

**AUTHORIZATION OF APPROPRIATIONS FOR THE
U.S. INTERNATIONAL TRADE COMMISSION**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FOURTH CONGRESS

SECOND SESSION

—————
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AUTHORIZATION OF APPROPRIATIONS FOR THE U.S. INTERNATIONAL TRADE COMMISSION

FRIDAY, MARCH 5, 1976

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2221, Dirksen Senate Office Building, Senator Russell Long (chairman of the committee) presiding.

Present: Senators Long, Talmadge, Ribicoff, and Curtis.

[The committee's press release announcing this hearing follows:]

PRESS RELEASE

For Immediate Release February 17, 1976

FINANCE COMMITTEE SCHEDULES HEARINGS ON THE AUTHORIZATION OF APPROPRIATIONS FOR THE U.S. INTERNATIONAL TRADE COMMISSION FOR FISCAL YEARS 1977 AND 1978

The Honorable Russell B. Long (D.-La.), Chairman of the Senate Committee on Finance, announced today that the Committee will hold hearings in early March on the authorization of appropriations for the United States International Trade Commission for fiscal years 1977 and 1978. The hearings will be held at 10:00 A.M., Friday, March 5, in Room 2221 of the Dirksen Senate Office Building. Will E. Leonard, Chairman of the Commission, will be the first witness.

Chairman Long noted that Section 175 of the Trade Act of 1974 requires a specific budget authorization for the Commission. The Chairman also noted that the Trade Act of 1974 also expanded the responsibilities of the fact-finding agency, and said that the Committee intends to examine the operating budget needs of the Commission during the next two fiscal years.

Written testimony.—The Chairman stated that the Committee would be pleased to receive testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies by Friday, March 5, 1976, to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.

The CHAIRMAN. This hearing will come to order.

The chairman of the Trade Subcommittee, Senator Ribicoff, has pressing matters to attend to. I recognize him for an opening statement.

Senator RIBICOFF. Thank you very much, Mr. Chairman, and I do appreciate your courtesy.

As we all know, the Finance Committee has always held the view that the International Trade Commission, formerly known as the Tariff Commission, plays a crucial role in its management of the trade policies. In our deliberations on the Trade Act of 1974 the Finance Committee took special pains to provide new authority and higher status to its Commission and to its Commissioners personally. It was the intent of the Finance Committee that the independence of the Commission from executive branch policy be strengthened. It was

always our intent and, Mr. Chairman, this is my interpretation—I don't know if it is yours.

The CHAIRMAN. I agree.

Senator RIBICOFF. It was all our intentions that the Trade Act of 1974 be used to manage the domestic impact of trade policy in a more active manner than in the past, with particular attention to those situations where unfair trade practices abroad caused unusually difficult adjustment problems or disruption here at home.

We made domestic trade policy remedies more easy to achieve by domestic firms and workers, while authorizing our Government's negotiators to work out new solutions and new international trading arrangements to pave the way for trade expansion. Now personally I am pleased to observe that you Commissioners have in your determination since the passage of the Trade Act of 1974 observed both the letter and the spirit of the Trade Act as it emerged from the Congress.

Sometimes the Commission has found that domestic industries were not being hurt and in other cases it was found that the injury was taking place. Each case has been judged on its own merits. Some people with special interests in imports have criticized the Commission for being protectionist. I personally don't agree.

On the contrary, you have found no injury in several instances. Your efforts speak for themselves, and I want to congratulate you for the methodical case-by-case approach that you are taking. That was the Finance Committee's and Congress intent in shaping the law as we did.

May I say we only have one criticism. If you gentlemen will accept it as an observation from my vantage point rather than as pressure by the Congress or this committee, my observation is that the Commissioners have recently split their positions on remedies in a way that is making the law inoperable and inviting conflicts between the executive and Congress.

If the Commission can find a majority for injury in some cases, it should be able to find a majority for particular remedies. When the Commission is split with no more than three Commissioners in favor of a particular solution, everyone is put in an awkward position, particularly the injured parties.

I hope in the future that a greater effort will be made to form majority opinions in those cases where there is agreement on injury, Mr. Chairman and members of the Commission. I have to get back to Connecticut, but I did want to take this opportunity to come here and express a personal vote of confidence on the great job you are doing.

