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REPORT BY THE
Comptroller General
OF THE UNITED STATES

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Customs' Classification Of Imported Vehicles--A Controversial Issue

RELEASED

Customs classifies imported vehicles--chassis with cab and other features found on road-ready trucks but without a cargo bed--as a chassis for trucks rather than as trucks. As classified, the vehicles are subject to a 4-percent duty rate instead of the 25-percent rate applicable to trucks.

Because there are persuasive arguments both for and against the chassis classification, it is difficult to conclude, as a matter of law, that the classification is clearly wrong. From a practical viewpoint, Customs' ruling permits importers to avoid a 25-percent duty by removing the cargo box from trucks and by importing the items separately.

Treasury officials are reconsidering vehicle classifications but will not issue any decisions until the multilateral trade negotiations are concluded.

*U.S. Customs = service AGC 6/15/6
Treasury AGC 6/16/38*



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DECEMBER 13, 1978





COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-114898



The Honorable Al Ullman
Chairman, Committee on Ways and
Means
House of Representatives

address
HSE04100 (1)
SEN00314 (2)

Dear Mr. Chairman:

As requested in your May 9, 1978, letter we examined the classification of imported truck chassis--complete with cab and other features found on road-ready trucks but imported without a cargo box--and the Subaru BRAT. Because Customs currently classifies these types of vehicles as something other than trucks, they are imported at a 4-percent and 3-percent duty rate, respectively. A truck classification would increase the duty rate to 25 percent.

As a matter of law, we cannot conclude that the chassis classification is clearly wrong. It has, however, permitted importers, by simply removing a cargo box from a truck, to avoid a 25-percent duty. As for the Subaru BRAT, we believe a strong argument can be made for classifying it as a truck. The Treasury Department is considering whether to reclassify these vehicles but will not issue a decision until the current multilateral trade negotiations are completed.

Your office requested that we not obtain written comments on this report. The matters dealt with, however, were discussed with Treasury officials.

As agreed with your office, we will make unrestricted distribution of this report to interested parties 30 days after the date of the report subject to the Committee's concurrence or earlier if publicly released by the Committee.

Sincerely yours,

Comptroller General
of the United States



D I G E S T

Controversial tariff classification rulings allow importers to pay significantly lower duties on certain imported vehicles than would otherwise be imposed if the vehicles were classified differently. Specifically, importers pay a 4-percent duty on certain vehicles--chassis with cabs and other features found on road-ready trucks but without cargo beds--which are classified as chassis rather than as trucks dutiable at a 25-percent rate. Likewise, the Subaru BRAT is imported at a 3-percent rate, although its classification as "other motor vehicles" rather than as a truck is questionable.

HOW CHASSIS RULING IS
USED TO AVOID HIGH DUTY

For many years, Customs has classified vehicles valued at \$1,000 or more and imported without cargo beds as chassis instead of automobile trucks. As classified, the vehicles are subject to a much lower rate of duty than the 25-percent duty on automobile trucks.

The chassis classification was originally applied to a small number of heavyweight vehicles imported at a time when the duty on automobile trucks was only 8.5 percent. Cargo beds for these vehicles, which may be made into garbage trucks, oil trucks, etc. are generally fitted to the vehicles by the purchaser through an involved and expensive process.

In 1963 the duty on automobile trucks valued at over \$1,000 was raised to 25 percent. Since then, inflation has increased the costs of lightweight pickup trucks to over \$1,000, and importers have altered their importation methods to avoid the higher duty.

In most instances, what would normally be imported as a complete unit is now imported as two separate articles--a truck without the cargo bed classified by Customs as a chassis and a cargo bed classified as truck parts--each with a 4-percent duty rate.

After clearing Customs at the lower duty rate but before being sold, most lightweight chassis are united with cargo beds in a simple 10- to 20-minute operation. Although this importation method results in additional shipping and assembly costs, such costs are much less than would be incurred if the 25-percent rate of duty were applied.

Lightweight cab chassis account for about 97 percent of the dutiable cab chassis imported without cargo beds. Over the past 7 years, if vehicles had been imported at the 25-percent duty rate, Customs would have collected an additional \$600 million. This assumes that imports would not be significantly decreased or further modified to qualify for the lower duty rate.

The chassis classification is likely to result in further aberrations in importing methods.

To reduce shipping costs but still take advantage of the chassis classification ruling, one importer is planning to import lightweight trucks as a complete unit. Before clearing Customs, the trucks will go into a class 8 Customs bonded warehouse where the cargo boxes will be removed. The vehicles without the cargo beds will then be cleared through Customs. The cargo beds will also clear Customs but on a different day. Both items will be subject to a 4-percent rather than a 25-percent rate of duty. The cargo beds will then be reattached before delivery to dealers.

Customs maintains that the proposed operation is in keeping with the intended use of bonded warehouses because removal of the cargo bed results in no new and different product. Such reasoning, although meant to provide importers the means to obtain a low duty rate, is an indication that the chassis classification for vehicles imported without cargo beds may not be the most appropriate.

USE OF CHASSIS CLASSIFICATION
IS QUESTIONABLE

There is substantial merit to the argument for classifying most of the vehicles imported without cargo beds as trucks and not as chassis because of:

--The application of the "more than" principle, which holds that an item which is more than that described in a tariff category cannot be classified in that category. Arguably, a chassis with the addition of a cab and other truck features becomes a vehicle more diversified in function and character than that commonly understood to be a chassis and should therefore not be classified as a chassis.

--The application of Rule 10(h) of the Tariff Schedules which provides that a tariff description for an article covers such article, whether finished or not finished.

Rule 10(h) is applicable, however, only if at time of importation, the article is "substantially complete." Thus, a truck minus a cargo bed may not be classified as a truck if the cargo bed is a substantial and essential part of the truck. This may be the case for heavyweight trucks imported without cargo beds. On the other hand, the cargo bed for lightweight trucks is not an essential and substantial part of the vehicle.

There is, however, no basis (size, weight) under the Tariff Schedules as written for distinguishing between lightweight and heavyweight vehicles. Although lightweight vehicles have accounted for 97 percent of all vehicles imported without rear beds for a number of years, one classification must apply to both types. Because there seems to be no classification, however, which does justice to all cab chassis, it is difficult to conclude that, as a matter of law, the chassis classification is clearly wrong.

Treasury is considering whether the chassis classification is correct, but a decision will not be issued until the current multilateral trade negotiations are completed.

SUBARU BRAT CLASSIFICATION IS QUESTIONABLE

Customs ruled that the Subaru BRAT, a vehicle with trucklike characteristics, is classifiable as a passenger vehicle under the tariff provision for "other motor vehicles," primarily because it has two seats in the rear bed. Under this classification, the importer pays a 3-percent, instead of the 25-percent, rate of duty applicable to trucks. Since 1977 about 23,000 of these vehicles have been imported. Had they been classified as trucks, an additional \$22 million in duties may have been collected.

A strong argument can be made for classifying the Subaru BRAT as a truck. The BRAT has the characteristics of a truck including an open rear bed (cargo area) similar to many pickup trucks, but on a smaller scale. The Court of Customs and Patent Appeals, in a case involving a somewhat similar circumstance, ruled that a vehicle with an expanded cab and a reduced cargo bed was still a truck. Hence, the addition of seats in the cargo bed of the BRAT does not preclude its classification as a truck.

Other sources, including most Customs officials, state that the Subaru BRAT should be classified as a truck. Also, State licensing and registration bureaus and various truck trade sources refer to the Subaru BRAT as a truck.

Customs is reconsidering its ruling but will not make a decision until after Treasury rules on the cargo bed issue.

