cotton Shirting not over 40″ × 41 yds". The said cloth, if treated as three pieces, as it should be the case, weighs 4 1/3 lbs. each. The cloth is therefore 28″ ×40 yds. × 4 1/3 lbs. and meets with the specification of Tariff Heading 1 (a) in every respect.

(3) The cloth is imported for the purpose of making bags and the classification as grey shirting is appropriate.

From the wording of the Import Tariff it is seen that dimensions play an important part in the classification of piece goods; especially as regards certain kinds of grey cotton cloth of 1/1 weave which might be classified as either shirtings or T-Cloths. It is rather difficult from a technical point of view to state definitely where shirtings end and T-Cloths begin.

The dimensions of the cloth in question (28″ by 120 yds.) are common to neither shirtings nor T-Cloths, shirt-

ings being generally 38/38½ inches by 40 yds. and T-Cloths 30 inches by 24 yds. At the hearing the Appellant stated that the cloth had been ordered to special size in order to meet the requirements of local flour mills where the cloth is used for bag-making.

As the length of the cloth in this case is no guide in determining the classification, 120 yds. being equivalent to either three normal pieces of shirtings or five of T-Cloths, the Shanghai Appraising Department in deciding to classify the goods as T-Cloths was guided by the width, 28 inches being nearer T-Cloth width (30 inches) than shirting width (38/38½ inches).

Although the Appellant in his original protest contended that the cloth should be classified as shirtings, he stated at the hearing that the goods are even lower in quality and price than the lowest grade of grey shirtings.

The Board has consulted experts on the question and has come to the conclusion that while the width of this cloth is nearer to the width of T-Cloth than shirting, the cloth, judging from other standards, namely, amount of sizing, count of yarns, and number of threads per inch, is nevertheless technically neither T-Cloth nor shirting. It is therefore the opinion of the Board that it should not be classified either under Tariff Heading No. 6 as T-Cloth or No. 1 as shirting: but should be placed under Tariff Heading No. 46, duty at 7½% *ad valorem*.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

April 14th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 16. *Port*: Canton

Subject: Classification for duty-paying purposes of certain sole leather.

Case brought up by: Messrs. Oliveira & Co.

Decision

In Brief: The leather in question is to be classified for duty-paying purposes under Tariff Heading No. 481 (a), duty G.U. 5.69 per picul.

Text:

On the 26th May 1930, Messrs. Oliveira & Co. protested against the classification by the Canton Customs of certain sole leather imported by them, under Tariff Heading No. 481 (b), on the grounds that the leather in question is sole leather, "shoulders," and is similar to the leather which was ruled by the Tariff Board of Enquiry and Appeal, in Import Tariff Case No. 11, to pay duty under Tariff Heading No. 481 (a) (5). Samples of the leather and an invoice for the consignment were produced.

Measuring the samples from the horn showed four of them to be 36″ in length and one 34″. Although these samples proved to be slightly longer than the samples submitted in the previous case, when the maximum length was found to be 33″, in the opinion of this Board they cannot very well be classified under any other heading than "shoulders."

While the average size of shoulders is from 30″ to 33″, no sharp line can be drawn as the limit for the length of shoulders as they are bound to vary in length depending upon the sizes of the animals from which the hides are taken.

In this connection it is of interest to note the definition for "shoulders" as given by the Joint Committee of Tanners and Leather Goods Industries in U.S.A. The definition reads: "Shoulders: that part of the hide between the neck and a line cut across the hide from the center of the front flanks about 50" from the butt of the tail of cattle hides." It will be seen that the measurement is taken from the tail when the whole piece is intact, but it is significant to note that only an approximate figure can be given.

The protest is sustained and the leather in question is classified under Tariff Heading No. 481 (a).

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

June 30th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 17. *Port:* Shanghai

Subject: Refund of 10% of the duty paid on 23 truck chassis imported in May, 1929.

Case brought up by: China Motors, Federal Inc., U.S.A.

Decision

In Brief: The refund is not allowed.

Text:

On May 1st, 1929, the China Motors, Federal Inc., U.S.A., hereinafter referred to as the Appellant, applied for import permits covering 23 motor truck chassis which were passed by the Customs after the payment of duty at the rate of 22½% *ad valorem*. The rate was protested against by the importer on the ground that motor truck chassis should come under Tariff No. 714 (a) as motor trucks, complete, duty 12½% *ad valorem*. Tariff No. 714 (a), as then standing, read in part:

> "Vehicles, Motor:....Complete Motor Trucks or Motor Lorries over 1-ton carrying capacity." Duty 12½%.

In the meantime, independent of the various protests against the duty rate on truck chassis, the National Government, in Order No. 1052, under the date of May 29, 1929, approved of the recommendation made by the Ministry of Finance to the effect that henceforth Tariff No. 714 (a) should be altered to read:

> "Vehicles, Motor:.....Motor Trucks or Motor Lorries (including Truck Chassis) over 1-ton carrying capacity." Duty 12½%.

The Inspectorate General of Maritime Customs was informed of this governmental order in due course.

Upon the receipt of this order, the Inspectorate General of Maritime Customs, in a despatch dated June 6th, 1929, instructed the Shanghai Customs to the effect that

"the difference between the duty according to Tariff No. 714 (b) and 714 (a) (which difference amounts to 10%) on the 23 motor trucks mentioned above which was paid under protest may now be refunded." On June 14th, the Appellant applied through their Customs broker, Messrs. Wheelock & Co. for a refund. The import permits in question were in the meantime returned to the Custom House, and they were altered in red ink from 22½% to 12½%, such notation bearing the date of June 29th, 1929. This notation was stamped "Pass Office," and initialled by a Customs employee. The refund due, which amounted to Hk. Tls. 3,298.10, was later disallowed by the Customs, under the subsequent I.G. instruction of July 10th, 1929, issued in pursuance to Kwan Wu Shu Despatch No. 828. The Appellant claims that he sold the trucks in question expecting to secure a refund; and, the refund being now refused, he suffered a "loss" to the extent of the refund.

A preliminary hearing of the case was held in the office of the Board on Nov. 26th, 1929. At the request of the Appellant, the Board decided to hold the case in abeyance, as important evidence could not be rendered owing to the absence from China of the manager of the Appellant's concern. The case was postponed until July 22nd, 1930, on which date a second hearing was held. At the second hearing it was brought to light that the 23 truck chassis in question, together with 17 others which had been imported before February, 1929, and on which a duty of only 7½% had been paid, were sold on June 5th, under which date the transaction was entered on the firm's books, but were not delivered until about June 14th, 1929, as part fulfillment of a contract which was dated May 30th, 1929 and called for the delivery of 250 truck chassis on or before the end of June, 1929. It was also stipulated in the contract that "the party of the first part (the buyer), agrees to pay the Customs import duty and import taxes or furnish a *huchao* to clear the Customs." As a matter of fact a *huchao* for 250 truck chassis was furnished; and, on the strength of that *huchao* the Appellant imported 250 truck chassis in June, 1929, free of import duty.

What actually happened may be outlined as follows: the Appellant agreed to sell 250 truck chassis, and he

obtained a *huchao* from the buyer to clear these 250 truck chassis through the Customs free of duty. For certain reasons which we need not go into here, the Appellant chose to deliver 40 truck chassis from his existing stock, on 23 of which he had paid an import duty of 22½%, expecting, of course, to replenish his stock from the 250 which were due to arrive, duty free, some half a month later. Perhaps the Appellant did this because it was believed at the time that a refund was due him. During the hearing of the case, it was pointed out by the Appellant that he could have recovered the whole amount of the duty for these 23 truck chassis from the buyer, instead of having the buyer furnish the *huchao,* either alternative being open to the Appellant by the terms of the contract. It is precisely for this reason, *viz.* that the *huchao* was only good for the remission of a duty of 12½%, whereas the 23 truck chassis in question paid a duty of 22½%, that the Appellant claims that he has suffered a "loss" to the extent of 10%, meaning by the "loss" that he could have recovered that amount from the buyer if he had not been led to believe that the Customs would grant him a refund for the amount.

In view of the different grounds upon which the Appellant has based his claim for the refund from time to time, it is the duty of this Board to enumerate the contentions one by one. In the first place, it is argued that since the Appellant lodged a formal protest with the Shanghai Customs on paying the 22½% duty on truck chassis, and since the duty has been revised downward, the Appellant is entitled to the difference between the old rate of duty and the existing rate, which difference amounts to 10% *ad valorem,* on the 23 truck chassis imported by them on May 1st, 1929. It is, in short, an ordinary claim for drawback. The usual practice of the Customs has been that when a merchant pays duty under protest, a drawback is due to him if his protest should be sustained by the Customs. That practice, however, cannot apply to the present case. To quote from the I. G. instruction dated July 10th, 1929 to the Shanghai Commissioner, in pursuance of Kwan Wu Shu Despatch No. 828, it was stated that Kwan Wu Shu ruled:

"That a modification of the Tariff and an interpretation of the Tariff are two different things; that the procedure whereby merchants may pay duty under protest and claim a subsequent refund cannot apply to the case in question, seeing that the alteration to Tariff No. 714 was a modification of the Tariff as distinct from a Tariff interpretation and should come into force from the date that each port receives its instructions....."

It may thus be seen that the case in question concerns a modification of the Tariff, the effect of which cannot be retrospective. Under the circumstances, it is plain that no drawback can be allowed.

It remains for this Board, however, to consider carefully the second contention of the Appellant, *viz.*, that a "loss" has been incurred by him, in the selling of the 23 truck chassis in question. In order to render a decision upon this point, it is essential for this Board to ascertain what this alleged "loss" is. From a statement made by Haskins & Sells, certified public accountants, dated August 8th, 1929, which statement was first submitted by the Appellant to the Director of Customs Administration through the U. S. Consulate-General at Shanghai and later turned over to this Board, it would appear that this "loss" consists in reduced sales price to the buyer. From the statement we quote the following:—

"We (the certified public accountants) find that the selling prices of 1¼ Graham Bros. trucks, on which the smaller duty was paid, are equal to, or exceed, the selling prices of the 23 trucks in question. From an inspection of your (the Appellant's) files, it would appear that the *selling prices* of the 23 trucks were based on the assumption that you were to receive from the Customs a refund of 10% of the duty paid, which would adjust the duty expense to the present basis of 12½%."

Here the selling prices of the 23 truck chassis in question, paying a duty of 22½%, were compared with the selling prices of other truck chassis of the same make which were imported at lower rates of duty; and it was found

that the latter are "equal to, or exceed," the former. It was deduced therefrom that the selling prices of the 23 truck chassis were arrived at with the expectation that a refund of 10% of the duty would be granted by the Customs. Such an analysis, however, can only be valid when the selling prices in both instances include the duty. That this was not the case with the 23 truck chassis in question was clearly established at the second hearing of the case, when it was found that the contract price for 250 truck chassis sold, of which the 23 in question formed a part, *did not include the duty.* The buyer of those 250 truck chassis, incidentally, never paid the duty, because a *huchao* covering the whole purchase was furnished instead.

Viewing the matter from another angle, however, it might be argued that the Appellant suffered a genuine "loss." By the terms of the contract above referred to, the Appellant might either demand that a *huchao* be furnished to clear the Customs, or that import duty be paid by the buyer. If he had chosen the latter alternative in regard to the 23 truck chassis in question, the import duty of 22½% might have been shifted easily to the buyer. That the Appellant failed to do so might have been due to a business miscalculation; more probably, however, it was because he was led to believe that the difference in duty between the modified Tariff and the Tariff as it was promulgated in February, 1929, to the amount of 10% *ad valorem,* would be refunded by the Customs. It was unfortunate that the Customs, through various actions of its own, had given the Appellant reason to strengthen that belief. The I. G. instruction of June 6th, 1929, explicitly ordered that a refund should be paid over to the Appellant. On June 29th, the duty rate on the Appellant's import permit was altered from 22½% to 12½% by a Shanghai Customs employee. The facts remain, however, that the actual decision of the Appellant to deliver the 40 truck chassis, including the 23 in question, was made on or before June 5th, on which date the item was entered upon the firm's books; that such a decision on the part of the Appellant could not possibly have been influenced either by I. G. instruction of June 6th or by the Customs notation of June 29th, because the transaction preceded both; and that the Appellant admitted during the second hearing of the case that he was led to

believe that a refund would be granted to him by the Customs from other quarters than the Customs, and that his determination to supply 40 truck chassis as the initial fulfillment of his contract was influenced thereby. It is plain therefore that if the Appellant suffered a "loss" in the transaction, that "loss" could not have been caused by the Customs.

On the grounds outlined above, the protest of the Appellant is not sustained and the refund claimed is hereby not allowed.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

August 5th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 18. *Port:* Shanghai

Subject: Tariff classification of "Fougelia B" soap oil.

Case brought up by: Messrs. Union Trading Company, Shanghai.

Decision

In Brief: Under Tariff Heading No. 457, duty 17½% *ad valorem.*

Text

Messrs. Union Trading Company, hereinafter referred to as the Appellant, in a statement addressed to the Commissioner of Customs, Shanghai, protested against the decision of the Appraising Department in ruling certain "Fougelia B" soap oil, imported ex s.s. "Hakosaki Maru" on the 16th May, 1930, to be essential oil falling under Tariff Heading No. 457 which reads:

> "Gums and Resins, Wax, Tallow, and Oils (Fatty, Essential, or Volatile), not otherwise enumerated 17% *ad valorem.*"

The Appellant contended that the product should be classified under Tariff Heading No. 394 (b) as a "chemical compound not otherwise enumerated. Tariff Heading No. 394 reads:

> "Chemicals and Chemical Compounds, not otherwise enumerated:
>
> (a) Mineral Acids and all other heavy chemicals, 7½% *ad valorem;*
>
> (b) Others (including Drugs, Cod-liver Oil, Medicines and Medical Substances or Products, and Coal Tar Products of all kinds): 12½% *ad valorem.*"

As regards the composition of the oil the Appellant made reference to a statement on the manufacturer's invoice, which reads:

"We herewith certify that the merchandise referred to in this invoice contains 12 weight % of natural essences and 88 weight % of synthetic perfumes designated (chemical products) for a respective value of Sh. 3/4½ and 6/9½ per lb."

An analysis of "Fougelia B" oil made by the Customs chemist of the Shanghai Appraising Department proved it to be a mixture of essential oils, some natural and some synthetically prepared,—the synthetic portion being prepared from citronella oil.

From the reading of Tariff Heading No. 394 (b) it is to be seen that unless "Fougelia B" soap oil can be termed a "chemical compound" it cannot possibly fall under that Heading. In the opinion of the Customs chemist and of other technical experts who were consulted, the product is a "chemical mixture" but not a "chemical compound." To qualify as a "chemical compound" the product must possess a certain fixed chemical formula and must have distinct characteristics and definite chemical and physical properties not common to other substances.

In support of the position taken the Customs chemist submitted a statement in which, *inter alia*, he quoted the definition of the term "chemical compound" as given in Webster's "New International Dictionary." The definition reads:

"Chemical compound is a distinct substance formed by a union of two or more ingredients in definite proportions by weight; as, water is a compound of oxygen and hydrogen. Every definite chemical compound always contains the same elements, united in the same proportions by weight, and with the same internal arrangement."

As "Fougelia B" soap oil does not possess either a fixed formula or the required definite characteristics or properties it cannot be termed a "chemical compound" and, therefore, it cannot fall under Tariff Heading No. 394 (b).

The question remains is: Should this product be classified under 457 as Essential Oil? The Appellant contended

that under Tariff Heading No. 457, by the term "Essential Oils" is meant only pure natural essential oils and that as "Fougelia B" soap oil is a product which contains both natural and artificial essential oils, it cannot be classified under that heading.

In the course of examination conducted by the Board the following authorities and data have been submitted by the Customs chemist as having bearing on the point:—
Villavecshia's Applied Analytical Chemistry (1918)
Vol. II, p. 283:

> "The number of essential oils which are obtained from flowers, fruits, peel, leaves and secretions of different plants or are prepared synthetically, is very large....."

Martin's Industrial Chemistry (1922) p. 156:

> "Although most perfumes can be prepared synthetically from coal tar products, yet in many cases they are merely separated in a pure state from less costly natural oils sometimes by fractional distillation and sometimes by other chemical actions."

Allen's Commercial Organic Analysis Vol. IV (1917) p. 252 under "Constituents of Essential Oils":

> "Certain substances—such as menthocitronellol, ionone, piperonal, and nitrobenzene—though not constituents of natural essential oils, are closely related thereto, and have therefore been included in the 'Table of the Principal Constituents of Essential Oils'."