I know Chairman Long and the entire committee have felt for some time that we wanted an independent Commission, and I do believe that you gentlemen represent an independent Commission.

Thank you very much, Mr. Chairman, for your courtesy.

The CHAIRMAN. Thank you, Senator Ribicoff.

This hearing is in part a reflection of what this committee recommended and what the Congress enacted, as one way to strengthen the independence of the Commission. Prior to this time it has been the feeling of this Senate and others that there are people in the State Department who thought they could go to the White House—

Senator TALMADGE. Will the chairman yield?

The CHAIRMAN. I yield.

Senator TALMADGE. I remember once during the Kennedy administration, the first knowledge we had of what was going on in the then-Tariff Commission was announced at the Japanese Embassy.

The CHAIRMAN. We were very concerned to find that the laws of Congress were being flouted by representatives of the executive branch. A number of the then members of the Tariff Commission and some of us in Congress were outraged at that. We felt that if the Congress concluded that the public and industry were entitled to have certain laws enacted, then it was wrong for anyone to negotiate that away, especially in the situation where the Congress had warned, based on the amendments by several Senators, such as Senator Talmadge and Senator Ribicoff, saying that if certain actions were taken which in their judgment and which in the judgment of Congress violates the law, that the Congress could not expect to bend its knee or subscribe to any such conduct, that it expected to resist it.

We were dismayed to see that at least some of the Commissioners at that time had made commitments to the executive branch to do what in our judgment the law clearly precluded.

I have been importuned by people who don't like a particular decision by the Commission. It is my impression, however that what the Commission has been doing is just what the Congress intended for it to do, that is where there is injury, to find the injury.

We made the test easier than it was before, because we expected a finding of injury in those situations. It is up to the executive and the Congress to determine whether it will go along with the recommendations of the Commission or whether it will pursue some other remedy. Some have not liked what the Commission has done to find that injury exists and to recommend some relief.

Where serious injury exists, Congress expected a finding of injury, and it expected a recommendation as to relief. I am pleased to see that Senator Ribicoff subscribes to it. The intent of our committee was that the Commission consider what the law is, what its duty is, and then proceed to make findings and make recommendations in pursuance of the Act passed by the Congress.

So, we are pleased to have representatives of the Commission here today, and Mr. Will E. Leonard, Chairman of the U.S. International Trade Commission, and Mr. Dan Minchew, a member of the Commission. You might introduce your other associate.

STATEMENT OF WILL E. LEONARD, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION, ACCOMPANIED BY DANIEL MINCHEW, VICE CHAIRMAN; AND EDWARD WALLINGTON, CHIEF, FINANCIAL MANAGEMENT

Chairman LEONARD. Mr. Chairman, that is the Financial Chief of the U.S. Trade Commission to my left, Mr. Edward Wallington.

The CHAIRMAN. You may now proceed.

Chairman LEONARD. I wanted to say it is good to be back home.

The sunshine outside is in this hearing room today. We certainly appreciate the kind words that have been expressed by Senator Talmadge and Senator Long. I think we have a law to administer.

We are attempting to administer that law. With respect to the comments of Senator Ribicoff, on getting together on remedy, it is of concern to the Commission. As a matter of fact, in one of our most recent cases we tried desperately, some of us, to reach a consensus, a majority position, with respect to the remedy. We were unsuccessful in getting more than three people together on any one remedy, but on the other side, one must understand that if a Commissioner feels strongly that his remedy is one he feels is most appropriate for curing the injury or preventing further injuries, then he perhaps is right, unless the law should be changed, to indicate this type of remedy.

If I may read the statement I have before me, Mr. Chairman and members of the committee, the last time I appeared before the Finance Committee was October 9, 1968. At the time I was a member of your staff and you were considering my nomination by President Johnson to the then U.S. Tariff Commission.

Much has happened since then, to us, to our Nation, to international trade and to the Commission. So I value this opportunity to report to you with respect not only to the sometimes impersonal figures contained in a budget request, but also to the more interesting aspects, I believe, of what is going on at the U.S. International Trade Commission and what we would like to do in the future.

As I have already indicated, on my left is Mr. Wallington, and on my right is another alumnus, so to speak, of your committee, Daniel Minchew.