CONCLUSIONS

The chassis classification applied to trucks imported without cargo beds and the "other motor vehicles" classification applied to the Subaru BRAT are controversial. The fact that current classification practices allow importers to

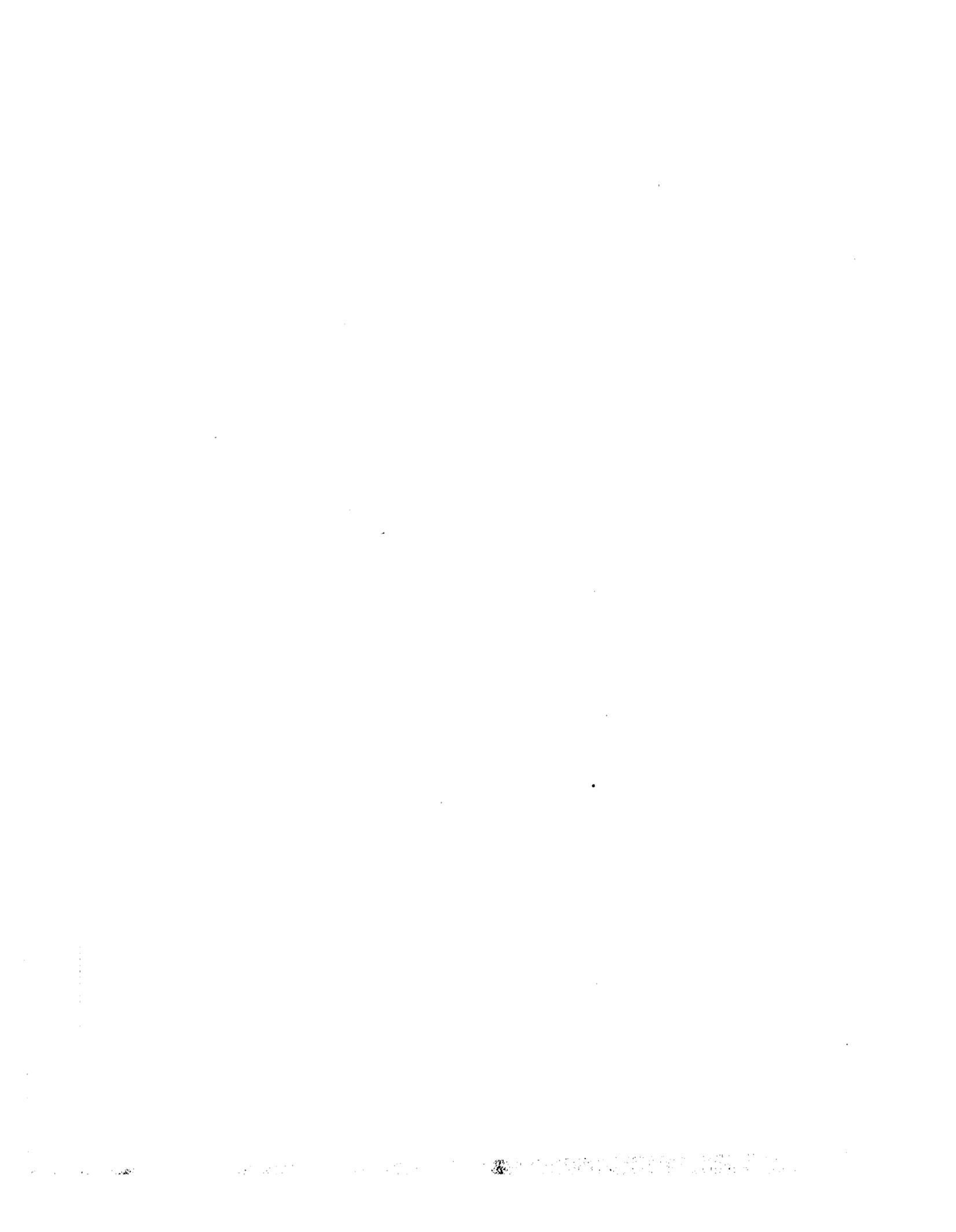
avoid the duty intended to apply to imported trucks is clear. The complexities of Customs law, however, make it difficult to conclude that the classifications are wrong from a legal standpoint.

The ramifications of the pending decisions, however, are greater than simply determining whether the current classification practices are correct. A reversal of the current rulings with the accompanying imposition of a 25-percent rate of duty rather than the lower duties currently applied to these vehicles would be a major shift in position which may affect relationships between the United States and its trading parties.

Decisions on how the vehicles will be classified in the future will not be made until after the multilateral trade negotiations are concluded. Indications are that the negotiations include the duty on imported trucks and that the Committee has the opportunity to express its intent during these negotiations.

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As requested by the Chairman's office, GAO did not solicit written comments on this report. However, GAO discussed these matters with Treasury officials.



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ABBREVIATIONS

BRAT	Bi-drive Recreational All-terrain Transporter
EPA	Environmental Protection Agency
GAO	General Accounting Office
NHTSA	National Highway Traffic Safety Administration
SAE	Society of Automotive Engineers

CHAPTER 1

INTRODUCTION

The Chairman, Committee on Ways and Means, asked us to review the U.S. Customs Service's classification of certain trucklike vehicles as something other than trucks and therefore subject to a lower rate of duty. (See app. I.) The classifications involve truck chassis--with cab and other features found on road-ready trucks but without a cargo box--and the Subaru BRAT.

CLASSIFICATION OF IMPORTS

One of Customs' major responsibilities is the assessment and collection of tariff duties on imports. The assessment of duties involves classifying imports under the appropriate item number and provision of the Tariff Schedules of the United States (TSUS).

The Tariff Schedules contain approximately 6,000 5-digit item numbers which constitute a legal class for a specifically named (eo nomine) or a generally described class of merchandise. The Tariff Schedule provision under which an article may be classified depends upon the intent of Congress. To aid in determining congressional intent, officials consider such factors as the common and commercial meanings, use, and similarity of the item to be classified to other merchandise specially provided for in the schedules.

CLASSIFICATION RULINGS

Classification rulings are issued through the Office of Regulations and Rulings. By Customs regulations, a ruling is a written statement that interprets and applies the tariff provisions and related laws to a specific set of facts and may be requested by anyone with a direct and demonstrable interest in the matter. A ruling is generally issued as a ruling letter to the requester and/or as a published ruling in the Customs Bulletin.

MOTOR VEHICLE CLASSIFICATION PRACTICES

Provisions relating to the classification of motor vehicles (trucks) are found in Tariff Schedule 6, Part 6, and the related Appendix, Part 2, Subpart B. In addition, Tariff Schedules include a listing of general headnotes and rules of interpretation which are applicable to proper classification. (See app. II.)

The importation practices discussed in this report can generally be attributed to the December 1963 Presidential Proclamation 3564, the so-called "Chicken War Proclamation," (a response to foreign tariff increases on U.S. poultry products) which increased the rate of duty on automobile trucks valued at \$1,000 or more to 25 percent (from 8.5 percent). At the time of the Proclamation, most truck chassis valued at over \$1,000 were for heavy duty vehicles. Subsequent inflation, however, increased the value of lightweight pick-up trucks to over \$1,000.

To obtain a lower duty rate, importers have resorted to removing or adding certain components. For example, vehicles with the cargo box removed are classified under item number 692.20 of the Tariff Schedules as "chassis," dutiable at 4 percent. Also, the Subaru BRAT, which has added seats in the cargo area, is classified as a passenger vehicle under "other motor vehicles" in item number 692.10, dutiable at 3 percent.

CHAPTER 2

USE OF CHASSIS CLASSIFICATION IS QUESTIONABLE

Customs classifies imported chassis with cab and other features found on road-ready trucks but without a cargo box as "chassis," not as automobile trucks, and therefore subject to only a 4-percent instead of a 25-percent rate of duty. The ruling is controversial. However, because of the complexity of Customs law we cannot conclude that, as a matter of law, the ruling is clearly wrong.

The interpretation of certain classification criteria makes Customs' classification of cab chassis questionable. First, under the "more than" principle, an article which is more than that described in a tariff category cannot be classified in that category. Thus, it is arguable that a chassis with the addition of a cab and other truck features becomes a vehicle more diversified in function and character than that commonly understood to be a chassis.

A second criterion, General Interpretative Rule 10(h) of the Tariff Schedules, provides that an article, even if unfinished, is covered by the tariff description for that article. Because for most (97 percent) vehicles the missing cargo bed does not appear a substantial and essential component of the vehicle, these vehicles could be classified as unfinished trucks.

Treasury is currently reviewing the chassis classification to determine whether the Customs ruling should be reversed. Treasury will not issue its decision until the multilateral trade negotiations are completed.