It is plain from the above evidence that the term "Essential Oils" as used in chemistry and the trade applies not only to the natural products but also to the synthetically prepared oils. Tariff Heading No. 457 does not specify that the products enumerated must be natural products.

The Board is therefore convinced that so long as the product is a kind of essential oil, it should be considered as such for the purpose of tariff classification, regardless of the raw material from which the product is prepared and the fact whether the product is purely natural or synthetic oil, or a mixture of natural and synthetic oils.

The decision of the Shanghai Appraising Department to classify "Fougelia B" soap oil under Tariff Heading No. 457 is therefore sustained.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

August 22nd, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 19. *Port:* Shanghai

Subject: Classification for duty-paying purposes of felt hat bodies.

Case Brought up by: Messrs. Toa & Co. Ltd., Shanghai.

Decision

In Brief: To pay duty under Tariff Heading No. 104, duty 15% *ad valorem.*

Text:

On the 4th of July 1930 Messrs. Toa & Co. protested against the classification of a consignment of felt hat bodies by the Appraising Department of the Shanghai Customs under Tariff Heading No. 101 duty at 17½% *ad valorem,* on the grounds: (1) that the articles in question are only half-finished bodies of hats made of waste wool; and (2) that No. 4 of the Schedule Part I of the Provisional Sino-Japanese Agreement provides for the application of Tariff Heading No. 677 (c) to felt hats below Hk. Tls. 15.00 per dozen.

The Appellant thus claims that this article should be classified under 677 (c).

The contention of the Appellant by referrence to the treaty is not to the point, as Tariff Heading No. 677 applies only to completely finished hats.

The Shanghai Customs bases itself on T. Q. S. No. 105 in classifying these hat bodies under Tariff Heading No. 101, which reads:

> "Clothing, Haberdashery, and all other articles of personal wear, and parts or accessories thereof, of Wool or Wool and Cotton Mixture, n.o.e."

At a previous hearing on a case of hats, the question of the bodies was incidentally brought up. It was considered by the Board at that time that no separate decision was necessary in that the question had been settled by

T. Q. S. No. 105, a review of which was not called for by the protest. Careful reading of the Heading has led the Board to the belief that by Tariff Heading No. 101 is meant only to include fully manufactured articles and to classify the half-finished hat bodies thereunder is not altogether appropriate.

The Board therefore rules that this article should be considered as a product of wool and should be classified under Tariff Heading No. 104 which reads:

"Woollen Piece Goods, *and all other products made entirely of Wool or Hair, n.o.e.*"

T. CHOW
Chairman

K. LEE
Member

C. NEPRUD
Member

C. BOS
Member

H. E. MCGOWAN
Member

August 23th, 1930.

TARIFF BOARD OF ENQUIRY AND APPEAL

TARIFF DECISION

Case No. 20. *Port*: Shanghai

Subject: Duty paying value of a consignment of 100 cases Ovomaltine ex s.s. "D'Artagnan."

Case brought up by: Messrs. Siber, Hegner & Co., Shanghai.

Decision

In Brief: To pay duty on the Customs valuation.

Text:

On the 26th July, 1930, Messrs. Siber, Hegner & Co. protested against the valuation for duty-paying purposes by the Shanghai Appraising Department of a consignment of 100 cases Ovomaltine, ex s.s. "D'Artagnan" from Switzerland via Marseilles, at Gold Units 10,669.45 on the following grounds:

(1) that their ex-godown selling price includes a return commission of 10% payable at the end of every year to all dealers who sell 10 cases or more per year;

(2) that during the year 1929 return commissions had been paid on 85% of their total sales;

(3) that this percentage is sure to be higher for the current year and eventually will have to be allowed on their entire turnover.

The Shanghai Appraising Department stated that they refused to allow the commission in question because it is a Customs practice of long standing not to take into account any bonuses or return commissions granted after sales have been completed. It was also pointed out that such bonuses are generally of a conditional nature and are quite often on a sliding scale basis.

The matter at issue hinges on whether return commissions or bonuses should be allowed as a deduction when calculating the duty-paying value of imports.

It is the opinion of this Board that where the commission is not granted at the time of importation

and where the actual price which a buyer will pay is dependent upon a contingency that cannot arise until after payment of duty, and may not arise at all, it is the importer who must run the risk of overpaying duty and not the Customs the risk of receiving less than its legitimate due. It would be obviously extremely difficult, if not impossible, for the Customs from an administrative point of view to attempt to take cognisance of all types of return commissions. The responsibility must therefore rest with the importers to protect themselves by making the necessary adjustments in their methods of selling.

The protest is therefore not sustained.

T. CHOW
Chairman

K. LEE
Member

C. BOS
Member

C. NEPRUD
Member

H. E. MCGOWAN
Member

September 8th, 1930.

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T. Chow, *Chairman*

K. Lee, *Member*

C. Bos, *Member*

C. Neprud, *Member*

H. E. McGowan, *Member*

T. F. Lee, *Secretary*

CASE NO. 21.

Port: Canton.

Subject: Duty-paying value of a consignment of 20 casks silicium carbide, ex. s.s. "Tung On," from Hongkong.

Case Brought up by: Messrs. Honwan Trading Co., Canton.

Decision:

In Brieff: To pay duty on a value of Gold Units 991.54.

Text:

On July 10th Messrs. Honwan Trading Co. applied at Canton for importation of a consignment of 20 packages of silicium carbide ex s.s. "Tung On" from Hongkong at a declared value of G. U. 851.837 derived from the contract price converted into G. U. at the rate of exchange on the date of importation. The market value was found to be G. U. 991.54. The Customs at Canton assessed a value of G.U. 1205.18 on the consignment by taking the contract price in Hongkong Dollars and converting it into G.U. at the rate of exchange fixed by the Appellant with his bank at the time when the contract was made. The Customs at Canton based its decision on an old Shanghai practice as recorded in the Loose Leaf Ledger Memo. No. 25 in the Shanghai Book of Practice and Authorities which states *inter alia*: "in regard to contract with prices in foreign currencies, it was agreed in certain cases, where one of the foreign currencies was undergoing violent fluctuations in exchange, the rate of exchange obtaining on the date of the contract should be used and not the exchange rate of the time of importation." The same memo went on to explain that this was at the time the only possible means of protecting the revenue.

The Appellant protested against this assessment on the grounds: (1) that value thus assessed is 40% above the market value which no merchant can expect to make on merchandise and (2) that if the exchange had gone the other way that is to say, instead of falling from 1/9¼ to 1/3, rising from 1/9¼ to 2/2, the Customs would not have based its calculation at 1/9¼.

The question in dispute is, what should be the duty paying value of imports?

Section I Rule I of the Import Tariff Provisional Rules states:

> "The duty-paying value of any import liable to an ad valorem rate of duty shall be determined on the basis of the wholesale market value of the goods at the port of importation. This latter shall be converted from other currencies into Customs Gold Units at the official rates fixed for this purpose and shall be considered to be higher than the duty-paying value by
>
> (1) The amount of the duty on the goods, and
>
> (2) 7 percent of the duty-paying value of the goods."

Section 4 of the same Rule states that invoices and contracts will be regarded as evidence of the value, but not necessarily as conclusive evidence.

In the recent definition of the term "Wholesale Market Value" as used in the above quoted section, the procedure is definitely established that where there is a wholesale market value at the port, or, in the absence of this, at the principal markets in China, such value must be used to arrive at the duty-paying value; and only where such market value is not obtainable in China, then the true C.I.F. price shall be used as a basis.

The Appellant and Customs agreed that the duty-paying value as derived from the market value of the goods at the time of importation should be G. U. 991.54.

From these authorities it seems to be clear that G.U. 991.54 should be the duty-paying value.

As regards the particular practice, quoted as a precedent by the Canton Customs, it is found that it was but a temporary expedient instituted to meet very exceptional conditions caused by the rapid fall in German Marks at the close of the Great War. The expedient was considered the only possible means of protecting the revenue at the time but it was not regarded as having been entirely satisfactory. It should also be noted that the Import Tariff

Rules, which prevailed at that time, were so worded that there was practically no alternative for the Customs but to accept contract values if they were *bona fide*. The rules as revised, however, allow the Customs greater latitude so that contracts even though *bona fide*, need not be followed when the values given do not accord with the market ruling at the time of import.

The Board therefore rules that G.U. 991.54 should be the duty-paying value.

September 10th, 1930.

CASE NO. 22.

Port: Shanghai.

Subject: Classification of "Apple Gin."

Case Brought up by: Messrs. Caldbeck, Maogregor & Co. Ltd., Shanghai.

Decision:

In Brief: To pay duty under Tariff Heading No. 351 G.U. 3.66 per case of 12 reputed quarts.

Text:

On the 24th July, 1930, Messrs. Caldbeck, Macgregor & Co. Ltd., Shanghai, protested against the classification, by the Shanghai Appraising Department, of a consignment of apple gin ex s.s. "Aeneas" from Glasgow, under Import Tariff No. 357, which Heading reads:

> "Wines and all other alcoholic or spirituous liquors and beverages, not otherwise enumerated."

The Appellant contended that the liquor in question should be classified under Tariff No. 351, as Gin, in bottles, basing their claim on the grounds:

(1) that the term "gin" is used in respect of a rectified spirit which is distilled with various berries, fruits, flavouring matters etc.;

(2) the liquor in question is gin that contains a substance which gives it an apple flavour;

(3) the price is slightly lower than that of an average Dutch gin; and

(4) Apple gin is used in the same manner and for the same purpose as ordinary gin.

Webster's New International Dictionary defines gin as follows:

> "A strong alcoholic liquor extensively manufactured in Holland by distilling a grain (expecially rye) mash in pot stills with juniper berries;.....Also a

similar liquor made from plain spirit flavoured with any of various aromatics, as juniper berries, aniseed, coriander, fennel, or turpentine. Gin usually contains about 40% of alchohol by weight."

According to a copy of an Analyst's Report which appears on the bottles of the liquor in question, apple gin contains all the constituents of a first class gin combined in a pleasing manner with the soluble ingredients of the apple.

The Customs' Analyst's Report states that on analysis he found that apple gin contains 24% of alchol by weight and 0.394% of free acid, the free acid denoting that the flavouring matter had been added after distillation.

It is the opinion of this Board that too much stress should not be placed on the alcoholic content of the liquor in question—the dictionary of 40% being only approximate—and that although flavouring has been added distillation, this does not alter the fact that the liquor is gin and as such should be classified under Tariff Heading No. 351.

The protest is therefore sustained.

September 16th, 1930.

CASE NO. 23.

Port: Shanghai

Subject: Duty-paying value of certain shipments of aluminium foil ex s.s. "Hakusan Maru," s.s. "Porthos" and s.s. "Kitano Maru."

Case Brought up by: Messrs. Steiner & Co., Shanghai.

Decision:

In Brief: The cargo in question is to pay duty on a value of Gold Units 160.00 per picul net foil.

Text:

On the 19th June, 1930, Messrs. Steiner & Co. protested against the valuation of G.U. 160.00 per picul by the Shanghai Appraising Department of several shipments of aluminium foil as enumerated hereunder:

4	shipments	= 105	cases	ex	"Hakusan Maru"	28th May, 1930
3	,,	= 85	,,	,,	"Porthos"	6th June, 1930
2	,,	= 130	,,	,,	"Kitano Maru"	12th June, 1930

The protest was made on the ground "that during the last few months the assessments of the duty appear to have been made on a principle which results in unequal valuation and deprives the importer of a safe basis for calculating the duty at the time of making a contract and as a consequence frequently causes him considerable loss."

In substantiation of the foregoing they pointed out that "the prices of aluminium foil in the producing countries have declined steadily and to a considerable extent from 2/1½ per lb. in February 1930, to 1/10 per lb. in May 1930, and that the market value in Shanghai had declined correspondingly, if the gold equivalent of the local Tael prices is taken as representing the local market value, which method would appear to be justified by the fact that the duty is paid in Gold Units."

They also stated that "the duty on aluminium foil being calculated *ad valorem* and paid in Gold Units, and the gold prices of the article having steadily declined (as shown by their suppliers' invoices) we are of the opinion

that the duty in Gold Units should have decreased accordingly."

On referring to the Import Applications for the foil in question, it was found that the declarations and appraisements were as follows:

s.s. "Hakusan Maru" applied 29th May, 1930.

Pkgs	*Goods*	*Piculs*	*Declared per picul*	*Apparised per picul*
30	c/s Aluminium Foil, plain	22.49½	G. U. 146.17	G. U. 160.00
30	,, ,, ,, ,,	22.49½	,, 159.96	,, 159.96
25	,, ,, ,, ,,	18.75½	,, 159.96	,, 159.96
20	,, ,, ,, ,,	14.99½	,, 144.80	,, 160.00

s.s. "Porthos" applied 7th June, 1930.

30	c/s Aluminium Foil, plain	25.74½	G. U. 145.53	G. U. 160.00
25	,, ,, ,, ,,	21.79	,, 148.97	,, 160.00
30	,, ,, ,, embossed	22.51½	,, 178.00	,, 178.00

s.s. "Kitano Maru", applied 13th June, 1930.

100	c/s Aluminium Foil, plain	74.98	G. U. 125.84	G. U. 160.00
30	,, ,, ,, ,,	22.50½	,, 129.41	,, 160.00

The Appellant, stated that when the firm gave an order for a quantity of aluminium foil to be shipped in (say) four lots, they settled the exchange at the time the contract was made; and that they always insisted on their buyers settling the exchange at the time the contract was made. When the cargo arrived at different times, the Customs assessed duty on the market value ruling on the day of import. Thus it became impossible for them to fix their selling price as they were not sure how much duty would be assessed on arrival of the shipments. As their commission was 2½% on the buying price, which was calculated at the time the contract was made, they had lost heavily on the transactions—as much as Tls. 7.00 to Tls. 9.00 per case—owing to the Customs valuation. They maintained therefore that the duty on merchandise bought three months previously should be assessed on its value on the date the contract was made and not on its value on the date of import.

From the foregoing it will be seen that the protest is directed not so much against the value appraised by the

Customs as against the system employed, whereby the value ruling on the day of import is taken as a basis for arriving at the duty-paying value.

In support of the practice of appraising the value of goods on the day of application to import same, the Shanghai Appraising Department stated that they were guided by the definition of the term "Wholesale Market Value" which was notified to the Shanghai public in Customs Notification No. 1188, and which reads:

> "The term 'Wholesale Market Value' of a commodity as used in Rule I of the Import Tariff Provisional Rules is defined to mean the average price at which, on the date of application to import and on the open market at the port of importation, the commodity is freely offered for sale, in the ordinary commercial acceptance of the term, or is capable of being sold, in the usual wholesale quantities and in the ordinary course of trade."

In view of the explicit nature of the above-mentioned definition this Board is of the opinion that there was no alternative for the Customs but to appraise the value of goods in accordance with the market value ruling on the date of application to import.

The protest is therefore not sustained.

September 19th, 1930.

CASE NO. 24.

Port: Shanghai.

Subject: Tariff classification of a consignment of 75 casks of "Extra White" cement, ex s.s. "D'Artagnan."

Case Brought up by: Messrs. Gibb, Livingston & Co., Ltd.

Decision:

In Brief: To be classified under Tariff No. 574, "Cement," duty at G.U. 0.14 per picul.

Text:

On July 25th, 1930, Gibb, Livingston & Co., Ltd., Shanghai, hereinafter referred to as the Appellant, protested through the Commissioner of Customs, Shanghai against the Customs classification of a consignment of 75 casks of "Extra White" cement ex s.s. "D'Artagnan," Import Application No. 135/6071, under Tariff No. 718, duty 12½% *ad valorem*. The Appellant held that "Extra White" cement is cement, and it should properly come under Tariff No. 574, "Cement."

It is apparent that the decision in this case must depend on what is covered by the term "Cement" as used in the Tariff. As cement in its broader sense may mean anything which can be used to hold two bodies together it is evident that an arbitrary line of some sort must be drawn. It is possible—even quite probable—that the framers of the Tariff when arriving at the specific rate for cement had in mind only Portland cement. There is nothing on record, however, to confirm that view. In the opinion of this Board there are other cements which for all practical purposes might be classified under the Tariff Heading of Cement. The Board hereby rules that the term "cement" as used in the Tariff is to include not only Portland cement but all other hydraulic cements which are closely related to Portland cement. This ruling is essentially is agreement with the definition of cement as found in the Encyclopedia Brittannica (13th Edition, Vol. V.) which reads in part: "In engineering, when used without qualification, it means Portland cement, its modifications and congeners: these

are all hydraulic cements that is, when set, they resist the action of water, and can, under favourable conditions, be set under water."