CUSTOMS' BASIS FOR CAB CHASSIS CLASSIFICATION

Customs headquarters contends that classifying trucks imported without cargo boxes as chassis, rather than as automobile trucks, is valid because:

--Congress and the framers of the Tariff Schedules did not specifically direct that cab chassis be classified as automobile trucks under the Tariff Schedules.

- The commercial definition of chassis as stated in the Society of Automotive Engineers (SAE) Handbook indicates that the addition of a cab to a chassis does not cause the article to lose its character as a chassis.
- The "more than" principle is not applicable since the addition of a cab to a chassis does not change the character of the chassis.
- The cab chassis in question do not have bodies (cargo boxes) when imported; therefore, classification as trucks is precluded because an essential element (needed for carrying cargo) is missing.
- The classification practice considers cab chassis of all sizes, while advocates supporting a change of practice are primarily concerned with cab chassis for lightweight trucks.

Although Customs has been classifying vehicles referred to as cab chassis as chassis for automobile trucks since the 1960s, it was not until May 1975 that the classification was questioned. At that time, the Houston Customs District Director asked Customs headquarters for advice on classifying imported truck chassis complete with cab and other features of a road-ready truck but without rear bed assemblies.

On September 2, 1975, a notice requesting Solicitation of Views on this classification practice was published in the Federal Register and modified on October 10, 1975, to present a new citation of authority and extend the period for submission of comments. The notice stated in part:

"Under an established and uniform practice, importations of cab chassis (consisting of frame, suspension system, wheels, engine, steering mechanism and cab) without bodies, having no cargo carrying capacity in their condition as imported, have been classified under the provision for chassis for automobile trucks in item 692.20, Tariff Schedules of the United States (TSUS), and dutiable at the rate of 4 percent ad valorem.

"The contention has been advanced that the described articles are unfinished trucks

and, therefore, should be classified under the provision for automobile trucks valued at \$1,000 or more, in item 692.02, TSUS, and dutiable at the modified rate of 25 percent ad valorem under item 945.69, TSUS, following General Headnote 10(h), TSUS."

Of the 19 responses to the Solicitation of Views received by Customs headquarters, 17 advocated retaining the practice and 2 advocated changing the practice. Appendix III lists the parties submitting responses.

Although these responses were received approximately 3 years ago, a Treasury decision is still pending on whether the classification is incorrect. Treasury stated that a decision will not be issued until the multilateral trade negotiations are concluded. During this 3-year period, an estimated 850,000 cab chassis having a value of about \$2.3 billion were imported. (A photo of these vehicles appears on p. 6.)

IMPORTED VEHICLES MAY BE MORE THAN CHASSIS FOR AUTOMOBILE TRUCKS

In general, an article is to be classified under the paragraph or item of the Tariff Schedules which most specifically describes it. If an article is significantly different in character or function from that described by a specific statutory provision, the article cannot find classification within that provision; it is more than the article described.

The vehicles in question contain elements of both a chassis and a body. This is evident by the addition of a cab which, if imported separately, would be within the tariff provision for bodies. In addition, other features are found on these vehicles, resulting in an article more diversified in function and character than that commonly understood to be a chassis. Therefore, it can be argued that cab chassis may be more than chassis or bodies.

Legislative history

The legislative history of the Tariff Schedules provides little definitive guidance in ascertaining the meaning of the competing tariff provisions. However, the tariff chassis provision reads "chassis, bodies (including cabs), and parts of the foregoing motor vehicles." Hence, cabs are defined as a type or part of an automotive body. Indeed, the language defining as it does bodies to include



SOURCE: U.S. CUSTOMS SERVICE

TRUCK CHASSIS AS IMPORTED WITHOUT CARGO BED

cabs, arguably reflects the intent of Congress that the term "chassis" does not include any part of a vehicle body.

According to an International Trade Commission official who was responsible for drafting the Tariff Schedules, the provision "chassis, bodies (including cabs), and parts..." is disjunctive (that is, it involves separate or alternate choices). Because a cab chassis is a combination of chassis and body, it should not be classified under the chassis provision. The official said the intent was to include cab chassis under the tariff provision for automobile trucks.

Determining legislative intent also involves using the Brussels Tariff Nomenclature--a classification system for merchandise handled in international trade. Where the provisions of the U.S. Tariff Schedules are the same as, or similar to, the corresponding provision in the Brussels Tariff Nomenclature, the Customs court uses the explanatory notes of the latter as a source of legislative history. The Brussels Tariff Nomenclature clearly states that cab chassis should be classified under the provision for motor vehicles.

A counterinterpretation of legislative intent is that the U.S. Tariff Schedule, while similar, does not contain the precise language and structure of the Brussels Tariff Nomenclature. Missing from the U.S. Tariff Schedule is an explanatory note stating that cab chassis are motor vehicles. Therefore, it can be argued that cab chassis were not meant to be classified as motor vehicles. However, an International Trade Commission official responsible for drafting the U.S. Tariff Schedules said he thought an explanatory note was simply not needed to have cab chassis classified as trucks. Thus, the absence of a note did not result from specific action on the part of the Congress.

Chassis definitions
generally exclude cabs

In determining the meaning of a provision in the tariff statutes, words and terms are to be construed in accordance with their common and commercial meaning, with the latter prevailing in the event of contrary meanings. The meaning given to a descriptive word or term is the meaning it had at the time of the enactment of the statute.

The commercial and common definitions of the term "chassis," as they pertain to motor vehicles, are essentially the same in dictionaries, encyclopedias, and trade references and have remained so through the years. The

definitions do not include a cab as part of a chassis. To illustrate, "The Random House Dictionary of the English Language" ((1969), p. 250), contains the following definition:

"chassis: 1. Auto. the frame, wheels, and machinery of a motor vehicle, on which the body is supported."

"The World Book Encyclopedia" ((1964), vol. I, p. 938,) describes the assembly of a chassis as follows:

"A typical chassis assembly line begins at one end of a huge room where a bare frame is mounted on a conveyer. The frame moves along slowly, with men working at it on each side. First, the rear axle and front suspension arrive by overhead conveyer, and workers join them to the frame. Next comes the engine, the transmission shaft and housing, the gasoline tank, and the radiator. The chassis is now complete."

Also, the Ford Motor Company in its 1978 edition of "Light Truck Buying Made Easier" defines a chassis as "* * * the foundation of the truck consisting of frame, springs, axles, wheels, tires, engine, transmission, and steering wheel (without sheet metal, cab, or body)."

Customs refers to the SAE definition as the best available evidence of the commercial meaning of the term "chassis." This definition is as follows:

"Motor vehicle chassis means the basic operating motor vehicle including engine, frame, and other essential structural and mechanical parts, but exclusive of body and all appurtenances for the accommodation of driver, property, or passengers, appliances, or equipment related to other than control. If a cab or cowl is included, the designation shall be motor vehicle chassis with cab or cowl." (Underscoring supplied.)

Although Customs acknowledges that the vehicles imported are more advanced than chassis without cabs, they maintain that based on the SAE definition, a chassis with a cab, which is part of the body, does not lose its character as a chassis. In support, Customs states that the chassis' character is maintained because the addition of a cab is only an incidental improvement or amplification.

An SAE official stated that the SAE definition of a chassis does not include a cab or cowl. If a cab or cowl is attached, the chassis becomes a motor vehicle, because the addition of a cab or cowl changes the function and character of the chassis. The official further stated that by SAE definition, the vehicles imported and referred to as cab chassis by Customs are incomplete or unfinished trucks.

Other classification views

In an August 1976 memorandum to the Director of the Classification and Value Division, the Customs Chief Counsel stated that

"* * * 'cab chassis' enjoys a definite, uniform, and general meaning distinct from the meaning of 'chassis' in the trade and commerce of the United States."

Besides citing various technical references and source material and listing items usually found on the so-called cab chassis, the memorandum states that the imported vehicle in question "consists of much more than a chassis and a cab."

Accordingly, the conclusion of the Chief Counsel's office was as follows:

"In our opinion, the preponderance of the evidence submitted demonstrates that a cab chassis does not fall within the common and commercial meaning of the term 'chassis' as contained in Item 692.20, TSUS, that the two terms represent two different articles, and to classify 'cab chassis' within Item 692.20, TSUS, as a 'chassis,' is 'clearly wrong'."

Similar views have been expressed by other Customs officials and by most import specialists contacted in the regional and district offices. Only the import specialists at Detroit and New York expressed the opinion that the "more than" principle should not apply to classification of cab chassis. Their reasons were as follows:

--This principle more often applies to use rather than physical description (Detroit).

--This principle applies only if an article has two or more coequal functions (New York).

In response to the Solicitation of Views published in the Federal Register, the Houston Customs District Director maintained that the present classification practice is "clearly wrong," and that by virtue of General Interpretative Rule 10(h) of the Tariff Schedules, cab chassis are appropriately classifiable as trucks. Houston cited the following as support:

- "The automobile-truck industry, technical trade sources and lexicographical sources all agree that so-called cab chassis are actually unfinished trucks."
- "Federal regulatory agencies agree that the imports are trucks."
- "State registration/licensing bureaus call the imports trucks."
- "All information from local and national automobile-truck dealers and retail sources indicate that the imports are trucks."
- "The Society of Automotive Engineers (SAE-- nationwide membership includes expert automobile-truck engineers) call the imports trucks."
- "National reporting agencies for both new and used automobiles and trucks classify so-called "cab chassis" as trucks."
- "All of the evidence amassed and analyzed by Houston supports the contention that Congressional intent was to classify a 'highway operational truck' as a truck and a mere 'chassis' as a chassis."
- "A canvas of the transportation-line import specialists in the key ports of Detroit, New Orleans, Baltimore, Seattle, Jacksonville, and Los Angeles all unanimously support Houston's contention that the so-called "cab chassis" are actually trucks."

Other regional and district Customs officials also supported classification on these vehicles as trucks.

In ascertaining whether certain mechanical articles are to be considered more than a particular article, the United States Court of Customs and Patent Appeals has generally held that an important consideration is the existence of a second significant function. For example, in the Howard Hartry case ^{1/} the court held that marine engines with reversed and reduction gears were more than engines, by reason that "The addition of components to an engine not essential to a basic engine make it more than an engine even though the components are integrated with and dedicated to a special purpose."

Also, in the A.W. Fenton case ^{2/} the United States Court of Customs and Patent Appeals ruled that a motor which contained gear assemblies, together with the frame that constituted a housing for other parts of the unit, was "more than a motor * * * for tariff purposes, and to hold otherwise would be to expand by degree the term 'motor' to a point beyond the accepted definition of that term." The importer claimed the article should be classifiable as motors, while the Government contended the article constituted an entirety which was more than a motor.

Automobile trucks without cargo beds appear analogous to the above cited cases. The addition of the cab, cowl, instruments, hood, fenders, lights, etc. constitutes a second significant function. Therefore, the addition of such items may create an article that is more diversified in function and character than is commonly and commercially understood to be a chassis.

APPLICABILITY OF TARIFF INTERPRETATIVE RULES

General Interpretative Rule 10(h) of the Tariff Schedules is applicable to a tariff description for any article unless the context of the description requires otherwise. Under this rule, "* * * a tariff description for an article covers such article, whether assembled or not assembled, and whether finished or not finished."

^{1/}United States v. Howard Hartry, Inc., 60 CCPA 140,
C.A.D. 1099, 477F.2d, 1400 (1973).

^{2/}United States v. The A.W. Fenton Company, Inc., 49 CCPA 45
C.A.D. 974 (1962).

Recent case law 1/ states that General Interpretative Rule 10(h)

"* * * must be applied in light of the competing tariff provisions and the merchandise involved."

* * * * *

"Moreover, Rule 10(h) is demonstrative of the congressional intent that incomplete articles may be classified under the tariff provision covering the complete article."

The classification practice in question essentially involves two tariff provisions. For the vehicle to be classified under the truck provision, the vehicle must also be determined substantially complete. The test of the "substantially complete" principle is whether the missing part is both substantial and essential to the vehicle's function and commercial use. Generally, the test is to compare the missing element to the finished article in terms of value or cost.

Lightweight trucks imported without cargo beds do not appear to lack a substantial and essential element because the cargo bed represents less than 5 percent of the completed truck's value. Therefore, these vehicles could be classified as unfinished trucks by virtue of General Interpretative Rule 10(h).

On the other hand, the large, heavy-duty trucks (which account for less than 3 percent of the vehicles imported without cargo beds) do lack a substantial and essential element. The cost of load-carrying equipment for these trucks, which may be made into garbage, delivery, or oil trucks, may range from 25 to 100 percent of the cost of the vehicles. It is difficult to conclude how the heavier vehicles should be classified.

IS CUSTOMS' CLASSIFICATION PRACTICE CLEARLY WRONG?

Customs regulations state that an established and uniform practice will not be changed to assess a higher rate

1/E.R. Squibb & Sons, Inc. v. United States, 432 F. Supp. 1354 (Cust. Ct. 1977) aff'd F. 2d, C.A.D. 1207 (decided June 1, 1978).

of duty unless the practice is determined to be clearly wrong. Because specific guidance is not available in Customs regulations or case law, some uncertainty exists as to what constitutes sufficient evidence that an existing practice is clearly wrong.

The "clearly wrong" rule is to promote certainty in trade with the United States based on classification rulings issued by the U.S. Customs Service. To maintain such certainty, a classification should not be changed if there is substantial evidence to support it. On the other hand, according to the Customs Chief Counsel's office, should the preponderance of evidence indicate that a classification is incorrect, the classification should be determined clearly wrong.

The present classification of cab chassis as chassis remains controversial. Indeed it is difficult to predict how the Customs courts would respond to the previously discussed issues without the benefit of clearer guidance in the case law.

Also, it must be recognized that classification alternatives other than chassis or trucks have been advanced. For example, as previously discussed, the Customs Chief Counsel, while concluding that the present classification of cab chassis as chassis was clearly wrong, was unable to agree with the Director of Customs' Classification and Value Division on a right classification. A recent Treasury memorandum indicates that the Chief Counsel is of the view that "other * * * parts" was the appropriate classification. Similarly, after an analysis of the various classification alternatives, the Assistant Chief Counsel for Customs court litigation in a July 9, 1977, memorandum concluded that "this merchandise is most properly provided for under items 697.27 as "other * * * parts of the foregoing motor vehicles at the rate of 4 percent ad valorem." Arguments have also been advanced to the effect that since cab chassis at time of import are fully capable of being driven and transporting drivers and passengers, they should be classified as "other motor vehicles" at the 3-percent rate of duty.

Although many sources feel that present classification may be wrong, there is no consensus on a right classification. Moreover, the possibility of classifying cab chassis as other than trucks or chassis complicates the ruling decision.

According to Treasury officials, their decision on how the vehicles should be classified will not be issued until the multilateral trade negotiations are completed. This indicates that in addition to technical considerations, trade policy matters may play a role in determining the correctness of tariff classifications.

CONCLUSIONS

Vehicles imported without cargo beds provide the cab chassis for both lightweight (pickup) and heavyweight trucks. There is, however, no basis (size, weight) under the Tariff Schedules for distinguishing between the two types of vehicles. One classification must apply to both types. While the present chassis classification stretches matters for the lightweight vehicles, it may be entirely appropriate for the heavyweight vehicles. Therefore, there seems to be no classification which does justice to both types of vehicles or resolves all the other issues affecting the status of cab chassis. Accordingly, we cannot conclude, as a matter of law, that the chassis classification is clearly wrong.

Imposing the higher duty rate could affect the ongoing trade negotiations between the United States and its trading partners. The Treasury Department is withholding its decision on how the vehicles should be classified until after the multilateral trade negotiations are concluded. Indications are that the negotiations include the duty on trucks. If so, the Committee will have the opportunity to express its intent on the matter during these negotiations.

CHAPTER 3

CURRENT CLASSIFICATION

ENCOURAGES MANIPULATION PRACTICES

Customs' classification ruling--that cab chassis are dutiable at 4 instead of 25 percent--has encouraged importers of lightweight pickup trucks to alter their importation methods. In most instances, what would normally be imported as a complete truck is now imported in two segments--(1) a truck chassis complete with cab and other features found on a road-ready truck but without a cargo bed and (2) a cargo bed. Although this importation method results in additional shipping and assembly costs, these costs are much less than the additional 21-percent duty that importers would pay on complete trucks.