The cement in question, being hydraulic, is considered by this Board to be covered by the ruling made above. The protest is therefore sustained and the cement known as "Extra White" cement (also referred to as Lafarge cement) is to pay duty under Tariff Heading No. 574.

It is to be noted that Keene's cement and other cements which are not hydraulic and which are not closely related to Portland cement are to be classified as Building Material under Tariff Heading No. 664.

September 23rd, 1930.

CASE NO. 25.

Port: Shanghai.

Subject: Valuation of a shipment of 7/0 red eagle needles ex s.s. "Ramses."

Case brought up by: China Export-Import & Bank Co., Ltd.

Decision:

In Brief: The shipment should be assessed duty at c.i.f. price plus 5% in accordance with paragraph three of the definition of the term "Wholesale Market Value" as used in Rule I, Section I of the Import Tariff Provisional Rules; namely, at a value of G.U. 1941.75.

Text:

This protest has to do with a shipment of 7/0 red eagle needles imported by China Export-Import & Bank Co., Ltd. ex s.s. "Ramses." The Appellant declared in its application for duty-paying purpose a value of G.U. 1458.51 based upon the selling price in Shanghai Taels of a contract made by the Appellant with a dealer. The Shanghai Customs claimed that there was no wholesale market value obtainable for this particular needle on the date of import and proposed to assess duty on a value of G.U. 1941.78 derived by the addition of 5% to the c.i.f. price.

Many reasons were advanced by the Appellant in its protest, but, in the main, his contention was that it is unfair to the merchant for the Customs to assess duty on the c.i.f. price plus 5%, particularly in a period of rapidly falling exchange as generally advance in prices does not keep pace with the decline in exchange; and that while there has been no recent sale of needles of this particular size, it would appear, judging by the selling prices of other needles, that the price has not increased.

Rule I of the Import Tariff Provisional Rules as amplified by the definition of the wholesale market value clearly provides, in essence, that the duty-paying value of any import liable to an ad valorem rate of duty shall be derived from the wholesale market value on the date of application to import; but when such wholesale market

value is not obtainable at the port of importation and other ports of China the duty-paying value shall be c.i.f. plus 5%.

The issue therefore entirely rests on the point whether or not there is a wholesale market value for 7/0 needles. It has been brought out at the hearing that there is no stock of needles of this particular size on this market. Investigation confirms that this is the first shipment of such needles imported since 1920. In length and thickness the needles in question bear close resemblance to No. I diamond brand drilled eyed needles imported by Carlowitz & Co. That brand of needles, however, is the best established on the market and commands a price several times that of other brands. It would be obviously unfair to the Appellant to assess duty on the shipment of needles in question on the basis of the wholesale market value of a brand which is better established and which appears to be generally considered better in quality. The Board therefore considers that no wholesale market value is obtainable at this particular moment. The decision of the Shanghai Customs in assessing duty on the c.i.f. price plus 5% is sustained.

October, 24th, 1930.

CASE NO. 26.

Port: Shanghai.

Subject: Duty-paying value of 40 cases of decorated crown corks ex s.s. "Borda."

Case brought up by: Messrs. Caldbeck MacGregor & Co., General Agents of the Aquarius Company.

Decision:

In Brief: The decision of the Shanghai Appraising Department to levy duty on C.I.F.+5% is upheld.

Text:

Messrs. Caldbeck MacGregor & Co., General Agents of the Aquarius Company, hereinafter referred to as the Appellant, dispute the value assessed by the Shanghai Appraising Department on 40 cases of decorated crown corks imported on the 11th August 1930 ex s.s. "Borda."

The whole question in this case rests on whether the price at which decorated crown corks can be indented for either at the time an order is placed or at the time the cargo arrives can be called the wholesale market value within the meaning of that term as used in the Import Tariff Provisional Rules and in the definition supplementing that rule.

The Appellant is of the opinion that such indent price constitutes a wholesale market value. His arguement as set forth in his protest is as follows:

"The valuation shown in the Import Application is the actual Cif. price as invoiced by the suppliers. The price of 1/-S per gross shown in the original invoice attached hereto is the price at which the Wallis Crown Cork Co., Ltd. would have supplied to any buyer in this market at the time our contract was made for the purchase of these crown corks in October 1929. Therefore, our contention is that for the purpose of assessing duty this price represents a true market value since other importers could have purchased at this price.

"In further support of our contention we would refer you to an invoice from the East Asiatic Co., Ltd., Shanghai, attached hereto, dated April 15th, 1930, covering a shipment

of 103 cases of crown corks at 11¼d per gross C.I.F. & C. Shanghai. In this instance also the East Asiatic Co., Ltd. would have sold crown corks to other importers in Shanghai at this price on the date on which we made this purchase. We also wish to point out that the price shown in this invoice includes commission for the East Asiatic Co., Ltd.

"In view of the foregoing we respectfully submit that paragraph 3 of the Customs Tariff reading as follows:—

> 'In case the commodity is of such a nature that no wholesale market value is obtainable in China, then the duty paying value shall be, under ordinary circumstances, the true C.I.F. price, plus 5%.'

does not apply to these goods since we have established the fact that a true wholesale value can be obtained in Shanghai.

"In further support of our contention we refer you to a letter from the East Asiatic Co., Ltd. dated August 9th, 1930, in which you will observe that this Company quote us 10⅞d per gross Cif. & C. Shanghai for crown corks the same quality as previously supplied. This is the price at which we could buy today and therefore represents a truer market value at the present time than the values mentioned in paragraphs 1 & 2 above. You will, therefore, observe that Manufacturers' prices are lower today than when we made our purchase at the end of last year. Nevertheless we have made no endeavour to establish current prices as true market value."

The Shanghai Appraising Department is of the opinion that no wholesale market value can be said to exist for the crown corks in question as they are so marked that they can be used only by the Aquarius Company. The name and trade mark of that Company appear on the corks for advertising purposes.

Considering that there is no wholesale market value for such crown corks the Shanghai Appraising Department arrived at the duty paying value by adding 5% to the C.I.F. invoice price, basing its decision on paragraph 3 of the Definition of Wholesale Market Value quoted above.

Paragraph 1 of Rule I of the Import Tariff Provisional Rules reads:

"The duty-paying value of any import liable to an ad valorem rate of duty shall be determined on the basis of the wholesale market value of the goods at the port of importation. This latter value shall be converted from other currencies into Customs Gold Units at the official rates fixed for this purpose and shall be considered to be higher than the duty-paying value by

(a) The amount of the duty on the goods, and

(b) 7 per cent. of the duty-paying value of the goods."

The first paragraph of the definition supplementing this rule reads:

"The term 'wholesale market value' of a commodity as used in Rule I, Section 1, of the Import Tariff Provisional Rules is defined to mean the average price at which, on the date of application to import and on the open market at the port of importation, the commodity is freely offered for sale, in the usual wholesale quantities and in the ordinary course of trade."

Taking Rule I and its definition together it is to be seen that a commodity in order to be considered as possessing a wholesale market price on which to base the duty paying value must be freely offerred for sale, or be capable of being sold on the open market.

The decorated crown corks in question being ordered to specification, that is, being specially marked with the name and trade mark of the Aquarius Company, cannot possibly be sold to any other firm on this market. It was admitted by the appellant's representative who appeared at the hearing that the corks could not even be offerred for sale as no other users of corks would wish to buy them.

Practically any article of commerce can be indented for, or otherwise ordered, from abroad but it does not follow that on arrival every article will possess a wholesale value on this market. For instance, it is conceivable that visiting cards with an individual's or a company's name printed on them may be ordered from abroad through different indenting firms but such specially marked cards on arrival

in China could not find any market nor would they be offerred for sale.

This Board is therefore of the opinion that no wholesale market value prevails for the crown corks in question and that the duty paying value must therefore be obtained by adding 5% to the C.I.F. price. The decision of the Shanghai Appraising Department is therefore upheld. In this C.I.F. price "C" refers to the cost as shown on the *bona fide* invoice covering the shipment. It does not refer to the price which might be quoted by an indentor on the day of import.

November 17th, 1930.

CASE NO. 27.

Port: Shanghai.

Subject: Valuation of a shipment of Odeon gramophone records.

Case brought up by: The Odeon China Co., Ltd.

Decision:

In Brief: Duty-paying value of the shipment should be G.U. 2308.46.

Text:

On the 10th of September the Odeon China Co., Ltd. protested against the assessment by the Shanghai Customs of a value of G.U. 2612.91 on a shipment of Odeon gramophone records, the value of which was declared by the Appellant to be G.U. 2283.3. The declared value was derived from the ex-godown price of certain contracts which the Appellant had entered into with a dealer. The Appellant maintained that the declared value should be accepted by the Customs on account of the peculiar nature of the merchandise which renders it impossible to be sold on other than its ex-godown price direct by the importer to the retailers and on the ground that the Appellant had discussed the duty-paying value with the Appraising Department before they entered into these contracts. The implied claim was that the Appraising Department of the Shanghai Customs through certain representatives had given the Appellant to understand that G.U. .819 per piece would be the duty-paying value for the records in question; and now a higher value having been assessed, it has caused them a loss equivalent to the duty on the difference of the assessed and declared values.

At the hearing it was further contended by the Appellant that, by the term wholesale market value, it is defined to mean the average price the commodity is offered for sale and that the Customs had not taken into account the word average in arriving at the wholesale market value for duty-paying purpose of the records in question.

It is clear that the decision on this case will depend upon the answers to the following questions: Has the

Customs given the information as alleged by the Appellant? Is the value which has been assessed by the Customs the correct duty-paying value?

That the Appellant had called upon the Customs and discussed the question of value of the records before they entered into these contracts, which form now the subject of this protest, there has been no dispute. But as regards what was claimed by the Appellant to have been the information furnished by the representative of the Customs, the Appellant has offered no evidence other than that these contracts were actually entered into shortly after the discussion had taken place. The implication is that if the alleged information had not been given by the representative of the Customs, there would be reason to suppose that they would not have contracted for these records at that price. Taking this as circumstantial evidence, it must be admitted that this, at best, can only prove that the Appellant had understood the value given by the representative of the Customs to be that which would be charged on these records on arrival, which is totally different from saying that the representative had so informed him. On the other hand it has been the established rule that the duty-paying value is based on the wholesale market value ruling at the time of import. What that would be for any commodity is something which no Customs representative can tell in advance. Then there was also the Import Tariff Provisional Rules as promulgated on July 18th, 1929 which specifically altered the old practice of accepting contract values as conclusive evidence of the market value. Under such explicit provisions it is hardly conceivable that any Customs representative would undertake to quote what duty-paying value might prevail in the future. Judging therefore by the weight of evidence, the Board is constrained to regard it as a misunderstanding on the part of the Appellant for which the Customs cannot be held responsible.

In the conditions found on the back of the Indent-contracts which were submitted by the Appellant the following statement is found:

> "The contract is subject to the buyer's guarantee to sell all goods bought from the Odeon China Company

Limited, at retail prices fixed by the latter Company."

Enquiries reveal that it is the practice of all companies dealing in records of a similar nature to fix the prices at which dealers may retail records. Some of the leading importers arrive at a price to dealers by allowing a fixed discount off the retail list price. It is to be seen, therefore, especially as there is very close competition in the trade in records, that the prices at which different records are retailed might well serve as a guide in arriving at an equitable duty-paying value.

Taking the average discount allowed to dealers off the retail price and applying it to the average retail price of Odeon Records of the type in question the Board finds, after making the deductions authorised by Rule I of the Tariff, that the value assessed by the Shanghai Appraising Department is somewhat too high. In the opinion of this Board the duty-paying value of the shipment in question should be G.U. 2,308.46. The Import Application is to be amended accordingly.

January 22nd, 1931.

CASE NO. 28.

Port: Tientsin.

Subject: Classification of a shipment of ten cases of bicycle tyre bells ex s.s. "Kulmorland."

Case brought up by: Messrs. E. C. Peters & Co., Tientsin.

Decision:

In Brief: To pay as metalware under 1929 Tariff Heading No. 686: 12½%.

Text:

In this case Messrs. E. C. Peters & Co. of Tientsin, hereinafter referred to as the Appellant, protest the decision of the Tientsin Customs in classifying a shipment described as tyre cycle bells ex s.s. "Kulmorland," under Heading No. 661 of the 1929 Tariff which reads "Bells and Gongs." The contention of the Appellant is that the shipment should be classified under Heading No. 715 being an accessory to bicycles.

In the opinion of the Board the sample submitted is something more than a mere bell; it is a mechanical device or contraption of which the bell forms but a part. The Board, therefore, does not consider the article to be classified under Heading No. 661; neither does it consider that it falls under Heading No. 715. Inasmuch as the article is made entirely of metal and is not elsewhere provided for in the 1929 Tariff (as is the case in the New Tariff where it would fall under Heading No. 231) the Board rules that the correct classification is under Heading No. 686 as metalware; 12½%.

February 2nd, 1931.

CASE NO. 29.

Port: Tientsin.

Subject: Tariff classification of a consignment of dyed, plain, cotton velvet.

Case brought up by: Messrs. Mitsui Bussan Kaisha, Limited, Tientsin.

Decision:

In Brief: To pay duty according to the Customs classification under (1929) Tariff Heading No. 34.

Text:

On the 27th October 1930, the Mitsui Bussan Kaisha, Limited, Tientsin, protested against the classification by the Tientsin Customs of a consignment of dyed plain cotton velvet, ex. s.s. "Choan Maru" from Japan, under Tariff Heading No. 34, duty G.U. 0.077 per yard, on the ground that the specific duty rate under that Heading is based on a value of Hk. Tls. 0.44 per yard, whereas the velvet in question, which is of a very inferior quality, is valued at Hk. Tls. 0.2707 per yard, and under the Customs classification, would be subject to a duty equal to 26.64% *ad valorem*. They therefore request this Board either to approach the Government to reduce the Tariff rate of duty, or else to classify the velvet in question under Tariff Heading No. 35 duty 10% *ad valorem*.

From the tenor of the protest it is obvious that it is directed not so much against the Customs classification under Tariff Heading No. 34, as against the specific duty rate leviable under that Heading. In support of this view Mr. R. Okabe of the Mitsui Bussan Kaisha, Shanghai, who represented the Appellant at the hearing of the case which took place on the 23rd Dec. 1930 stated that in his opinion the velvet was correctly classified according to the 1929 Tariff, but that the duty rate under that classification was too high for such an inferior quality velvet.

Tariff Heading No. 35, the alternative classification suggested by the Appellant is not appropriate, as that

Heading includes only Cotton Velvets and Velveteens, Printed, Figured or Embossed; Velvet and Velveteen Cords, Corduroys, Fustians, Mole-skins and Plushes.

From the documents and sample submitted the Board finds that the material in question, which is a dyed, plain, cotton velvet, 22 ins. wide ex 30/33 yards per piece is definitely provided for under Tariff Heading No. 34 which reads:

> "Cotton Velvets and Velveteens, Dyed, Plain not over 26 ins. wide."

The protest is therefore not sustained.

February 19th, 1931.

CASE NO. 30.

Port: Shanghai.

Subject: Tariff classification of a shipment of laboratory apparatus made of glass ex Tsukuba Maru.

Case brought up by: Messrs. American Drug Company, Shanghai.
Decision:

In Brief: To be classified under Tariff No. 225, duty 7½% *ad valorem*.

Text:

The American Drug Company, hereinafter to be referred to as the Appellant, protests against the Customs classification of a shipment of laboratory apparatus made of glass ex Tsukuba Maru under Tariff No. 584 (b) as Glassware, others, duty 15% *ad valorem*. The Appellant claims that the shipment in question is composed exclusively of instruments and apparatus for educational and laboratory use, and as such should properly be classified under Tariff No. 225. In support of this contention, the Appellant's representative produced at the hearing a catalogue of the firm which is found to contain only medical, chemical, and industrial laboratory supplies and scientific apparatus, mostly made of glass.

While admitting that the articles in question are undoubtedly glassware, the Board is of the opinion that it could not have been the intention of the Tariff to discriminate against instruments and apparatus made of glass as comparing with those made of other materials. It rules, therefore, that the shipment in question, being composed of *bona fide* scientific instruments and apparatus, should be under Tariff No. 225, duty 7½% *ad valorem*.