In addition, importers have now found a way to reduce shipping costs by importing complete trucks and having the cargo beds removed after arrival in the United States. Customs has ruled that these trucks will still be dutiable at the lower rate.

CURRENT IMPORTATION PRACTICE IMPLEMENTED TO AVOID HIGHER DUTY RATE

To avoid the 25-percent rate of duty, lightweight truck chassis are imported without cargo beds and on separate vessels. If both articles were shipped on the same vessel, even though unattached, they would be considered an entirety and classified as a truck.

Approximately 97 percent of dutiable vehicles imported without cargo beds during the past 5 years have been lightweight pickup trucks from Japan. The practice began about 1971 following Customs rulings that such importations would be classified under the provision for chassis, not trucks. Prior to 1971, the number of vehicles imported in this manner was minimal, since most lightweight trucks were imported as complete units valued at less than \$1,000 and dutiable at 3 percent under a different tariff provision. Since 1971, however, the value of the lightweight trucks has increased to \$1,000 or more. Consequently, they became dutiable at 25 percent under Presidential Proclamation 3564.

Lightweight cab chassis arrive by ship and are either off-loaded by crane or driven off the ship to a dockside or

local assembly point where the rear bed assemblies are attached. Since 1973 approximately 845,000 of the cargo beds have been imported; one foreign manufacturer, however, produces all cargo beds in the United States. In 1977 one domestic manufacturer began producing one half of its cargo beds in the United States.

Although the methods and personnel involved in attaching the cargo beds to lightweight truck chassis vary from one assembly location to another, the process generally involves 8 to 10 people and takes about 10 to 20 minutes. In total, about 2 labor hours are expended. The operation basically consists of securing the cargo bed to the frame with 8 to 10 bolts and then connecting the tail lights. (See photos of the imports and a typical assembly operation on pp. 17 and 18.)

Importations of complete trucks valued over \$1,000 and dutiable at 25 percent have decreased from 97,742 in 1972 (the peak year of importations) to 609 in 1977, while importations of truck chassis without cargo beds have increased from about 2,260 in 1971 to about 277,000 in 1977. If these vehicles had been imported at the 25-percent duty rate, an additional \$600 million in duties would have been collected over the last 7 years. This assumes that imports would not be significantly decreased or further modified to qualify for the lower duty rate.

PROPOSED IMPORTATION METHOD WILL
AVOID DUTIES AND SAVE SHIPPING COSTS

To reduce the expense of shipping cargo beds separately, one importer is preparing to have the trucks shipped as complete units into a class 8 Customs bonded warehouse where the cargo beds will be removed. The vehicles without the cargo beds will then be cleared through Customs. The cargo beds will also clear Customs but on a different day. After withdrawal from the warehouse, the cargo beds will be reattached to the chassis before delivery to dealers.

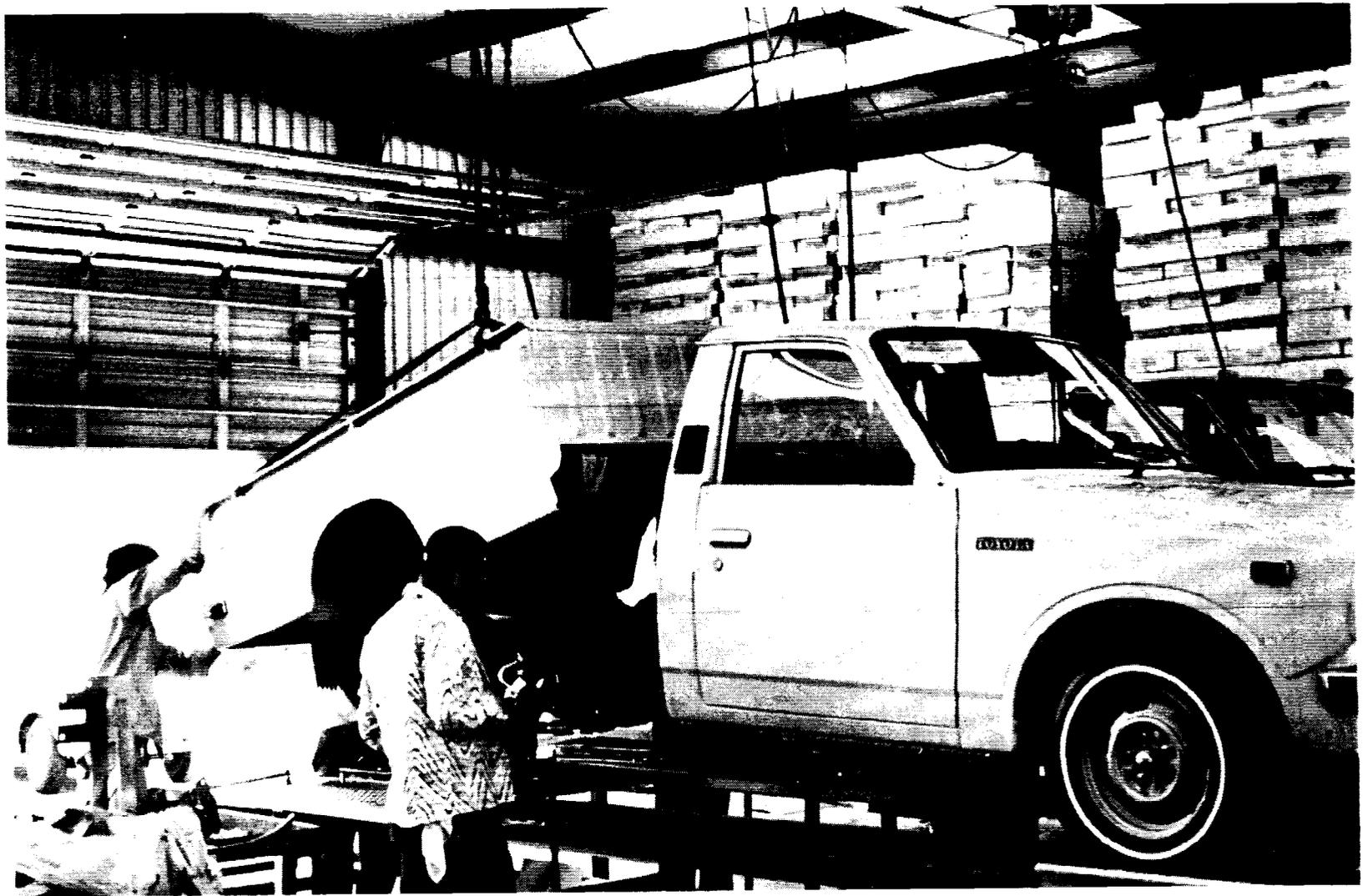
Customs has ruled that this proposed operation is in keeping with the intent of Customs bonded warehouses. Under this procedure, the rate of duty for each withdrawal will be 4 percent. However, if the articles were withdrawn from the warehouse on the same day, Customs would classify the articles as trucks dutiable at 25 percent.

A class 8 Customs bonded warehouse is currently under construction in Tacoma, Washington. Also, Customs officials have been contacted by persons interested in establishing



SOURCE: U.S. CUSTOMS SERVICE

TRUCK CHASSIS WITHOUT CARGO BED BEING OFF-LOADED



SOURCE: U.S. CUSTOMS SERVICE

ATTACHING CARGO BED TO TRUCK CHASSIS

such warehouses in Portland, Oregon; Benicia, California; and Los Angeles, California.

A Customs official stated that the importer involved in establishing the bonded warehouse in Tacoma estimated that about 60,000 to 70,000 vehicles per year would be processed through this warehouse. The importer estimated a savings of \$5 to \$6 million a year in shipping charges.

The Customs ruling has been challenged by the San Francisco Regional Commissioner of Customs, who stated in a memorandum to the Commissioner of Customs:

"The prospective warehousing operation which will be conducted under Customs supervision clearly has no purpose other than the avoidance of [84] percent of the duties normally due on each truck. * * * Neither Congress nor the President ever intended that the laws providing for Customs bonded warehouses would ever be interpreted so as to permit a major reduction in duties on the strength of nothing more than an administrative decision."

In essence, he questioned the Customs headquarters decision to allow such a manipulation under section 562 of the Tariff Act of 1930, as amended (19 U.S.C. 1562), which states in part that, "* * * under Customs supervision at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured in bonded warehouses * * *."

In the reply to the Regional Commissioner, Customs headquarters stated:

"Disassembly of truck chassis and cargo boxes clearly is not storage, but is it manufacture? Using the well accepted Supreme Court definition, the only authoritative definition for our purposes, we must conclude that disassembly in this case is not manufacture. There is no new and different product having a different name, character, or use. After the disassembly, there exists either a vehicle (chassis) and a part, or two parts. A finished article is transformed into an unfinished article or parts of

an article. The character and use of the parts are unchanged." 1/

* * * * *

"In summary, an analysis of the legislative intent found in the statutory language, legislative history, and judicial decisions supports the conclusion that disassembly of trucks is permissible in a customs bonded warehouse."

Customs, relying upon the Supreme Court definition of manufacture, states that after removal of the truck's cargo bed, no new and different product having a different name, character, or use exists.

CONCLUSION

Both the present and proposed methods of importing lightweight trucks have no other purpose than to avoid the 25-percent rate of duty. The scope of our review did not include a determination of the propriety of the use to be made of bonded warehouses in importing lightweight trucks. However, Customs' reasoning in justifying the intended use of the warehouses--that the removal of the cargo bed results in no new and different product--is an indication, that a chassis classification for a vehicle imported without a cargo bed may not be appropriate.

1/ Anheuser-Busch Brewing Association v. United States, 207 U.S. 556 (1907) as follows: "Manufacture implies a change, but every change is not manufacture, and yet every change in an article is the result of treatment, labor, and manipulation. But something more is necessary, as set forth and illustrated in Hartranft v. Wiegmann (121 U.S. 609) [1887]. There must be a transformation; a new and different article must emerge, 'having a different name, character, or use'."

CHAPTER 4

CLASSIFICATION OF THE SUBARU BRAT

AS A PASSENGER AUTOMOBILE IS QUESTIONABLE

Customs classifies the Subaru BRAT as a passenger vehicle under the provision for "other motor vehicles," although a strong argument can be made for classifying the vehicle as an automobile truck. The current classification has been challenged, and Customs is reconsidering its ruling. If Customs classifies the Subaru BRAT as a truck, the duty rate will increase from 3 to 25 percent. Since the ruling has been in effect, approximately 23,000 vehicles have been imported at the lower duty rate.

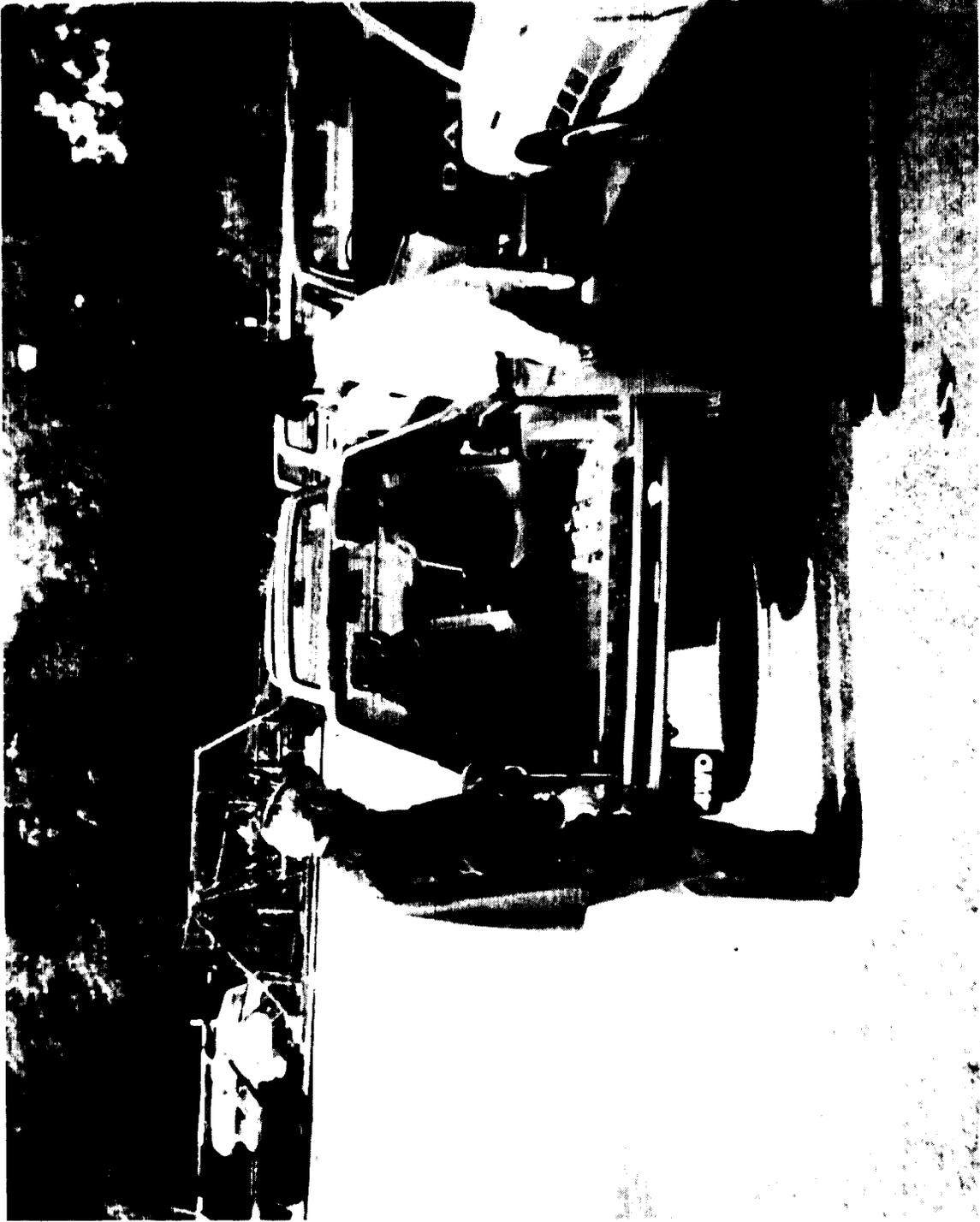
MANUFACTURER'S REASONS FOR REQUESTING PASSENGER VEHICLE CLASSIFICATION

The Subaru BRAT (Bi-drive Recreational All-Terrain Transporter) is a vehicle of unitized construction with basically the same body design as the Chevrolet El Camino and the Ford Ranchero, but on a smaller scale. It weighs approximately 2,150 pounds and can carry about 850 pounds in passengers and cargo. The Subaru BRAT has four-wheel drive with primary front-wheel drive and the unique feature of two rear-facing seats in its open cargo bed. (See photo on p. 22.)

In March 1976 legal counsel for Subaru of America, Inc., requested Customs to classify the Subaru BRAT as a passenger vehicle instead of a truck, therefore subject to a 3-percent rather than 25-percent rate of duty. A supplement to the request presented three principal criteria for distinguishing trucks from passenger vehicles:

- Design and construction of the vehicle.
- Use for which the vehicle is suited.
- Name that the manufacturer gives the vehicle for purposes of commercial classification and advertising.

In addition, Subaru counsel cited the following reasons for requesting classification of the Subaru BRAT as a passenger vehicle:



SOURCE: U.S. CUSTOMS SERVICE

SUBARU BRAT-REAR VIEW

- The seat in the rear bed will be foldable and permanently affixed and will comply with the safety belt standards of the National Highway Traffic Safety Administration.
- The vehicle will be advertised as a recreational multipurpose vehicle.
- The motor vehicle bureaus in the various States will license it as a passenger vehicle.
- Its cargo capacity, if the rear seats are not occupied, will be one-half the cargo capacity of the smallest Datsun or Toyota pickup.
- It will have primary front-wheel drive which is uncharacteristic of a pickup truck.
- The owner's manual will provide a warning that the vehicle is not to be used as a pickup truck because it can carry only light loads.

CUSTOMS CLASSIFIES THE SUBARU
BRAT AS PASSENGER VEHICLE

In October 1976 the Customs Classification and Value Division, Washington, D.C., concluded that

" * * * despite its appearance, * * * [the Subaru BRAT] is essentially a motor vehicle for the carriage of persons and their personal gear in much the same manner as an ordinary passenger car."