March, 26th, 1931.

CASE NO. 31.

Port: Shanghai.

Subject: Classification of metal (steel) window frames.

Case brought up by: Critall Manufacturing Co., Ltd. (China Branch).

Decision:

In Brief: Metal (steel) window frames without fittings to be classified under Tariff No. 186.

Text:

This protest has to do with a shipment of steel window frames which was classified by the Shanghai Customs under Tariff No. 247 as Metal Manufactures, n.o.p.f. The Appellant contended that this article is covered by Tariff No. 186 which reads:—

> "Iron or Steel Plates or Sheets, Angles, Channels, Tees, Joists, Girders, and other Structural Sections or Building Forms of Iron or Steel, if drilled, punched, assembled, fitted, or fabricated for use, or otherwise advanced beyond hammering, rolling, or casting."

The Shanghai Customs maintained that No. 186 applies only to structural materials. In the opinion of the Board Tariff Heading No. 186 might reasonably be construed to include metal (mild steel) window frames which, in a sense, are assembled tees, bars, etc. The fact that screws, hinges, etc. used in the actual assembling of the parts are made of some metal other than iron or steel shall not affect the classification. With the exception of such screws, hinges, etc., other accessories, such as handles, fasteners, etc., not required for the actual assembling shall be classified under Tariff Heading No. 247 as Metal Manufactures.

March 26th, 1931.

CASE NO. 32.

Port: Shanghai.

Subject: Classification of a consignment of sizing flannel and clearer cloth.

Case brought up by: Messrs. "Sapt" Textile Products, Limited.
Decision:

In Brief: To pay duty under Tariff Heading No. 97.

Text:

On the 26th January, 1931, Messrs. "Sapt" Textile Products, Limited, protested against the Shanghai Customs classification of a consignment of sizing flannel and cleared cloth as Woollen Piece Goods, under Tariff Heading No. 97. The Appellant contended that such classification is "contrary to the idea of the Tariff," and that as textile machines and parts thereof are classified under Tariff Heading No. 224, duty 7½% *ad valorem*, the cloths in question, which are used for textile machines, should be accorded the same duty treatment.

At the hearing of the case which took place on the 21st February, 1931, the Appellant stated that his firm specialized in textile machinery and did not import piece goods for any other purpose. Although he admitted that the cloths in question could be used for other purposes he considered that being imported for use in textile machines, they should be classified as machinery parts under Tariff Heading No. 224.

As sizing flnnel and clearer cloth in ithe piece can be used for purposes other than the manufacture of textile machine accessories, the articles in question cannot in their present form, be considered to be machine parts, but are rather the material from which such parts or accessories are made. They shall be classified under Tariff Heading No. 97.

The protest is, therefore, not sustained.

March 26th, 1931.

CASE NO. 33.

Port: Shanghai.

Subject: Classification of enamelled kerosene stoves with enamelled water kettles.

Case brought up by: Messrs. Carlowitz & Co., Ltd., Shanghai.

Decision:

In Brief: To be classified under Tariff Heading No. 235.

Text:

On the 20th January, 1931, Messrs. Carlowitz & Co., hereinafter referred to as the Appellants, protested against the classification by the Shanghai Customs of a consignment of enamelled kerosene stoves with enamelled kettles under Tariff Heading No. 235, which reads:

> "Coal-burning, Oil-burning and Spirit-burning Stoves, Cookers, and similar appliances, and parts thereof."

The Appellants contended that the stoves in question should be classified as Enamelled Ironware under Tariff No. 578, basing their claim on the following grounds: (1) that the stoves, with the exception of the small front door and the burner, are made entirely of enamelled iron; (2) that under the previous Tariff the question of classification was referred to the National Tariff Commission which ruled that they should be classified as Enamelled Ironware under Tariff No. 568, and (3) that it could not be the intention of the Government to place these cookers, which are imported in large quantities and exclusively used by the poorer classes, in the same category as the more expensive coal-burning, oil-burning and spirit-burning stoves which are made of brass and other expensive material.

It is the opinion of the Board that the Appellants' reference to the classification of the stoves under the previous Tariff is not altogether relevant as in that Tariff there was no specific heading for such stoves. The stoves, being made of enamelled iron, were then properly classified as Enamelled Ironware N.O.E." In the present Tariff,

however, these stoves are definitely provided for under Tariff Heading No. 235.

The Board therefore rules that enamelled kerosene stoves, with or without enamelled kettles, are to be classified under Tariff Heading No. 235 @ 20% *ad valorem*. This ruling does not affect the Tariff classification of enamelled kettles if imported separately.

March, 31st, 1931.

CASE NO. 34.

Port: Shanghai.

Subject: Tariff classification of fruit essences for flavouring food and mineral waters, such as banana or lemon essence etc.

Case Brought up by: Tariff question submitted for the decision of the Board.

Decision:

In Brief: Tariff Heading No. 500.

Text:

Fruit essences should be classified under 506, as such essences are merely diluted essential oils.

April 23rd, 1931.

CASE NO. 35.

Port: Shanghai.

Subject: Classification of electric clocks.

Case Brought up by: Messrs. Inniss and Riddle (China) Ltd.

Decision:

In Brief: To be classified under Tariff Heading No. 234.

Text:

On the 10th February 1931, Messrs. Inniss and Riddle protested against the classification by the Shanghai Customs of a consignment of electric clocks as Electric Appliances under Tariff Heading No. 237, on the grounds:

(1) that the clocks in question are the same as ordinary clocks, except that the driving energy is taken from an electric battery instead of from a wound spring or falling weights; and

(2) that Tariff Heading No. 234 which covers "Clocks" is not qualified and therefore not confined to either mechanical (spring and weight), hydraulic (wated drived), or chimical-electric (dry battery) clocks.

It is the opinion of this Board that Tariff Heading No. 234 is intended to include clocks of all kinds. The protest is therefore sustained.

April 27th, 1931.

CASE NO. 36.

Port: Shanghai.

Subject: Classification of prepared roofing hair felt.

Case Brought up by: Messers. Fagan & Co. Ltd., Shanghai.

Decision:

In Brief: To be classified under Tariff Heading No. 538 (d).

Text:

On the 2nd February 1931, Messrs. Fagan & Co. protested against the classification by the Shanghai Customs of a consignment of prepared roofing hair felt under Tariff Heading No. 98, which reads: "Felt and Felt Sheathing."

The Appellant contends that the felt in question being used only for insulation of buildings and insulation of brine and ammonia pipes for refrigeration should be classified under Tariff Heading No. 611 as "Building Material, n.o.p.f."

It is the opinion of the Board that the felt in question, being a manfacture of hair should not be classified under Tariff No. 98, as that Heading, which appears in the section of the Tariff dealing with wool and manufactures thereof, is considered to refer to felt made of wool. Neither should it be classified under Tariff No. 611, as it is not necessarily a building material, and moreover, it is provided for under Tariff Heading No. 538 (d) which reads: "Manufactures of Hair."

The Board therefore rules that prepared roofing hair felt is to be classified under Tariff Heading No. 538 (d), duty 15% *Ad Valorem.*

April 27th, 1931.

CASE NO. 37.

Port: Shanghai.

Subject: Tariff classification of certain "Amber" soft soap.

Case Brought up by: Messrs. Ching Fong.

Decisiin:

In Brief: To be classified under Tariff Heading No. 506.

Text:

Messrs. Ching Fong dispute the Shanghai Appraising Department's classification of certain "Amber" soft soap under Tariff Heading No. 499 (a). As that Heading covers Household or Laundry Soap in bulk the question is properly described as a household or laundry soap. Evidence submitted by the Appellant revealed that "amber" soft soap is imported in large casks and is primarily sold to shipping firms and docks companies for the cleaning of machines, ships' parts, etc. and for lubricating ships' ways.

The Board is of the opinion that the soap in question, being imported in bulk for the purposes indicated, does not fall under either of the specific headings for soaps but should be classified under Heading No. 506: Oils, Fats, and Waxes, n.o.p.f., duty 12½% *ad valorem.*

This decision is not meant to cover "Amber" soft soap imported in small containers labelled "For Household Use" which is to be classified under Heading No. 499 (b).

April 30th, 1931.

CASE NO. 38.

Port: Shanghai.

Subject: Tariff classification of "小海虎絨".

Case Brought up by: Alex. Ross & Co., (China) Ltd.

Decision:

In Brief: To be classified under Tariff Heading No. 112.

Text:

Messrs. Alex. Ross & Co.. (China) Ltd., hereinafter to be referred to as the Appellant, applied for import five cases of black silk plush (小海虎絨), ex *S. S. Comorin* (duty memo No. B60271), which the Customs duly classified under Tariff Heading No. 112, duty 45% *Ad Valorem*. In protesting against such classification, the Appellant contends that the Chinese version of Tariff Heading No. 112, "絲絨" indicates "an all silk material, by which name the Chinese describe an expensive cloth costing about 15/– c.i.f. per yard." The Appellant further contends that the material in question bears an entirely different Chinese name, viz. "小海虎絨", and consists of 24% silk and 76% cotton, costing only 2/3 c.i.f.

The material in question, a sample of which accompanies the protest, is a plush with silk pile and cotton back, and, although it is technically known as "小海虎絨", also goes under the general market name of "絲絨". The Appellant's contention that the term "絲絨" only applies to pure silk pile cloth is further weakened by evidence found in the Chinese Import Tariff itself. The Tariff of March 16, 1930 includes an item (Heading No. 79) which reads "蠶絲夾雜質織,絲絨", that is, "絲絨" made of natural silk and some other fibre.

The Board finds, therefore, that the material in question properly falls within Tariff Heading No. 112, as "絲絨." The protest is thus not sustained.

May 18th, 1931.

CASE NO. 39.

Port: Shanghai.

Subject: Classification of optical goods: eyeglass frames, mountings, parts and accessories thereof.

Case brought up by: Messrs. Heacock & Cheek Co., Shanghai.

Decision:

In Brief: Optical goods: eyeglass frames, mountings, parts and accessories thereof should be classified under Tariff Heading No. 647 as articles not otherwise provided for in the Tariff at 12½% *Ad Valorem.*

Text:

This protest was filed by Heacock & Cheek Co. in opposition to the classification of eyeglass frames, mountings and parts and accessories of optical goods by the Customs under various headings in the Tariff depending on the material used in the manufacture of such goods. It was contended by the Appellants that to follow this method of classification is illogical, unfair, and unintended by the framers of the Tariff and that such classification will lead to confusion, unwitting discrimination by Customs appraisers, unnecessary and minute examination of goods and possibly fraud on the part of the shippers. The position taken by the Appraising Department is that, as there is no specific heading covering parts or accessories of eyeglasses, classification must be decided by the material out of which the articles are manufactured.

Complete eyeglasses are provided for in the new Tariff under Tariff Heading No. 585 at 20% *Ad Valorem* without reference to the material of which they are manufactured. Such being the case with complete eyeglasses, it seems reasonable to assume that it could not have been the intention to classify the parts and accessories of eyeglasses on a different principle. It is therefore the opinion of the Board that in keeping with the spirit of the Tariff, eyeglass frames, mountings and other parts which are not provided for in the Tariff should be classified under Tariff Heading No. 647 and not in accordance with the material of which they are made. Cases for eyeglasses are to be similarly treated.

May 18th, 1931.

CASE NO. 40.

Port: Shanghai.

Subject: Classification of silk and cotton satin.

Case brought up by: Messrs. Kingen Yoko, Shanghai.

Decision:

In Brief: To pay duty according to Tariff Heading No. 113a.

Text:

On the 6th March 1931 Messrs. Kingen Yoko, hereinafter referred to as the Appellant, protested against the Shanghai Customs classification under Tariff No. 113a of a consignment of dyed, plain, silk and cotton satin, ex s.s. "Mikasa Maru" from Japan, on the following grounds:

1. That the duty on this article at G.U. 1.60 per catty under Tariff Heading No. 113a is equivalent to from 50—70% of the cost, which when compared to the 45% *ad valorem* duty charged on all-silk piece goods is excessive and unreasonable;

2. That before the introduction of the new Tariff, such goods were of a much higher quality, the silk content being greater, but at present owing to a change in the market the quality now imported is almost the same as all-cotton piece goods.

In support of his protest the Appellant submitted four samples of silk and cotton satin with the following statement of the percentage of silk said to be contained in each:

"R" brand	1½%	of silk
"K" brand	5 %	„ „
"Gin" brand	8 %	„ „
"Men Lyon" brand	23 %	„ „

The Appellant further stated that he considers goods of this nature should come under Tariff No. 114f, duty 35% *ad valorem* or, if possible, that Tariff No. 113 should be changed to 35% *ad valorem;* also that goods of "R" brand quality should be classified as "Shirting" under Tariff Heading No. 18b, duty G.U. 10 per piece.

At the outset it should be noted that the sample of "R" brand silk and cotton satin submitted by the appellant, and declared by him to contain only 1½% of silk, has been analysed and found to contain 4.41% of silk. Furthermore it is not of shirting weave. Neither Tariff Heading No. 18 (b) nor the note to Section 1 of the Tariff can therefore apply. It also should be noted that although the goods are invoiced as "K" brand and "Gin" brand *"Cotton and Silk Piece Goods,"* they are described in the Appellant's buying contract as *"Cotton Back Satin."*

No real argument has been advanced to establish that the piece goods in question are not properly described as silk and cotton satins. In fact it is quite obvious from the suggestion made that Heading No. 113 should be altered to 35% *ad valorem* that the Appellant is protesting not so much against the classification as against the rate. It is, however, beyond the province of this Board to in any way modify the rate; nor, in the Board's opinion, is there any particular necessity to do so: specific tariff rates like those of Heading No. 113, cover different qualities of goods, lower priced as well as higher priced.

From the documents and samples submitted by the Appellant, the Board finds that the material in question, which is a dyed, plain, silk and cotton satin, is definitely provided for under Tariff No. 113a.

May 18th, 1931.

CASE NO. 41.

Port: Shanghai.

Subject: Tariff classification of roller skins.

Case brought up by: Messrs. Andersen, Meyer & Co., Ltd.

Decision:

In Brief: To pay duty under Tariff Heading No. 224 as a machinery part.

Text:

The Appellant, Messrs. Andersen, Meyer & Co., Ltd. protests the decision of the Shanghai Appraising Department in classifying roller skins for use in textile machinery as Leather under Tariff Heading No. 530. The contention is made that such roller skins are not tanned in the same manner as ordinary leather, that they are specially prepared for use in textile machinery, that they are sold for no other purpose, and that although it is admitted that they are not really complete parts, it should be noted that they cannot be shipped cut to size to fit particular rollers, because of their reaction to atmospheric conditions.

Invoices were submitted to show that owing to their tendency to absorb moisture they are shipped in tin-lined boxes, which is not done for ordinary leather. The Invoices submitted also show that roller skins are known as textile machinery accessories.

The Appraising Department's stand is in line with the position taken in the case of machinery cloths, that is that they are not identifiable as definite parts of any machine, and that although they are in most cases destined to be manufactured into machine parts, there is no reason to suppose that they might not be put to other uses.

From the evidence submitted and from private enquiries made, the Board is of the opinion that this case is not exactly identical with the one dealing with machinery cloth, or clearer cloth. In the case of clearer cloth, it is possible for manufacturers to import the cloth cut to size as a part of a machine, but in the case of roller skins the leather is

of such a nature that cutting to size before shipment cannot be done. There are many varieties of clearer cloth, many of which it would be difficult to distinguish from ordinary flannel cloth suitable for making blankets, etc. Roller skins, however, are quite easy to distinguish from other kinds of leather. Aside from the fact that roller skins absorb moisture and are not really suited for any other purpose than for textile machinery use, the high cost of the skins would preclude their being sold for other purposes.

The Board is, therefore, of the opinion that such roller skins can well be regarded as accessories or parts of textile machinery. They should, therefore, be classified under Heading No. 224 of the Import Tariff. The protest is sustained.

May 22nd, 1931.

CASE NO. 42.

Port: Shanghai.

Subject: Classification of asphalt emulsion.

Case brought up by: Standard Oil Co. of New York.

Decision:

In Brief: Asphalt emulsion of this description should be classified under Tariff Heading No. 572.