Therefore, Customs decided to classify the vehicle under Tariff Schedule item 692.10, "other motor vehicles."

Concerning the basis for its classification, Customs first stated that:

"The principle involved in the tariff classification of the Subaru BRAT as 'other motor vehicles' and not as a truck was whether the BRAT was within the eo nomine designation of automobile trucks in 692.02. After consideration of all the definitions of what is and what is not a truck, as well as judicial decisions and prior rulings on other vehicles, it was concluded that the Subaru BRAT was not an automobile truck * * *."

However, the Customs official who made the classification ruling later stated that without the seats in the rear bed, he would have classified the Subaru BRAT as a truck.

The official stated that when carrying four passengers in the cab and the rear bed seats, the Subaru BRAT can only transport an insignificant amount of cargo. The official knew of no legal or technical weight limits on a truck's cargo-carrying capacity but maintained that, in his judgment, capacity should be considered in determining whether a vehicle is a truck for tariff purposes.

Before making the decision, the Customs official contacted the New York National Import Specialist and other vehicle import specialists, all of whom stated that the Subaru BRAT should be classified as a truck. As was his prerogative, however, he chose to disagree with the specialists' opinions.

As a result of internal disagreement on Subaru BRAT's classification, Customs is currently reconsidering the ruling but will make no decision until after the Department of the Treasury settles the cab chassis issue discussed in chapter 2.

For reasons related to the classification controversy and the cost of production, Customs has not liquidated any Subaru BRAT entries. However, the Customs official who made the Subaru BRAT decision claims that Customs has a commitment to Subaru based on the pre-entry classification ruling and that a Customs' decision to classify the vehicle as a truck would not be retroactive (i.e., the unliquidated entries would not be assessed at the higher duty rate). Approximately 23,000 vehicles have been imported under the current classification, dutiable at 3 percent. If these vehicles had been imported at the higher duty rate, an additional \$21.7 million would have been collected.

IS THE SUBARU BRAT
A TRUCK?

Arguments exist to support classifying the Subaru BRAT as a truck. The Court of Customs and Patent Appeals, in a case involving a somewhat similar situation, has ruled that a vehicle with an expanded cab and a reduced cargo bed is still a truck. The Subaru BRAT has the characteristics of a pickup truck, including an open cargo bed similar to the vehicle in question; thus, the addition of seats to the load (rear) bed should not, standing alone, preclude a truck classification. Virtually all Customs officials who addressed

this question stated that the Subaru BRAT is a truck. In addition, other sources refer to the Subaru BRAT as a truck.

Legal support for
classification as a truck

There is legal precedent for concluding that the addition of seats to the load bed (cargo box), standing alone, does not preclude classifying the Subaru BRAT as a truck. In the Volkswagen double-cab pickup truck case, 1/ the Court of Customs and Patent Appeals ruled that the vehicle in question, a standard pickup with an extended cab containing two bench seats capable of accommodating a driver and five passengers, was a truck and not classifiable as a specially constructed vehicle. In addition, the court noted that under Tariff Schedule items 692.02, "automobile trucks," and 692.10, "other motor vehicles," the language is not limited to single-purpose motor vehicles which transport either persons or articles. The court expanded on this topic by noting that automobile trucks under item 692.02 transport the driver and often one or more additional passengers, while almost all passenger vehicles which come under item 692.10 have trunk space for transporting goods (cargo).

The court further maintained that the Volkswagen truck's rear cargo area was obviously characteristic of a truck, particularly a pickup truck, and that the addition of a removable second seat with corresponding rearward enlargement of the cab to expand its passenger-carrying capacity did not take the vehicle in question out of the truck category.

The Volkswagen case is somewhat analogous to the Subaru BRAT issue. The Subaru BRAT's rear cargo area (bed) is also characteristic of a truck, particularly a pickup truck. (See photo on p. 22.) On the basis of the Volkswagen case, the addition of seats to a modified rear area to expand its passenger-carrying capacity does not preclude classifying the Subaru BRAT as a truck.

Classification of Subaru BRAT
is controversial within Customs

The ruling classifying the Subaru BRAT as a passenger vehicle has generated considerable controversy within

1/United States v. Volkswagen of America, Inc., 490 F.2d 977 (CCPA 1974) rev'g. 343 F. Supp. 1394 (Cust. Ct. 1972) and 322 F. Supp. 1390 (Cust. Ct. 1971).

Customs. Almost all Customs personnel contacted, including all import specialists, stated that the Subaru BRAT is a truck. In response to an internal submission challenging its decision, Customs is reconsidering its classification ruling.

Customs officials provided the following rationale supporting classification of the Subaru BRAT as a truck:

- It has a trucklike appearance, a facility to carry cargo, and it fits the definition of a truck.
- Although the vehicle is of unitized construction, the end product has a cargo box behind the cab, which is typical of a pickup truck.
- It has basically the same body design as the Chevrolet El Camino and Ford Ranchero, both of which are regarded as trucks by their manufacturers, and it performs the same function as these vehicles.
- No standard has been established that defines the lower weight limits of a pickup truck's cargo-carrying capacity.
- A pickup truck with primary front-wheel drive in connection with secondary rear-wheel drive is still capable of transporting both persons and cargo.
- Since the Subaru BRAT is considered a recreation vehicle, its basic use is the transport of gear (cargo), and any use of the seats in the truck bed in carrying passengers must be considered fugitive. The temporary attachment of the seats in the truck bed has "the color of a subterfuge."
- The provision for automobile trucks is a designation for a specifically named article; however, in this case, Customs is basing its classification on the manufacturer's intended use--which is for purposes other than as a truck.

In summary, these Customs officials maintain that the Subaru BRAT should be classified as an automobile truck.

Other sources refer to the
Subaru BRAT as a truck

Sources which have referred to the Subaru BRAT as a truck include the following:

- State licensing and registration bureaus.
- A drafter of the Tariff Schedules.
- A Canadian Dominion customs appraiser.
- Various periodicals, mostly truck trade sources.

Correspondence from 45 State licensing and registration bureaus indicates that these bureaus would classify the Subaru BRAT as a truck. Two States indicated that they will classify the Subaru BRAT as an automobile because its gross weight is under 8,000 pounds. Two other States will classify the Subaru BRAT as either an automobile or a commercial vehicle (truck) depending on (1) whether it is used for hire (one State) and (2) how the owner decides to license it (one State).

The U.S. International Trade Commission considers questions concerning the Tariff Schedules and the classification of articles. A Commission official involved in drafting the Tariff Schedules stated that the Subaru BRAT should be classified as a truck for U.S. tariff purposes.

A Canadian Dominion customs appraiser said that although Canadian customs has only one tariff category for all motor vehicles (passenger cars and trucks) it considers the Subaru BRAT a truck, because parts for this vehicle are classified under the tariff provision for truck parts. In addition, the Subaru BRAT is required to meet Canadian truck safety standards.

Various periodicals, mostly truck trade sources, refer to the Subaru BRAT as a minitruck. The articles also include the following comments about the Subaru BRAT:

- It is similar to and competes with other minitrucks.
- The addition of seats to the rear bed allows Subaru to "circumvent the so-called Chicken Tax."

--The rear bed seats should not be used to carry passengers.

--The rear seats are welded in place 1/ but they can and should be removed.

Federal agencies disagree on the Subaru BRAT's classification

Officials from three Federal agencies disagree on how the Subaru BRAT should be classified. According to an Internal Revenue Service official, classification as a truck for excise tax purposes is not affected by the fact that a vehicle such as the Subaru BRAT with a cab and cargo bed has a body design deemphasizing its trucklike appearance. In contrast, both the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA) classify the Subaru BRAT as a passenger vehicle.

An NHTSA official said that on the basis of its description, the Subaru BRAT qualifies as a "multipurpose passenger vehicle" because it is built on a truck chassis, has off-road capability, and is primarily designed for transporting passengers. The NHTSA Chief Counsel later determined, however, that the Subaru BRAT is a "passenger automobile" for the purpose of complying with fuel economy standards because it is primarily designed to transport passengers and that failing to meet various NHTSA ground clearance specifications, it is not capable of off-highway operation. The NHTSA officials indicated that the seats in the BRAT's rear bed were the reason Subaru BRAT was not a truck. On the basis of the NHTSA counsel's classification, EPA does not classify the BRAT in the truck category.

CONCLUSIONS

Classification of the Subaru BRAT as a passenger vehicle is questionable. At issue is the effect of putting seats in the rear bed--the primary reason for the passenger vehicle classification. From a legal standpoint, including seats in the rear bed does not automatically preclude a truck classification.

What is not certain is whether Customs is amiss in responding that the Subaru BRAT is not a truck because,

1/ Actually, the seats are bolted to a frame which is welded to the floor of the rear bed.

with passengers in the rear bed seats, the cargo-carrying capacity is limited. If no passengers use the rear bed seats, the cargo capacity is increased. In either case, however, no cargo weight limit standards exists for determining what constitutes a truck. Therefore, a limited capacity should not automatically preclude considering the BRAT a truck.

Overall, the evidence--legal interpretations, Customs import specialists, State licensing bureaus, and truck trade periodicals--suggests that the present classification for the Subaru BRAT is questionable and may not be the most appropriate. Because of an internal challenge, Customs is reconsidering its classification of the Subaru BRAT as a passenger vehicle.

CHAPTER 5

SCOPE OF REVIEW

We performed our review at U.S. Customs Service headquarters in Washington, D.C., and Customs offices in New York, Houston, Portland, Los Angeles, San Francisco, New Orleans, and Detroit. We interviewed Customs personnel and reviewed pertinent records. Also, we observed the assembly process by which cargo beds are attached to the so-called cab chassis.

We reviewed the Tariff Schedules of the United States including its general interpretative rules, responses to Customs' 1975 Solicitation of Views on the classification of cab chassis, the November 1960 Tariff Classification Study, various court decisions, truck trade periodicals, and industry and trade data. Also, we reviewed State motor vehicle licensing and registration bureaus' responses regarding classification of cab chassis and the Subaru BRAT, and we contacted several State bureaus.

We interviewed officials of the Departments of Transportation and Treasury, Internal Revenue Service, Canadian Customs, and Society of Automotive Engineers. We also discussed the intended meaning of the tariff provisions relating to trucks and chassis with one of the drafters of the Tariff Schedules of the United States.

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May 9, 1978

Honorable Elmer B. Staats
 Comptroller General of the U.S.
 General Accounting Office
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Staats:

The Subcommittee on Trade of the Committee on Ways and Means is conducting a study of the effectiveness of the United States Customs Service operations. The scope of the Subcommittee's effort includes an evaluation of Customs effectiveness in classifying imported merchandise.

Recently, the Committee staff became aware of a question involving the classification as truck chassis of certain imports which may be classifiable as trucks. If the data provided is indeed accurate and the items in question are misclassified, the potential loss of duty revenues may have amounted to as much as \$500 million during the last 5 years.

In view of the potential significance of this item, the Committee, therefore, requests that the General Accounting Office examine:

1. The validity of the questions raised regarding the possible misclassification of so-called truck chassis, including:
 - a) The applicability of tariff classification precedent which states that if an article is "more than" the articles or combination of articles contemplated in a specific tariff item, the article cannot come within the eo nomine provision for the article;

Honorable Elmer B. Staats

-2-

May 9, 1978

- b) The applicability of General Interpretative Rule 10(h) of the Tariff Schedules, which states that "unless the context requires otherwise, a tariff description for an article covers such article, whether assembled or not assembled, and whether finished or not finished"; and
 - c) Whether the present classification of the alleged "cab chassis" as a chassis is "clearly wrong," for the purposes of 19 CFR 177.10(b).
2. The validity of the questions raised regarding the possible misclassification of the Subaru BRAT as "other motor vehicles" rather than an "automobile truck," including:
 - a) Whether the addition of seats in the load bed precludes its classification as a truck; and
 - b) The manufacturers' arguments regarding the vehicle's structure and design, as well as its disclaimers in the owner's manual.
 3. The approximate amount of time the questions have been left standing without decision and/or the status of the questions, as well as an assessment of the manner in which Customs Headquarters handled the problem, including communications with Regional offices.
 4. The projected revenue loss resulting from any misclassification which may exist, and an explanation of the basis for determining the loss, if any.

So as to be of maximum benefit to the Committee, we would appreciate your staff being in a position to brief the Committee within 60 days with a report to follow.

Thank you for your continued help in our on-going work in the Customs area.

Sincerely,



Elmer B. Staats
Chairman

cc: Hon. Charles A. Vanik
Hon. James R. Jones

APPLICABLE TARIFF SCHEDULES OF THE
UNITED STATES AND RULES OF INTERPRETATION

Subpart B--Motor Vehicles

Subpart B headnotes:

1. For the purpose of this subpart--
 - (a) The term "motor vehicles" includes amphibious motor vehicles;
 - (b) Automobile truck tractors imported with their trailers are, together with their trailers, classifiable in item 692.02, but if such tractors or trailers are separately imported, they are classifiable in item 692.27.

* * * * *

<u>Item number</u>	<u>Article</u>	<u>Rate of duty</u>	
		<u>Column 1</u>	<u>Column 2</u>
	Motor vehicles (except motorcycles) for the transport of persons or articles:		
	Automobile trucks valued at \$1,000 or more and motor buses:		
692.02	Automobile trucks.....	8.5% ad val. ^{1/}	25% ad val. (See footnote)
692.10	Other..... on the highway, four-wheeled, passenger automobiles	3.0% ad val.	10% ad val.
	Chassis, bodies (including cabs), and parts of the foregoing motor vehicles:		
	Bodies (including cabs) and chassis:		
692.20	For automobile trucks and motor buses..... Bodies (including cabs):	4.0% ad val.	25% ad val.
	Chassis:		

^{1/} Rate temporarily increased. See item 945.69 in part 2B, Appendix to Tariff Schedules

* * * * *

692.27 Other.....4.0% ad val. 25% ad val.

Tariff Schedules, Appendix, Part 2B:

"945.69 Automobile trucks valued at \$1,000 or more
 (provided for in item 692.02)
 25% ad val. No change."

NOTE: Column 1 rates are applicable to "more favored"
 countries, while column 2 rates are applicable
 to communist countries with some exceptions.

The Tariff Schedules contain General Headnotes and Rules
 of Interpretation which are also applicable. The pertinent
 interpretative rules applicable to the articles in question
 are:

"10(c) An imported article which is described in
 two or more provisions of the schedules is
 classifiable in the provision which most
 specifically describes it..."

"10(h) Unless the context requires otherwise, a
 tariff description for an article covers
 such article, whether assembled or not
 assembled and whether finished or not
 finished."

LISTING OF PARTIES RESPONDING TO CUSTOMS'SOLICITATION OF VIEWS

In response to the Federal Register notice soliciting views regarding the proper tariff classification of imported cab chassis, submissions were received from the following:

1. Stewart & Ikenson, Attorneys at Law, on behalf of International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.
2. Donohue and Donohue, Counsellors at Law, on behalf of Volvo of American Corporation.
3. Cladouhos & Brashares, Attorneys for Toyota Motor Sales, U.S.A., Inc.
4. Ford Motor Company.
5. Barnes, Richardson & Colburn, Attorneys & Counsellors at Law, on behalf of Mercedes-Benz of North America, Inc.
6. Border Brokerage Company Incorporated, Licensed Customhouse Brokers.
7. Norman G. Jensen, Inc., Customhouse Broker.
8. Rogers & Wells, on behalf of Nissan Motor Corporation in U.S.A.
9. Nissan Motor Company, Ltd.
10. Tanaka and Walders, on behalf of the Japan Automobile Manufacturers Association, Inc.
11. American Imported Automobile Dealers Association.
12. Automobile Importers of America, Inc.
13. Motor Vehicle Manufacturers Association of the United States, Inc.
14. Webster Sheffield Fleischmann Hitchcock & Brookfield on behalf of Toyo Kogyo Company, Ltd.

15. Siegel, Mandell & Davidson, Counselors at Law,
on behalf of Isuzu Motors Limited.
16. Siegel, Mandell & Davidson, Counselors at Law,
on behalf of C. Itch & Company (America) Inc.
17. General Motors Corporation.
18. Chrysler Corporation.
19. District Director of Customs, Houston, Texas.

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