Text:

This is a case wherein the Appellant, the Standard Oil Co. of New York, protests against the classification of a shipment of asphalt emulsion by the Shanghai Customs under Tariff Heading No. 647. The Appellant's contention is that the article is covered by the term asphalt as used in Tariff Heading No. 572 as the product is merely a diluted asphalt used for exactly the same purpose as ordinary asphalt, i.e. for road building, the only distinction being the method of application: the emulsion being applied cold whereas solid asphalt is applied hot. The Shanghai Customs considers that the term asphalt of Tariff Heading 572 is limited to ordinary asphalt in a solid or semi-solid form; and that as the article in question is in the form of an asphalt in soap emulsion it should not be included therein.

Analysis by the Customs analyst confirms that the article in question is composed of asphalt and water in about equal proportions with a small percentage of a catalytic agent in the form of soap solution. It is the opinion of this Board that as the term asphalt as used in Heading No. 572 is not qualified or restricted in any way, it should be interpreted to include the article in question which is to all intents and purposes an asphalt. The product should not be discriminated against because it is in the form of a liquid.

The Shanghai Customs in excluding the emulsion from asphalt under article 572 has perhaps in mind the numerous other preparations made of asphalt mixed with such materials as hairs, asbestos and so forth variously used as preservatives or water-proofing materials. It seems to the

Board that a distinction should be drawn between such preparations and the road building asphalt in question. In the latter case the addition of a catalytic agent is purely for the purpose of keeping the asphalt in liquid form and does not alter the composition of the asphalt. No new quality is introduced into the asphalt rendering it different from the point of view of utility. In preparations where the asphalt is mixed with foreign materials other than a catalytic agent, i.e. with hairs, asbestos, etc., the combination produces qualities which asphalt does not possess. Obviously, such preparations cannot be designated as asphalt and cannot therefore be so treated for duty paying purposes.

The Board rules that the asphalt emulsion in question should be classified under Tariff Heading No. 572. The protest is therefore sustained.

June 16th, 1931.

CASE NO. 43.

Port: Shanghai.

Subject: Classification of five cases of gramophone needles ex s.s. Leverkusen from Hamburg.

Case brought up by: China Clock Company, 20 Museum Road, Shanghai.

Decision:

In Brief: Gramophone needles are correctly classified under Tariff Heading No. 630 to pay duty at 5% *Ad Valorem*.

Text:

This protest was filed by China Clock Co., hereinafter referred to as the Appellant and has to do with a shipment of five cases of steel gramophone needles ex s.s. "Leverkusen" from Hamburg. The gramophone needles in question were classified by the Shanghai Customs under Tariff Heading No. 630 at 25% *Ad Valorem*. The Appellant contended that the article in question should be classified under Tariff Heading No. 242 (c), "Needles, Others" at 10%. It was pointed out in the protest that, unlike the old Tariff in which needles were provided for under Tariff Heading No. 618 reading "Needles (including hand-sewing, at 7½%)," the new Tariff specifies under Tariff Heading 242 three subdivisions as follows:—

(a) Hand-sewing ..... 5 %
(b) For sewing or knitting machine 7½%
(c) Others ..... 10 %

It was thus contended that Tariff Heading No. 242 (c) "Needles, others" is designed to cover such articles as gramophone needles.

The Shanghai Customs holds that sub-heading (c) of Heading No. 242 of the new Tariff is designed to include such articles as crochet needles, hand knitting needles, etc. which are not provided for in sub-headings (a) and (b) and that the Heading cannot be stretched to include other so called needles which are parts of articles provided for in other places in the Tariff.

It may be stated as a general principle that where a term such as "needles" is used without qualification, it must be interpreted, for the purpose of classification, in its commonly accepted sense. The term "needles" as used in successive tariff schedules has always been interpreted to mean needles used in connection with sewing, knitting, crocheting, etc., because these are the common uses that needles are understood to be subject to. On the other hand, other so called "needles," such as gramophone needles and hyperdermic needles, are really essential parts of gramophones, or of medical instruments, etc. and are not needles in the generally accepted sense.

It should be noted that former tariffs such as the *1902 Tariff* and *1919 Tariff* divided the heading for needles into sub-sections such as *No. 7/0, No. 3/0,* and *assorted,* not including 7/0 which would clearly indicate that the heading needles was designed to cover different kinds of sewing needles, knitting needles, etc. Had it been the wish of the makers of the present Tariff to depart from this long established practice and to put a new construction on the term needles it seems fairly obvious that they would have made some remark in the heading covering needles which would have indicated that fact. As no indication of that sort has been given in the Tariff the Board has no option but to rule that Heading No. 242 does not include gramophone needles. In the opinion of the Board gramophone needles are correctly classified under Tariff Heading No. 630, duty 25% *Ad Valorem.* The decision of the Shanghai Customs is sustained.

June, 27th, 1931.

CASE NO. 44.

Port: Shanghai.

Subject: Classification of embossed wrapping papers.

Case brought up by: The Ekman Foreign Agencies, Ltd.

Decision:

In Brief: Embossed wrapping paper is correctly classified under Tariff Heading No. 522.

Text:

Messrs. Ekman Foreign Agencies, Ltd., the Appellant in this case, imported sometime in March a shipment of paper known as embossed wrapping paper. This paper was classified by the Shanghai Customs under Tariff Heading 522 as embossed paper, n.o.p.f. The Appellant claims that that Tariff Heading No. 522 is intended to cover papers for decoration purpose and as the paper in question is a common wrapping paper, it cannot be placed thereunder. The Appellant suggests that it should be placed either under Heading No. 518 as a wrapping paper or Heading No. 523 as paper, n.o.p.f.

The paper in question is made of bleached sulphite and would undoubtedly have come under 518 had it been colored. But that is obviously impossible as the Tariff is most specific in excluding white and bleached paper from that classification. It cannot be placed under 523 since embossed paper n.o.p.f. is specially provided for under Tariff Heading No. 522 without qualification.

With the Tariff as it stands, there is no option but to classify the paper under Tariff Heading 522. The decision of the Shanghai Customs is therefore sustained.

June, 27th, 1931.

CASE NO. 45.

Port: Shanghai.

Subject: Classification of hat braids, i.e. braids for making hats.

Case brought up by: Messrs. O. Schoch, Limited, Shanghai.

Decision:

In Brief: To pay duty according to Tariff Heading No. 647

Text:

On the 4th March, 1931, Messrs. O. Schoch, Limited, hereinafter referred to as the Appellant, protested against the classification by the Shanghai Appraising Department of certain hat braids made of cellulose, and cellulose and cotton, as Silk Goods under Tariff Heading No. 116.

The Appellant who claims duty treatment under Tariff Heading No. 564 (b), contends:

(a) that the braids are made of artificial crin, and visca, which is hard like straw, and quite different from artificial silk which is soft;

(b) that although the basic material (cellulose) is the same as that from which artificial silk is made, the braids cannot for that reason be classed as artificial silk; and

(c) artificial silk is used in weaving, whereas crin and visca are used in hatmaking and cannot be used for weaving.

Although cellulose forms the basic material of the article in question, the cellulose as manufactured as it may readily be seen from the samples submitted, is not in the form of artificial silk. These braids, therefore, cannot be classified under Tariff Heading No. 116. Nor could they be classified under Tariff Heading No. 564 (b) as they cannot be considered to belong to the same category as "Straw" and the like.

The Board is of the opinion that hat braids made of crin and visca are to be classified under Tariff Heading No. 647.

June 27th, 1931.

CASE NO. 46.

Port: Shanghai.

Subject: Classification of certain weaving yarn.

Case brought up by: The Shanghai Woollen Manufacturers Association.

Decision:

In Brief: Weaving yarn made of re-manufactured wool is to pay duty according to Tariff Heading No. 87 (b).

Text:

On the 6th April, 1931 the Shanghai Woollen Manufacturers Association, hereinafter referred to as the Appellants, protested against the Shanghai Customs classification of certain weaving yarn under Tariff Heading No. 87 (a), duty G.U. 35.00 per picul, on the following grounds:

(1) that the yarn imported by them is manufactured from waste wool mixed with other fibres, such as waste cotton, etc. and should be classified under Tariff No. 87 (b), duty 12½% *ad valorem*.
No. 87 (b), duty 12½% *ad valorem*.

(2) that Tariff Heading No. 87 (a) is meant to include only high grade yarn made from pure wool, and

(3) that the duty on the yarn in question if classified under Tariff No. 87 (a) would amount to 25% *ad valorem* which is more than the industry can bear.

At the hearing of the case the Appellants' representatives produced several samples of the yarn under protest and also some samples of pure wool knitting yarn. It was pointed out that at present both qualities of yarn were charged the same specific duty although the former being made of waste and/or re-manufactured wool contained from 1 to 10% of fibre other than wool and cost much less than yarn made wholly of new wool. It was also contended that the yarn under protest is the raw material for the manufacture of piece goods, and as such the duty rate should be lower, especially in view of the fact that the woollen piece goods weaving industry in China is in its infancy.

Analyses by the Customs chemist of the samples of weaving yarn submitted by the Appellants showed that all of them contained re-manufactured wool. Traces were found of foreign fibres, such as cotton, artificial silk, etc.

Although the foreign fibres present were in such minute quantities that they might be regarded as merely impurities, the Board is of the opinion that weaving yarn made of re-manufactured wool should be included under sub-section (b) of Tariff Heading No. 87, paying duty on a basis of 12½% as "woollen yarn, others." Such weaving yarns, being single-ply, are readily distinguishable from knitting and fingering yarns which are invariably more than one-ply.

All other woollen yarns, if not mixtures, are to be classified under 87 (a).

July, 6th, 1931.

CASE NO. 47.

Port: Shanghai.

Subject: Tariff classification of "Mikan" (蜜柑) mandarin oranges.

Case brought up by: The Japanese Association of Dealers of Fruits and Vegetables, Tsingtao.

Decision:

In Brief: To be classified under Tariff Heading No. 345.

Text:

The Appellant, the Japanese Association of Dealers of Fruits and Vegetables at Tsingtao, appeals against the classification of Japanese mandarin oranges, or "Mikan" (蜜柑) under Tariff Heading No. 345. In the original protest the request is made that such oranges should be classified as fresh fruit under Tariff Heading No. 326. It is alleged that by being required to pay duty under Tariff Heading No. 345 as Fresh Oranges, such Japanese mandarin oranges are paying a duty of approximately 70%, which is considered an unfair one in comparison with what the percentage would amount to in the case of American oranges.

Although the question of value was also stressed to a certain extent at the hearing the main emphasis at that time was laid on the argument that the Japanese mandarin orange is not an orange in the true sense of the term. Throughout the discussion the Appellant's representative always referred to the article as either mandarin or "Mikan." From the Appellant's reasoning it may be inferred that the American orange is the only fruit imported on this market which may legitimately fall under the Heading of "Fresh Oranges" in the Tariff.

It is clear that the decision in this case must rest on the question of whether or not a Japanese mandarin orange is an orange. It is well to note what authorities have to say on this subject. Mr. E. H. Wilson, V. M. H., in his "A Naturalist in Western China" states as follows:–

> "China is the original home of several fruits which are now cultivated all over the world, as, for

example, the orange, lemon, pomelo, peach and Japanese plum.....

"In Western Szechuan the loose-skinned or mandarin orange (citrus nobilis) is most generally grown. Unfortunately this orange does not keep well, but when removed and dried, the rind constitutes a favourite medicine known as "Chien-yunpi."

The Encyclopaedia Sinica states:—

"Oranges: China is probably the original home of the sweet orange and also of mandarin oranges, tangerines and kumquats. There are said to be over eight different kinds of edible oranges grown on the south-eastern coast and islands of China. The mandarin oranges (c. nobilis) are large, have a loose skin of a dark orange-red colour and are flattened in shape. One variety is seedless and very sweet. Other excellent varieties are found in Szechuan."

It should also be noted that the Chinese version of Tariff Heading No. 345 which reads (橘子) is a broad term which covers every type of orange. In fact, whenever the term (橘子) is used on the market, without qualification, it invariably refers to a kind of mandarin orange which is very much akin to the Japanese variety.

Although the Japanese orange is a much cheaper fruit than the American orange and consequently by paying the same specific tariff rate of G.U. 2.60 per picul is in reality being taxed more heavily, the duty amounting to a higher percentage of the value, the Board fail to see how it can, on that account, rule the Japanese mandarin orange out of the Heading for fresh oranges. Being oranges they cannot very well be classified anywhere else. Tariff Heading No. 345 specifically provides for (橘子) or oranges; and it is the opinion of the Board that that Tariff Heading is meant to cover oranges of whatever description.

The decision of the Customs, Tsingtao, in classifying Japanese mandarin oranges (蜜柑) under Tariff Heading No. 345 is therefore sustained.

July 14th, 1931.

CASE NO. 48.

Port: Shanghai.

Subject: Tariff classification of certain medical soaps.

Case brought up by: Messrs. Carlowitz & Company

Decision:

In Brief: Under Tariff Heading No. 500.

Text:

The Appellant, Messrs. Carlowitz & Co., protests against the Shanghai Customs classification of certain medical soaps containing "pittylen" under Soap, Toilet and Fancy. It is claimed that these soaps contain certain medicinal ingredients, and therefore should come under Tariff Heading No. 444, as "Medical Compounds and Preparations."

Although a small percentage of "pittylen" is present in the product, it is nevertheless a soap. There are two Headings for soaps in the present Tariff, viz. Headings Nos. 499 and 500. Tariff Heading No. 499 (a and b) refers to Soaps, Household and Laundry, to which the product in question obviously does not belong. The Board therefore rules that these medical soaps should pay duty as Soaps, Toilet and Fancy, under Tariff Heading No. 500.

July 20th, 1931.

CASE NO. 49.

Port: Shanghai.

Subject: Classification of a consignment of boilers and radiators.

Case brought up by: Messrs. Andersen, Meyer & Co., Ltd., Shanghai.

Decision:

In Brief: Boilers under protest and radiators are to be classified under Tariff Heading No. 235.

Text:

On the 55th April, Messrs. Andersen, Meyer & Co., Ltd. hereinafter referred to as the Appellant, lodged a formal protest against the classification of the Shanghai Customs of a consignment of boilers and radiators under Tariff Heading No. 235, which was based on the following T.Q.S. ruling No. 19/260:

> "Coal-burning or oil-burning boilers and radiators, used exclusively for hot water, or steam heating systems—under Tariff Heading No. 235, duty 20% *Ad Valorem*."

As regards the boilers under dispute, that is to say, the low pressure type of boilers of sufficient size to be used for industrial purposes, such as Britannica and Ideal, etc. the Appellant contends that they should be classified under Tariff Heading No. 221 which reads:

> "Steam Boilers, Economisers, Super-heaters, mechanical stokers and other boiler room accessories" 7½%.

for the following reasons:

(1) That the high pressure steam boilers classified under this Heading may be and very often are adjusted to perform the work of cast iron low pressure boilers by the simple addition of a reducting valve; and that, therefore, the latter type of boiler classified by the foregoing T.Q.S. ruling under Tariff Heading No. 235 are placed at a disadvantage with the former type.

(2) That although a quantity of the cast iron low pressure boilers are used for heating purposes, a number of these boilers have been supplied for industrial purposes, for use in dyeing and bleaching works, etc.; and, as both types are imported for stock, it is impossible to state at the time of import the specific use to which they will eventually be put.

(3) That low pressure boilers actually generating steam should be classified as steam boilers.

In dealing with this case, the Board is of the opinion that the decision centres round the definition of the term "steam boilers" and its application to Tariff Heading No. 221. The Encyclopoedia Britannica defines a steam boiler specifically,

> "the apparatus by which steam is produced from water as one step in the process whereby the potential energy of coal or other fuel is converted into mechanical work by means of the steam engine....."

In other words a steam boiler is an apparatus by which steam is generated for final utilization as mechanical energy.

Keeping the above stated definition in view it is the opinion of the Board that "Arco" boilers which are low pressure cast iron boilers cannot properly be regarded as steam boiler under Tariff Heading No. 221, as defined above. since they are, as admitted by the Appellant's representative, essentially steam heaters. Similarly, boilers such as Britannica, Ideal, etc. are not steam boilers within the meaning of Tariff Heading No. 221, unless they could be used for industrial purposes in the sense that they are of such design as to be efficiently used for driving steam engines, turbines, etc. to produce mechanical energy.

In view of the foregoing the Board rules that as such boilers cannot be classified under Tariff Heading No. 221, they should continue to be classified under Tariff Heading No. 235. The Shanghai Customs ruling is therefore upheld.

The Radiators, being essentially heating appliances should also be classified under Tariff Heading No. 235.

August 7th, 1931.

CASE NO. 50.

Port: Shanghai.

Subject: Tariff classification of various Fur Bases. Fur Bases I, II, III, VI, VIII, IX, X, XI, MC and MA).

Case Brought up by: Messrs. Imperial Chemical Industries (China) Ltd.

Decision:

In Brief: Under Tariff Heading No. 445: Aniline Dyes and other Coal Tar Dyes n.o.p.f. 25% ad valorem.

Text:

In a protest, dated the 16th April 1931, Messrs. Imperial Chemical Industries (China) Ltd., hereinafter referred to as the Appellant, protested against the decision of the Shanghai Appraising Department in classifying various Fur Bases, namely Fur Bases I, II, III, VI, VIII, IX, X, XI, MC and MA; under Tariff Heading No. 445 as an aniline dye. The Appellant's contention is that such Fur Bases should be classified under Tariff Heading No. 443 as unenumerated chemicals or chemical compounds; duty: 12½%. In the Appellant's statement the Fur Bases enumerated are described as follows:

Fur Base I	Para-phenylene Diamine
Fur Base II	Para-amido-ortho-cresol
Fur Base III	Para-amido-phenol
Fur Base VI	Ortho-amidophenol
Fur Base VIII	Dimethyl para-phenylenediamin-sulphate
Fur Base IX	Diamine anisole sulphate
Fur Base X	Diamine phenetoisulphate
Fur Base XI	Para-amido-diphenylamine
Fur Base MC Fur Base MA	We do not know the constitution of these products but can supply you with samples.

It will be seen from the above that the appellant represents Fur Base I as being Para-phenylene-diamine. As a matter of fact the whole argument advanced at the time of the hearing centered around Fur Base I. On the protest form the Appellant states that the subject matter in dispute is the "classification of para-phenylene-diamine and other similarly constituted intermediates." As the Appellant admits that all the Fur Bases mentioned are similarly constituted and as his entire argument revolves around Fur Base I the decision in this case can well rest on the Board's findings in respect to that particular product.

Although in his protest the Appellant represented Fur Base I as para-phenylene-diamine, at the hearing he admitted that the product contained but 92.45% of para-phenylene-diamine, the remainder being composed of other constituents, the exact nature of which he said could be ascertained by writing to the factory in England. Reference to the "Colour Index" (1924 Edition), the official publication of the society of Dyers and Colourists, reveals that a distinction is made in the trade between Fur Base I and pure para-phenylene-diamine: Fur Base I is listed together with various other Fur Bases under No. 875 as an Aniline Dye whereas pure para-phenylene-diamine is listed on page 335 as an intermediate. It should be noted however that even pure para-phenylene-diamine is under certain conditions regarded as a dye and as such is grouped with various fur bases under No. 875.

The members of the German Dye Industry have an Index of their own namely *Farbstoff Tabellen* (2 vols.) in which the equivalent of Fur Base I is listed as a Dye under number 923 (Vol. I). It is classed under the general heading of *Anilinschwarzgruppen.*

On page 244 of Vol. II of *Farbstoff Tabellen* para-phenylene-diamine is grouped as an intermediate for preparing *Azofarbstoffen* (Azo-dyes), *Azinfarbstoffen* (Azin-dyes) and *Schwefelfarbstoffen* (Sulphur-dyes). The German reference book also regards pure para-phenylene-diamine as a dye when used for colouring furs: (*zum farben von Pelzen*).

It is clear that in order to facilitate the administration and to ensure uniformity in the classification of dyes and colours the Customs must select a standard authority for its guidance. In the opinion of the Board no better guide obtains for the use of the Customs in this respect than the "Colour Index." As all the Fur Bases mentioned in the "Colour Index" are classified therein as dyes and as all the other Fur Bases are admitted to be similarly constituted, the Board is of the opinion that it is safe to declare all of the Fur Bases under protest as aniline dyes under Tariff Heading No. 445.

The protest is therefore not sustained.

August 13th, 1931.

CASE NO. 51.

Port: Shanghai.

Subject: Classification of Certain Oil.

Case Brought up by: Messrs. Ault and Wiborg (China) Company, Shanghai.

Decision:

In Brief: To pay duty according to Tariff Heading No. 496.

Text: .

On the 8th June, 1931 Messrs, Ault & Wiborg, hereinafter referred to as the appellant, protested against the Shanghai Customs classification of certain oil described as "0000 Boiled Linseed Oil" which they state is pure unadulterated linseed oil, and as such should fall under Tariff Heading No. 496.

The stand taken by the Customs is that the commodity in question was originally the linseed oil of the Tariff but that after having been boiled to the extent it has it is no longer ordinary linseed oil, the prolonged boiling having converted it into a varnish with properties quite different from those of Linseed Oil, and as such it should be classified as "Varnish" under Tariff Heading No. 479. A certificate by the Customs Analyst is submitted which states that the commodity is Lithographic Varnish produced from Linseed Oil.

At the hearing of the case which took place on the 10th July, 1931, the Appellant's representative stated that the commodity in question is pure Linseed Oil and although it has been further processed by "blowing" no other substance was added to it, and as the Tariff Heading No. 496 simply states linseed oil without any qualification he considered they should have the privilege of paying duty under Tariff No. 496.

The Board in its investigation of the case has consulted various technical books on the subject. From a survey of the different authorities it has been found that while the

commodity in question is variously described as Stand Oil, Lithographic Oil, and Lithographic Varnish, it is simply Linseed Oil that has been bodied, i.e. increased in gravity and viscosity by heat or by blowing. It is the opinion of the Board that it should be classified under Tariff Heading No. 496.

The protest is therefore sustained.

August 13th, 1931.

CASE NO. 52.

Port: Swatow.

Subject: Classification of Small Cigars.

Case Brought up by: Messrs. Jui Cheng Yuan.

Decision:

In Brief: The Cigars in question should pay duty under Tariff Heading No. 386 (b).

Text:

The Appellant, Jui Cheng Yuan (瑞成源) of Swatow protested against the classification by the Swatow Customs of small inferior cigars imported by him from Hongkong as cigars to pay duty under Tariff Heading No. 386 (b). The Appellant submitted this protest on the ground that tariff duty for cigars under 386 (b) at G.U. 24 per mille is out of all proportion to the value of the small cigars which he states to be $7.00 per thousand.

The Board is advised that in accordance with a T.Q.S. ruling it has been the practice for the Customs to classify "Little Cigars" as cigarettes under Tariff Heading No. 385, but that as the interpretation of the term "Little Cigars" was not clearly defined at the outset, the ports concerned have given their own interpretation with the result that the practice has not been uniform throughout.

It is clear that the present protest is due to the fact that the Swatow Customs amended its previous liberal interpretation to conform to the more restricted Shanghai interpretation under which by "Little Cigars" are meant small cigars of the shape and size of cigarettes wrapped with tobacco leaf instead of paper.

It is the opinion of the Board, however, that apart from the difficulty in drawing a hard and fast line between "Little Cigars" to pay duty as cigarettes and those to pay duty as cigars, such practice is not in accordance with the wording of the import Tariff, where cigars irrespective of size or shape are specifically provided for.

The protest is therefore not sustained, and the Board rules that in future all cigars irrespective of shape or size are to pay duty under Tariff Heading No. 386.

August 20th, 1931.

CASE NO. 53.

Port: Tientsin.

Subject: Value of a shipment of Woollen Serges.

Case Brought up by: A. Walte & Co., Tientsin.

Decision:

In Brief: The value assessed by the Customs at Tientsin is sustained.

Text:

On March 6, 1931, the Appellant, Messrs. A. Walte and Company of Tientsin, applied for import thirteen cases of woollen serges, declared at G.U. 3,707.72, which value was based on *bona fide* contract prices, concluded during the month of September, 1930. The Tientsin Customs, on the other hand, assessed duty on a valuation of G.U. 3,847.00 which to the best of its knowledge, is in accordance with the wholesale market price ascertainable at Tientsin on the day of import.

This case is in the nature of a test case. In fact, the difference between the value declared and the value assessed by the Customs is so small and the amount of duty concerned so insignificant (some G.U. 48 to be exact that, if not for the principle involved, the case would probably not have been raised. That principle for whether the *bona fide* contract price or the price actually obtaining upon the market at the time of import should be chosen as the basis on which the duty paying value of articles subject to *ad valorem* duties should be calculated. As a matter of fact, the Appellant raised on objection as regards the correctness of the value assessed by the Tientsin Customs as the market value ruling on the day of import for the article in question; thus the correctness of that value may, for the purposes of this Board, be assumed. The question now is narrowed down to whether that value, or whether the *bona fide* contract price, should be taken as a basis for duty-paying purposes.

One of the chief characteristics of price is its changeability. Undoubtedly it is in view of this character that

the term "wholesale market value" has been carefully defined to mean "the average price at which, on the date of application to import and on the open market at the port of importation, the commodity is freely offered for sale,..... or is capable of being sold,.....in the ordinary course of trade." While the contract price for goods for future delivery brings its influence to bear upon the future wholesale price of that commodity, it does not necessarily coincide with that future price, in that different factors may arise during the interval which would affect the market. The relationship between contract price and wholesale market value is thus clearly laid down in Import Tariff Provisional Rules, I, §4, which provides that "invoices and contracts will be regarded as evidence of the value, but not necessarily as conclusive evidence."

The Board finds, therefore, that in view of the regulations now in force, the contract price as claimed by the Appellant cannot be established as the true basis for the calculation of the duty-paying value of the goods in question. The fact that the contracts were previously deposited with the Customs merely helps to prove the genuineness and correctness of such contracts; the Customs is under no obligation, however, to accept this *bona fide* contract price as the wholesale market price. The protest is thus not sustained.

September 24th, 1931.

CASE NO. 54.

Port: Swatow.

Subject: Classification of a consignment of liquid declared as Samshu.

Case Brought up by: Kung Fa (公 發), Swatow.

Decision:

In Brief: To be classified as Spirits of Wine under Tariff Heading No. 393 (Old Tariff) duty G.U. 0.18.

Text:

On 24th December, 1930, Kung Fa (公 發) merchant of Swatow, hereinafter referred to as the Appellant, imported a consignment of liquid which he declared to the Customs as Samshu, but which the Swatow Customs on examination classified as Spirits of Wine. As the Appellant protested verbally against this classification a sample was referred to the Shanghai Customs chemist for analysis and was found to be Spirits of Wine containing 62.7% of alcohol. On being informed of the result of the analysis the Appellant delayed settlement of the case until 28th May, 1931 when he finally lodged a formal protest with the Swatow Commissioner on the grounds that:

(1) Spirits of Wine or alcohol is 94% pure, whereas the Samshu in question contains only 50—60 degrees (percentage of alcohol).

(2) The Customs' analysis states that the Samshu contains 62.7% of alcohol but no mention is made of the other ingredients and their percentages.

(3) Tariff Heading No. 357 (Old Tariff) provides for unclassed alcoholic drinks, but the merchant has no means of knowing the maximum percentage of alcohol which Samshu may contain in order for it to pay under this Heading.

The Board having examined the sample forwarded by the Shanghai Customs and having compared it with samples of Spirits of Wine, Alcohol and Samshu is unanimous in

its opinion, after consultation with technical authorities, that it is spirits of wine, by reason of the fact that although both Spirits of Wine and Samshu contain alcohol, the former being distilled from potatoes, sugar, molasses etc., is easily distinguishable both by taste and smell from the latter which is distilled from fermented grains. Moreover the alcoholic content of 62.7% in the liquid in question is greater than that of ordinary Samshu and only appears low in proportion to "rectified" spirits of wine.

As regards the classification, the Board is also unanimous in agreeing that, since the liquid in question has been proved to be Spirits of Wine, its comparatively low percentage of alcoholic content does not preclude it from classification under Tariff Heading No. 393 (Old Tariff) which simply states "Spirits of Wine" without specifying any particular strength.

The protest is therefore not sustained.

September 30th, 1931.

CASE NO. 55.

Port: Shanghai.

Subject: Classification of Artificial Silk Stocking Rags.

Case Brought up by: The Canton United Manufacturers, Canton.

Decision:

In Brief: Tariff Heading No. 647 as an article unenumerated in the 1931 Import Tariff. Duty: 12½% *ad valorem.*

Text:

In a protest dated 30th June 1931 the Canton United Manufacturers appealed against the classification accorded to a shipment of Artificial Silk Stocking Rags ex S.S. "Cheong Shing." The Canton Customs assessed duty at the rate of 30% under Tariff Heading No. 105, which decision is in line with the ruling laid down in T.Q.S. No. 32/281 that such Artificial Silk Rags are to be regarded as "Waste Silk." Although the term "Waste Silk," if broadly interpreted, can be read to include Artificial Silk Rags the Board is of the opinion that the Waste Silk referred to in Tariff Heading No. 105 is the product commonly known as Waste Silk on the market, that is, the waste obtained in the production of yarn. In the opinion of the Board the article in question should be classified under Heading No. 647, as a product unenumerated in the Tariff, paying duty at 12½% *ad valorem.* The ruling of T.Q.S. No. 32/281 on which the Canton Customs' decision was based is to be amended accordingly.

September 30th, 1931.

CASE NO. 56.

Port: Shanghai.

Subject: Tariff classification of solid rubber tires for railless trams.

Case Brought up by: The Shanghai Electric Construction Co., Ltd.

Decision:

In Brief: To be classified under Tariff Heading No. 621 (c), duty 20% *ad valorem*.

Text:

The Appellant, the Shanghai Electric Construction Co., Ltd., protests against the Shanghai Customs classification of a consignment of 50 Solid Rubber Band Tires (of the Dunlop Rubber Co., Ltd., England) which arrived in Shanghai on the S.S. "Lycaon," on January 31, 1931, under Tariff Heading 621 (c), which reads:

India-Rubber and Gutta-percha, and manufactures thereof:—

(c) Manufactures, n.o.p.f. (including Tires, i.e., for Bicycles, Motor Vehicles, Ricshas, etc.) 20% *ad valorem*.

The Appellant contends that the article in question should fall under Tariff Heading No. 230, (c), as Tramway Materials, n.o.p.f., duty 5% *ad valorem*, because

(a) The tires concerned are for our (the Appellant's) own use as a Public Utility Company on passenger carrying railless trams and are not for resale;

(b) A railless tram is not a motor vehicle in the generally accepted interpretation of the term as it is not self contained and does not generate its motive power;

(c) Prior to the introduction of the new Customs Import Tariff on February 1, 1931, solid rubber tires of the same size and type as those referred

to in clause (a) hereof and used by us (the Appellant) for the same purpose were rated for duty at 10% and came under classification 696 (b) of the old Tariff.

At the hearing of the case on April 17, 1931, one of the Appellant's representatives, while admitting that the contentions of the Appellant as outlined above are only "morally sound," and cannot affect the tariff classification of the article, advanced a different line of reasoning in support of classifying the article in question under Tariff Heading No. 230 (c). To quote him *ad verbatim*, "Tariff No. 621, under which the (Shanghai) Appraising Department has classified the commodity in question, is to some extent a luxury classification. You will observe that it says 'including tires for bicycles, motor vehicles, and ricshas." It would have been perfectly simple if they had merely stated 'including tires,' but the compilers of the Tariff seemed to have gone out of their way to stress the type of vehicle to be included under this Tariff Heading. Then again if we turn to the Heading immediately following 230, Tariff Heading No. 231 states 'Vehicles, n.o.p.f. and Parts thereof (*except tires*),' and 229 (b) stresses 'Vehicles, Motor, Others, and parts and accessories (*except tires*).' In the previous Tariff these tires were classified under No. 696. .....It has been an established custom of the Chinese Customs to assume that these are railway and tramway supplies, and I would stress that *had the Tariff compilers intended that there should be any change in the practice, they would have added the words 'except tires'* in 230 (c). .....It is clear that there was some distinction intended in the minds of the Tariff compilers."

While admitting the acuteness of the Appellant's reasoning, this Board cannot see its way to concur with his conclusion. It is true that the words 'except tires' appear both in Tariff Heading Nos. 229 (b) and 231, and do not appear in No. 230 (c); it is also true that under Tariff Heading No. 621 (c), certain types of vehicles are enumerated, (like bicycles, motor vehicles, and ricshas), while railless trams are not specifically mentioned. It is equally plain, however, that the phrase 'except tires' is incerted in

Tariff Heading Nos. 229 (b) and 231 because these Headings stipulate to include *all* parts (and accessories in the case of No. 229 (b), which makes it necessary to enumerate anything which is meant to be excluded. Tariff Heading No. 230 (c), on the other hand, reads 'railway or tramway materials, *not otherwise provided for,*' and, as tires are already *provided for* under Tariff Heading No. 621 (c), to specifically mention 'except tires' is both superfluous and unnecessary. It is also equally plain that Tariff Heading No. 621 (c) makes special mention of 'bicycles, motor vehicles, and ricshas' because these are among the most common varieties of vehicles imported, and the word 'etc.' at the end of the Heading clearly indicates that it cannot be the intention of the Tariff compilers to limit the application of this Heading to bicycle tires, motor vehicle tires, or ricsha tires, but that tires for other vehicles of similar nature e.g., railless trams—must also come under that Heading.

The Board finds, therefore, that Solid Rubber Tires for railless trams should properly be classified under Tariff Heading No. 621 (c), duty 20% *ad valorem.*

The facts that the article in question paid a lower duty under the old Tariff and that it is imported for the Appellant's own use do not, in the opinion of this Board, warrant any modification to the tariff classification of the subject under protest.

September 30th, 1931.

Tariff Decisions

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T. CHOW, *Chairman*

K. LEE, *Member*

C. NEPRUD, *Member*

P. BARENTZEN, *Member*

U. M. S. TORRESANI, *Member*

T. F. LEE, *Secretary*

CASE NO 57.

Port: Canton.

Subject: Valuation of Milk Sugar Powder.

Case Brought up by: Messrs. Reuter, Brocklemann & Co., Canton.

Decision in Brief: The duty-paying value should be G.U. 719.19.

Text:

On 12th May, 1931, the appellants, Messrs. Reuter, Brocklemann & Co. of Canton, lodged a protest against the duty-paying value of G.U. 719.19 appraised by the Canton Customs on a consignment of 10 cases of Milk Sugar Powder. The facts of the case as reported by the Canton Customs are as follows:

The appellants first declared to the Customs a value of G.U. 594.03 arrived at by adding 5% to the c.i.f. invoice cost of £46.10.0. The invoice was from Messrs. Heyn, Brocklemann & Co. of Hamburg. As this firm has always been regarded by the Canton Customs as the Canton firm's home or head office and as the declared value was unsupported by any manufacturer's invoice or contract of sale, and as higher prices had been quoted for previous shipments the Canton Customs conducted enquiries on the market and on the basis of several contracts entered into at that time by a large importer of the same commodity, appraised the value of the consignment at G.U. 719.19.

On being informed of the Customs decision, the appellants verbally protested against the appraisement. They then, however, offered to amend the value originally declared requesting to pay on the basis of an ex godown selling price of £68.12.0 or G.U. 632.28. Inspection of the firm's books, however, by the Canton Customs produced no reliable evidence of any sale transaction, although a few days later two debit notes chopped by a buyer were produced by the firm with the offer to prepare a contract in confirmation of the concluded deal. This, however, the Customs refused to accept as evidence, since it was not produced at the time of original application. The appellants

then formally lodged the present protest offering to pay duty on the basis of their alleged selling price (G.U. 632.28). The following reasons were given in support of their objection to the value appraised by the Canton Customs:

1. That the Customs have taken the selling price of two of their competitors as the market value, although their (the appellant's) sale price could be regarded as a market value, including as it does a fair profit apart from all expenses.

2. That although they undersold one or two of their competitors, there are still cheaper prices for the same quality goods on the market in support of which they produced a copy of contract No. 1696 concluded between the South Coast Commercial Agency and Messrs. The Yan On Drug Co., Canton on 24th March for 2 cases of 2 cwt. of Milk Sugar impalpable at Sh. 49/10½ per cwt. for delivery ex steamer Canton excluding duty.

3. That in view of the competition with wellknown brands on the market it would be impossible to sell at the price determined on by the Canton Customs.

Although the firm indicated in its protest that a representative from the Shanghai office of Messrs. Reuter, Brocklemann & Co. would appear before the Board, no one put in an appearance at either of the two hearings which were set for the case. The Board's decision, therefore, must be settled on the records at hand.

From the appellant's protest and the Canton Commissioner's statement of the case there can be no question that the amount originally declared by the appellant did not represent the correct duty paying value. It appears that the only document submitted by the appellant at the time he applied to import his goods was an invoice from his firm's head office in Hamburg. No manufacturer's invoice was presented nor was any contract, debit note, or other document submitted to show what the local wholesale market value of the goods might be. From Rule I of the Import Tariff Provisional Rules it is to be seen that manufacturer's invoices are invariably required to be presented when Import Applications are handed in. The Rule also

stipulates that if the goods have been sold before presentation to the Customs of the application to pay duty the *bona fide* contract must also be produced together with the application. Without questioning the correctness of the invoice which was submitted the C.I.F. invoice price plus 5% cannot be taken as the duty paying value for the reason that that method of arriving at the value can only be used in cases where no ex godown wholesale market value is obtainable. For the article in question such a market value is obtainable. The duty paying value appraised by the Customs was obtained from enquiries made on the market at Canton. The quotation on which the appraisement was based was secured from a large importer and represents the cost of the purchase of a consignment of Milk Sugar of identically the same brand, quality, and packing as the appellant's article. Independent enquiries made by the Board reveal that the value appraised by the Canton Customs corresponds very closely to the value applied at Shanghai for a consignment of similar goods imported into Shanghai just previous to the importation of the shipment in question at Canton.

The Board therefore upholds the value of G.U. 719.19 appraised by the Canton Customs. The protest is not sustained.

October 7th, 1931.

CASE NO. 58.

Port: Canton.

Subject: Duty-paying value of certain shipments of Acetylosalicylic Acid.

Case Brought up by: Messrs. Reuter, Brockelmann & Co., Canton.

Decision in Brief: To pay duty on Customs valuation.

Text:

On the 14th April, 1931, Messrs. Reuter Brockelmann & Co. protested against the valuation by the Canton Customs of two consignments of Acetylosalicylic Acid, whereby their declared values of G.U. 314.66 for three cases and G.U. 113.98 for one case had been raised by the Customs to G.U. 540.00 and G.U. 150.00 respectively.

In support of their declared values the appellant submitted buying invoices for the cargo in question, which show that the three case lot cost G.$171.36 c.i.f.c. Hongkong and the one case lot cost G.$53.20 c.i.f. Hongkong, or a total of G.$224.56. The appellant also submitted selling contracts for four cases which show that the cargo was sold in November, 1930 for G.$0.61 per lb. c.i.f. Canton, including duty as per Revised Import Tariff of 1922. On each contract a note indicated that exchange was settled on or about the dates the contracts were concluded.

At the hearing of the case on June 28, 1931, the appellant's representative stated that in November, 1930 he sold the cargo in question to the appellant for G.$0.51 per lb. c.i.f. Hongkong. He could not explain how their declared values were arrived at, but agreed that the values appraised by the Customs were in accordance with the new convention price.

From the evidence and documents submitted it would appear that the protest is not directed so much against the Customs valuation as against Rule I of the Import Tariff Provisional Rules, which provides for the payment of duty on the basis of the wholesale market value of goods on the date of application to import. In the present case the cargo

was sold over four months prior to its arrival. In substance the appellant claims to pay duty on the value of the cargo prevailing four months prior to its arrival and, although the cargo was sold in terms of gold, he claims to pay duty on the gold sale price converted into silver at the exchange ruling on the day of sale and reconverted to gold at the exchange ruling on the day of import.

This claim being contrary to the present Import Tariff Provisional Rules, Rule I, which lays down that duty must be paid on the basis of the wholesale value of the goods on the day of import, the protest is therefore not sustained.

October 9th, 1931.

CASE NO. 59.

Port: Shanghai.

Subject: Valuation of a shipment of Riverside Auto Tyres and Tubes.

Case Brought up by: Messrs. James Magill & Co., Ltd. on behalf of Mr. T. B. Chang.

Decision in Brief: As the particular shipment in question is the first importation of Tyres and Tubes of this brand, import duty is to be levied on c.i.f.+5%.

Text:

This case concerns a shipment of Riverside Auto Tyres and Tubes imported ex s.s. "President Polk" on July 25th, 1931, by Messrs. James Magill & Co., Ltd., Customs Brokers, acting on behalf of the consignee, Mr. T. B. Chang, local representative of Messrs. Montgomery, Ward & Co. of Chicago, Illinois, U.S.A.

The applicant declared a value of G.U. 1,595.00. In support of this value it was asserted that this sum plus duty and landing charges constitutes the price at which Mr. Chang, as the representative of the manufacturers, is willing to sell to anyone on the open market in Shanghai. An invoice, telegram and letter from Messrs. Montgomery, Ward & Co. were submitted to show that Mr. Chang was authorised to sell at the prices indicated.

The Appraising Department raised the value declared to G.U. 2,001.00. This figure was obtained by applying to the tyres and tubes in question, the average value of second grade tyres and tubes considered to be of approximately similar quality. Such average values are based upon the list prices of second grade tyres and tubes. It was pointed out by the Appraising Department, however, that the shipment in question is the first of its kind for some considerable time, and that therefore no Riverside Tyres and Tubes were on the market at the time the importation was made. No local selling prices were obtainable at the time of importation.

The Board, while admitting the practicability of grouping tyres of a similar nature for duty paying purposes, is of the opinion that this particular shipment of tyres, inasmuch as they are a brand which was not on the market at the time of importation, cannot very well be so deal with. No wholesale market value can be said to obtain before the goods have actually been put upon the market. The Board therefore rules that this particular shipment is to pay duty on the basis of c.i.f.+5%.

The protest is therefore sustained.

October 22nd, 1931.

CASE NO. 60.

Port: Shanghai.

Subject: Classification of Mercerized Cotton for Sardo Embroidery.

Case Brought up by: Messrs. Boutross Brothers, Shanghai.

Decision in Brief: To be classified under Tariff Heading No. 65 (Tariff of 1929), duty 10% *ad valorem*.

Text:

On January 9, 1931, Messrs. Boutross Brothers protested against the classification by the Shanghai Customs of certain cargo invoiced as "Mercerized Cotton Yarn," which the Customs claimed to be a 2/15 mercerized cotton embroidery thread, dutiable under Tariff Heading No. 52 (2) b (1929 Tariff). The appellant stated that the commodity in question is for making "Sardo" lace; and, being the raw material used in a form of hand weaving, it should be considered as yarn, duty 7½% *ad valorem*.

As the product in question is imported in skeins of some 400 yards each, and is, according to the Customs textile expert, reverse twisted or doubled, it is, in the opinion of the Board, more of the nature of thread than yarn. It is, however, too coarse to be classified as embroidery thread. The Board rules, therefore, that the product in question should be classified under Tariff Heading No. 65 (Tariff of 1929) as Cotton Goods n.o.e., duty 10% *ad valorem*.

November 14th, 1931.

CASE NO 61.

Port: Canton.

Subject: Classification of Lisle Thread.

Case Brought up by: The Canton Singlet and Stockling Knitting Guild.

Decision in Brief: To be classified as Cotton Yarn Under Tariff Heading No. 51 (b). (Tariff 1931).

Text:

On March 14, 1931, the Canton Singlet and Stocking Knitting Guild protested against the Canton Customs classification of Lisle Thread under Tariff Heading No. 52 (c) as "Thread, Other," duty 12½% *ad valorem*. It was pointed out that (1) lisle thread is a yarn, which cannot be consumed directly but is a raw material for further manufacturing processes; (2) the duty on cotton yarn is 7½%, as specified in a telegram received by the Guild from the Ministry of Finance of the National Government; and (3) the import duty on Singlets being only 10% *ad valorem* (Tariff Heading No. 61), it seems to be unfair to charge a duty of 12½% on lisle yarn, of which such singlets are made.

Although it is difficult to draw a definite line of demarkation between yarn and thread, this Board is of the opinion that, as a working rule, it is advisable to include under the Tariff Heading "Cotton Yarn" yarn or thread done up in large cops or hanks, generally of more than 840 yards in length, for machine weaving or machine knitting, as distinct from "Cotton Thread" which is used for sewing, crocheting, and embroidering. In the list of the above interpretation, it is hereby ruled that for tariff purposes the product in question should be considered as cotton yarn to be classified under Tariff Heading No. 51 (b), duty 7½% *ad valorem*.

The protest is therefore sustained. I.G. Circular No. 4056, T.Q.S. No. 162, on which the decision of the Canton Customs is based, is to be modified accordingly.

November 14th, 1931.

CASE NO. 62.

Port: Shanghai.

Subject: Duty-paying value of a consignment of White Zinc.
Case Brought up by: Messrs. Kobayashi Yoko, Shanghai.

Decision in Brief: To pay duty on a valuation of G.U. 3,560.94.
Text:

On the 2nd July, 1931, Messrs. Kobayashi Yoko protested against the value appraised by the Shanghai Customs on a consignment of 150 cases of White Zinc imported on the 27th May, 1931, ex s.s. "Soyo Maru" from Japan.

The appellant who declared G.U. 2,941.05 stated that this value is based on the actual selling price, and further, that on or about the same date similar cargo was passed by the Customs at this value for another importer.

The Customs appraised the goods at a value of G.U. 3,975.00 and contended that their value was based on the value declared for other importations of White Zinc of similar quality to the lot in dispute, and that the cargo referred to by the appellant as having been passed by the Customs at a lower value was of inferior quality.

After making exhaustive enquiries on the Shanghai market the Board has come to the conclusion that the value appraised by the Customs is too high, and that the fair average wholesale ex-godown market value of the cargo on the date of application to import was Shanghai Tls. 40.00 per case of 224 lbs. On this basis the duty-paying value of the 150 cases in question should be G.U. 3,560.94.

The Board therefore rules that the value should be amended accordingly.

November 14th, 1931.

CASE NO. 63.

Port: Shanghai.

Subject: Classification of Printers' Offset Rubber Blankets.

Case Brought up by: Messrs. Ault & Wiborg (China) Co., Shanghai.

Decision in Brief: To be classified under Tariff Heading No. 637 duty 12½% *ad valorem*.

Text:

On the 20th October, 1931, Messrs. Ault & Wiborg protested against the Shanghai Customs classification of a consignment of Printers' Offset Rubber Blankets under Tariff Heading No. 621 (c), contending that as the commodity in question, which is a combination of cotton fabric and rubber, is used only on the impression cylinders of offset or lithographic presses, and cannot be used for any other purpose, it should be classified as "Printing and Lithographic Materials," under Tariff Heading No. 637.

The Shanghai Customs in classifying these blankets as "Manufactures of rubber" were guided by the fact that Rubber Tires, also which are only partly of rubber, are specifically mentioned under this Heading in the Tariff. Also, while admitting the improbability of these blankets being used for purposes other than that stated by the appellant, the Customs dispute the claim that they could not be so used.

Examination of the samples produced at the hearing of the case showed that while rubber is an essential part of the product the cotton fabric used in its manufacture is equally important, and although it is known as "rubber" blanket, it would not seem to be justified in classifying it entirely by its trade name.

In the opinion of the Board, Tariff No. 637 Printing and Lithographic materials, n.o.p.f. is the appropriate Heading for this product. The protest is therefore sustained.

December 30th, 1931.

CASE NO. 64.

Deleted.

CASE NO. 65.

Port: Shanghai.

Subject: Classification of Ground Pepper in bulk.

Case Brought up by: Messrs. Heath (1927) Limited.

Decision in Brief: To be classified under Tariff Heading No. 295.

Text:

On the 22nd December 1931 Messrs. Heath (1927) Limited protested against the Shanghai Customs classification of a consignment of Ground Pepper in bulk under Tariff Heading No. 295, on the following grounds:

(a) The commodity is specifically provided for under Tariff Heading No. 347, which simply states "Pepper in bulk" no mention being made of either ground or unground, and

(b) In trade the term "pepper," unless specifically stated to the contrary, is understood to mean ground pepper.

The Customs stated that in classifying the commodity under Tariff Heading No. 295 they were guided by the long standing practice of confining Tariff Heading No. 347 to unground pepper. Investigation by the Board fails to substantiate the appellant's contention that by the term pepper, used without qualification, is meant ground pepper. On the contrary the Board finds that in the trade, unless otherwise specified, the term pepper refers only to unground pepper berries.

It is the opinion of the Board that the commodity in question is correctly classified under Tariff Heading No. 295.

The protest is therefore not sustained.

March 24th, 1932.

CASE NO. 66.

Port: Tientsin.

Subject: Classification of unfinished Cigarette Holders.

Case Brought up by: Messrs. John's Import & Export Company.

Decision in Brief: To pay duty under Tariff Heading No. 609 (a): 15% *ad valorem* (1931 Tariff).

Text:

The appellant, Messrs. John's Import and Export Company of Tientsin, protests the classification of unfinished cigarette holders of imitation amber under the Heading of "Tobacconists' Sundries," Tariff No. 391, duty 50% *ad valorem*, claiming that the correct classification is under Tariff Heading No. 609 (a) which covers unworked imitation amber: duty 15% *ad valorem*.

The Tientsin Commissioner in classifying the article under the Heading of Tobacconists' Sundries stated that he was guided by a reply received some two years ago from the Shanghai Appraising Department to the effect that such unfished cigarette holders were so classified at Shanghai. It should be noted, however, that two years ago another Import Tariff was in force, namely the 1929 Tariff, in which the Heading covering amber, Tariff No. 630, had no subheadings such as (a) "worked" and (b) "others" which appear in Heading No. 609 of the 1931 Tariff covering amber and manufactures thereof; and, besides, the duty rate for both amber ond Tobacconists' Sundries under the 1929 Tariff was the same namely 22½% *ad valorem*. Such being the case the question of where the article would be more suitably classified for returns purposes was perhaps the chief factor accounting for the Shanghai Appraising Department's ruling at the time. Under the present Tariff, however, with other factors to be considered such as the revised wording for the Heading covering amber and with the substantial difference which now exists between the rates of the two Headings, the Board is of the opinion that the article should be classified as unworked imitation amber under Tariff Heading No. 609 (a): duty 15% *ad valorem*.

The protest is therefore sustained.

May 9th, 1932.

CASE NO. 67.

Port: Shanghai.

Subject: Tariff classification of "Force" (Toasted Wheat Flakes).

Case Brought up by: Messrs. Dodge & Seymour (China) Ltd., Shanghai.

Decision in Brief: To be classified under Tariff Heading No. 300 (1931 Tariff), as "Foodstuffs, n.o.p.f."—duty 20% *ad valorem*.

Text:

On the 28th September, 1931, Messrs. Dodge & Seymour protested against the Shanghai Customs classification of "Force" under Tariff Heading No. 300. The appellant contended that the product in question is a cereal made from wheat and that although it has been treated in manufacture to render it more palatable, it still retains its inherent qualities as a cereal and should therefore be classified under Tariff Heading No. 305 (b), duty 12½% *ad valorem*.

The Shanghai Customs in classifying the product as "Foodstuffs, n.o.p.f." under Tariff Heading No. 300 has been guided by the decision in T.Q.S. No. 253 (I.G. Circular 4261), which specifies that the Heading No. 305 (b)—Flours and Cereals, n.o.p.f. (Others)—does not include prepared foodstuffs such as Bran Flakes, Force, Grape Nuts, Shredded Wheat, etc.

The Board is of the opinion that T.Q.S. No. 253 is correct in excluding prepared foodstuffs ready for consumption from Tariff Heading No. 305 (b), which Heading is restricted to include only raw flours and cereals.

As "Force" is admitted to be "the whole of the wheat, thoroughly steam cooked.....rolled into thin flakes and baked.....," the Board rules that the product in question should be classified under Tariff Heading No. 300.

The protest is therefore not sustained.

May 12th, 1932.

CASE NO. 68.

Port: Shanghai.

Subject: Classification of Serravallo's Tonic (Bark and Iron Wine).

Case Brought up by: The Italian Trade Commissioner on behalf of J. Serravallo of Trieste, Italy.

Decision in Brief: To be classified under Tariff Heading No. 384.

Text:

On the 29th February, 1932, the Italian Trade Commissioner on behalf of Mr. J. Serravallo of Trieste, Italy, protested against the Shanghai Customs classification of Serravallo's Tonic (Bark and Iron Wine) under Tariff Heading No. 384 on the following grounds:

(a) It is manufactured and sold as a pharmaceutical product and, as such, is recommended by medical doctors;

(b) It is not supposed to be drunk freely, but in limited doses as prescribed on the label; and

(c) It is mentioned in the German Pharmacopoeia as being a tonic for convalescents, and to enrich the blood.

In further support of his case the appellant submitted a book containing more than 10,000 testimonials from medical doctors in different parts of the world, certifying the medicinal properties of Serravallo's Tonic. He also submitted a certificate of analysis in which the alcoholic content by volume is stated to be 13.91%.

In the literature packed with a sample bottle it is stated that Serravallo's Tonic "contains Iron and Quinine, in exact doses, dissolved in a wine liqueur of superior quality which contributes to the energy of the curative action by its exquisite taste and spirituous strength."

From the evidence produced the Board is of the opinion that the product, while possessing medicinal properties, is a wine of superior quality with an alcoholic content and has

therefore been correctly classified under Tariff Heading No. 384 in the category of "Wines and all other Alcoholic or Spirituous Liquors and Beverages, n.o.p.f."

The protest is therefore not sustained.

May 12th, 1932.

CASE NO. 69.

Port: Shanghai.

Subject: Tariff classification of Paper Matrices (worked) when exported abroad or coastwise.

Case Brought up by: Messrs. The Commercial Press, Ltd., Shanghai.

Decision in Brief: To be passed free of duty.

Text:

Messrs. The Commercial Press, Ltd., appeal against the levy of duty on worker paper matrices sent from Shanghai to the Company's branch plants at Hongkong and Tientsin where they are to be used in the printing of text books, pamphlets, etc. The Shanghai Customs levied duty because the article is not specifically included in the duty-free list of either the Export Tariff or the Interport Tariff. The chief argument advanced by the appellant is that the matrices bearing impressions of reading matter are in the nature of manuscripts and so should be passed free of duty, there being no duty, either export or interport, on manuscripts.

It has been a policy of long standing to exempt from duty all books, periodicals, and other ordinary printed matter on account of their educational or cultural value. While it is true that worked paper matrices are not specifically mentioned in the duty-free list of either Tariff the Board is of the opinion that the headings providing for the duty-free treatment of various kinds of printed matter are of such a broad and liberal nature that they can well be interpreted to include worked paper matrices which, in a certain sense, are manuscripts in an advanced form. The appellant's protest is therefore sustained.

The interpretation herein made is to apply to worked paper matrices imported from abroad as well as to native worked paper matrices exported coastwise or abroad.

CASE NO. 70.

Port: Tientsin.

Subject: Classification of Mild Steel Stripes.

Case Brought up by: Messrs. A. Walte & Company, Successors.

Decision in Brief: To pay duty according to Import Tariff Heading No. 172.

Text:

The appellant, Messrs. A. Walte & Company, Successors, protested against the classification of a shipment of 495 coils of what is described in the invoice as "Iron hoops" under Tariff No. 172 by the Tientsin Customs. The appellant contended that since the article in question is bought as hoops and is described as hoops, and since the Tariff sets no limitation by definition to the ramification of the term "hoop," it should be classified as such under Tariff No. 154 @ 0.77 per picul.

The Tientsin Customs considers that by the term "hoop" in the Tariff is meant flexible iron or steel used principally for hooping bales or cases and as the article in question is considered not suitable for making hoops owing to its inflexibility and harness, it should logically fall under Tariff No. 172 as "Iron and Steel ungalvansed, others."

The Customs interpretation of the term "hoop" is, in the opinion of the Board, in conformity with the common usage of the term. Since the article in question is neither suitable for making hoops nor actually going to be used for that purpose, the article is therefore correctly classified under Tariff Heading No. 172.

The protest is not sustained.

June 17th, 1932.

CASE NO. 71.

Port: Shanghai.

Subject: Classification of certain Split Leather (Soft).

Case Brought up by: Messrs. Carlowitz & Co. Shanghai.

Decision in Brief: To pay duty according to Import Tariff Heading No. 530, 15% *ad valorem*.

Text:

Messrs. Carlowitz & Co. hereinafter referred to as the appellant protested against the Shanghai Customs classification of a shipment of certain leather described as Soft Split Sole Leather under Tariff Heading No. 530 of the Import Tariff. The appellant contended that the leather in question should be classified under Tariff Heading No. 529, giving the following reasons in support of this claim:

(a) that the leather is invoiced by the suppliers as sole split leather;

(b) that such leather will be used for making soles for soft shoes and slippers;

(c) that Tariff Heading No. 259 makes no restriction as to any specific kind of sole leather.

The appellant while confirming the above, admitted that

(a) the soft split leather discussed is a special kind of leather;

(b) that it is not sold by weight as ordinary sole leather, but by measurement as "upper" and other special leather;

(c) that it is called "velour" abroad, but that nevertheless the largest tannery in Germany sells it to this country as sole split leather.

It is the opinion of the Board that, although judging from the finished samples submitted such soft leather could be adapted as soles for soft-soled slippers and the like. Tariff Heading No. 529, sole leather, is meant to cover the

"heavy" leather commonly known in the trade. This ruling is in agreement with an extract from the Dictionary of Leather Terminology reading as follows:

> "Splits are usually named according to their sequence of production, such as "main," "second," or "slab" split (in the case of upholstery leather) or for the use to which they are to be put, such as flexible (for inner soles); "glove," "waxed" (for cheap shoe-uppers); "bag and case" (finished with pyroxylin or pigment finish), etc.....In upholstery the top or grain cuts go into the higher grades, and the splits into the cheaper."

The protest is therefore not sustained.

June 17th, 1932.

CASE NO 72.

Port: Hankow.

Subject: Duty treatment of Glycerized Egg Yolk.

Case Brought up by: Messrs. Carlowitz & Co. and Messrs. Arnhold & Co. Hankow.

Decision in Brief: The product in question to be classified under Export Tariff Heading No. 22, Animal Products, n.o.p.f.

Text:

On April 21st, 1932, The Hankow Branches, Messrs. Carlowitz & Co. and Messrs. Arnhold & Co., protested jointly against the Customs classification of glycerized egg yolk under Export Tariff Heading No. 22, Animal Products, n.o.p.f. duty 7½% *ad valorem*.

The appellants argued that since moist egg yolk is paying a specific duty of Hk. Tls. 1.50 per picul, and since the ratio of the egg contents between glycerized egg yolk and moist egg yolk is 9 to 7, an equitable duty on glycerized egg yolk should be Hk. Tls. 1.50×9/7, viz. Hk. Tls. 1.93 per picul. It was further stated that, as Great Britain has forbidden the import of most kinds of moist egg yolk, "the British trade is paying a higher duty on the yolk imported from China" than the trade of "the European Continent whereto all kinds of moist yolk as preserved with boric acid or salt and benzoic acid are forwarded."

The present price of glycerized egg yolk is around Hk. Tls. 38 per picul, and that of moist egg yolk is Hk. Tls. 20. Both prices, it may be noted, are unusually low, as compared with prices obtaining during the past. On the basis of these latest market quotations, however, it may be seen that the export duty levied on moist egg yolk amounts to 7½%, the same percentage rate as glycerized egg yolk is called upon to pay.

Export Tariff (1931) Heading No. 3 (b) reads: Egg Albumen, Yolk, and Whole Egg (Melange), Moist and Frozen (not including Glycerized Egg Products), per picul Hk. Tls. 1.50. Glycerized egg yolk, being specifically

excluded, falls under Heading No. 22, dutiable at 7½% *ad valorem*. The Tariff provision, this Board finds, is so explicit that no other interpretation is possible. While the Export Tariff stands as it is, to charge duty on glycerized egg yolk on a *pro rata* basis, in relation to its egg content as compared to that of moist egg yolk, is entirely out of the question.

The protest is therefore not sustained.

July 1st, 1932.

CASENO. 73.

Port: Canton.

Subject: Classification of Metal Fasteners for Machinery Belts.

Case Brought up by: The Honwan Trading Co., Canton.

Decision in Brief: Under Import Tariff Heading No. 224 as Parts of Machinery.

Text:

On April 6th, 1932, the appellant, the Honwan Trading Company of Canton, protests against the classification of the Canton Customs of metal fasteners for machinery belts under Tariff Heading No. 215 as metalware n.o.p.f., duty 20% *ad valorem*, contending that such fasteners should be classified either under Tariff Heading No. 626 as machine belting 12½% *ad valorem* or under Heading No. 218 as parts of machine tools, duty 5% *ad valorem*.

In the opinion of the Board metal fasteners for machinery belts cannot be classified under Heading No. 626 as the term "machine belting" of that Heading refers to lengths of leather for belting use and not to regular machinery belts. It would also not be correct to classify either belts or belt fasteners under Heading No. 218 as only a percentage of belts or fasteners would be used in connection with machine tools.

The main question which arises in connection with the classification of metal belt fasteners is whether they can be classified as machinery parts requiring as they do to be cut to size before being used. In this connection it should be noted that there are a few articles, such as card clothing, lickerin wire, and fillets, which on importation have always been regarded by the Customs as being parts of machinery although they require to be cut before being used. These particular articles and possibly one or two others are for no other purpose than as parts of machinery, come in a finished state of manufacture and require but to be cut before being used. In the opinion of the Board the general practice of regarding articles of this description as machinery parts is in accord with the spirit of the Tariff

and is in harmony with the decision reached in the case of Roller Skins (Case No. 41). As metal fasteners for machinery belts fulfill the conditions mentioned above the Board rules that they are to be classified under Tariff Heading No. 224 as Machinery Parts, duty 7½% *ad valorem*.

July 6th, 1932.

CASE NO. 74.

Port: Shanghai.

Subject: Classification of Foundation Cloth.

Case Brought up by: Messrs. The China Clock Company, Shanghai.

Decision in Brief: To pay as machinery parts under Tariff Heading No. 224: 7½% *ad valorem*.

***Text*:**

In an appeal raised on the 26th April, 1932, Messrs. The China Clock Company, Shanghai, protested against the classification by the Shanghai Customs of foundation cloth under Tariff Heading No. 647, duty 12½% *ad valorem*, claiming that the article should be classified under Tariff Heading No. 224 as machinery parts n.o.p.f., duty 7½% *ad valorem*. In support of his contention the appellant argued that it is inconsistent and illogical that foundation cloth sould be required to pay more duty than finished cardings which are passed as machinery parts under Tariff Heading No. 224.

The Shanghai Customs in not classifying foundation cloth as machinery parts was guided by the decision of Tariff Board Case No. 32 in which it was ruled that Sizing Flannel and Clearer Cloth in the piece cannot be considered as machine parts. It was admitted, however, that the two cases are not exactly identical as foundation cloth being quite stiff is really not suited for any other purpose than for the manufacture of cardings whereas sizing flannel and clearer cloth can easily be used for making blankets and other articles. In fact it was considered that it might be more logical to deal with foundation cloth on the same basis as roller skins which, according to the Tariff Board's ruling in Case No. 41 are permitted to pay as machinery parts.

In a recent case the Board decided that metal fasteners for machinery belts should be classified as machinery parts under Tariff Heading No. 224 on the general principle that they are for no other purpose than as parts of machinery,

come in a finished state of manufacture, and require but to be cut before being used. As foundation cloth fulfills these requirements equally well it is hereby ruled that it should be classified under Tariff Heading No. 224 as machinery parts.

The appellant's protest is therefore sustained.

July 11th, 1932.

CASE NO. 75.

Port: Shanghai.

Subject: Tariff classification of Iron Pins, Tinned.

Case Brought up by: The Honwan Trading Co., 16 Shameen, Canton.

Decision in Brie: To be classified under Tariff Heading No. 215.

Text:

On the 15th April, 1932, the Honwan Trading Co. protested against the classification by the Canton Customs of a consignment of Iron Pins, Tinned, under Tariff Heading No. 215, on the grounds:

(1) that although as far as the material is concerned, the pins have been rightly classified, the usage, however, of the article has not been taken into consideration; and

(2) that the pins, resembling needles, are used for fastening articles together, and thus, according to the old English are called "Pin-needles." For this reason the appellant draw the attention of the Board to Tariff No. 242 (c) which reads: "Needles; Others." The appellant interpreted this to mean other needles than hand-sewing or for sewing or knitting machines, and therefore apparently including articles as those in dispute, which in abbreviation are nowadays called "pins."

The Customs, in classifying the above mentioned article, have been guided by the decision laid down in Tariff Board Case No. 43 in which it was ruled that Tariff Heading No. 242 (c) includes only such articles as crochet needles, hand-knitting needles, etc. which are not provided for in sub-heading (a) and (b). Pins, not being needles in the generally accepted sense of the term cannot therefore be classified under Heading No. 242.

In the opinion of the Board Iron Pins, Tinned, are correctly classified under Heading No. 215, as metalware, electro-plated or not, n.o.p.f. duty 20% *ad valorem*.

The protest is therefore not sustained.

July 20th, 1932.

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