In developing the request for funds for fiscal year 1977—the Commission's first request under the new rules established by the Trade Act of 1974—the Commission has examined its needs with special care. We have given this budget close scrutiny with two objectives foremost in mind: First, to demonstrate to the Congress that we can prepare a responsible budget request without a need for OMB's review; and, second, to do our part to restrain the growth in Government expenditures about which the whole country is concerned.

People are our Commission's greatest resource and the one for which most of our dollars go. Yet we propose a fiscal year 1977 budget which would support a yearend staff of 426 people, a cutback from the number planned for the end of fiscal year 1976. We want to reduce our staff by four from fiscal year 1976. This, we feel, compares favorably with the increases of 39 in the ceiling for fiscal year 1974, 19 in fiscal year 1975, and 30 in fiscal year 1976.

The Commission's request for fiscal year 1977 funds represents an increase over the fiscal year 1976 dollar total. However, 93 percent of this increase results from built in cost increases. Only \$75,000 of the appropriation increase is allowed for growth in program-support costs, and part of this cost growth results from inflationary forces rather than from a change in operating levels.

The Commission views the current budget as a change from one of growth to one of consolidation. Further, since the fiscal year 1977 budget reduces, rather than increases, planned yearend staff levels, automatic cost increases in fiscal year 1978 should be significantly less than those in fiscal year 1977.

The U.S. International Trade Commission is an independent agency whose principal function is to provide technical and factfinding assistance to the Congress and to the President upon the basis of which trade policies may be determined. In addition, over the years the Commission has been assigned the responsibility for determinations following investigations initiated under several statutes.

We thank your committee for the faith it has shown in the Commission through its request for important studies, such as the four completed a couple of years ago on multinational corporations, customs valuation, tariff, and nontariff barriers and the extent of tariff concessions. More recently we reported to you on international commodity agreements and the United States-Canadian Automotive Agreement. The work done on these studies has sharpened the Commission's skills while allowing it to demonstrate its capability for providing carefully researched and well-thought-out reports.

The Commission is also appreciative of the cooperation extended by the Congress in general in providing funds for the Commission. This cooperation has been an essential element in the Commission's efforts to meet the expanded responsibilities placed upon the Commission, culminating in the special demands included in the Trade Act of 1974.

The Trade Act of 1974 had a major impact on the Commission in a variety of ways. In general, it enlarged the Commission's responsibilities in the area of international economics and trade. Specifically it authorized new trade negotiations and preferences which the Commission must support in varied ways. It changed the criteria for escape action qualification by industries.

It substantially revised the unfair import trade statutes. It charged the Commission, in conjunction with other agencies, to develop compatible statistical systems for imports, exports and production. It put the Commission in the forefront of the U.S. effort to develop a harmonized code among all trading nations for describing articles in international commerce. It directed the Commission to monitor and report on East-West trade.

Finally, it changed the Commission's name, began a new system of rotating chairmanships, authorized the Commission to represent itself in court, and called for the Commission's proposed budget to go directly to the Congress, as it were, without review and revision by the Office of Management and Budget.

The effects of the Trade Act of 1974 on Commission operations have been immense. In fiscal year 1975 about one-third of all Commission resources were devoted to the development of advice to the President on the probable economic effect of concessions. Additional work in this area has been necessary this year, and more is expected as negotiations proceed. Undoubtedly we shall be asked to furnish additional support to U.S. representatives as negotiations intensify in fiscal year 1977.

The new escape clause criteria have resulted in a total of 14 industry investigations in less than a year since the effective date of the Trade Act, compared with only one such investigation initiated in the preceding 21 months. Intensive efforts are being devoted to completion of unfair import practice investigations under the new rules and time limits established by the Trade Act.

The reports on statistical comparability and the harmonized code required by the act have been delivered. We continue to work on the development of compatible import, export, and production statistics, and we are actively participating in the technical sessions on the development of an international harmonized commodity code.

In addition, in part because of the Trade Act of 1974 and in part because of the feeling that a truly comprehensive and thoroughgoing international trade agency is one versed in all aspects of the subject and attentive to all segments of the public, the Commission hopes to improve its capability on export matters and with respect to the trade of other countries, to take account of the effects on consumers of international trade policies and provisions of law, and to anticipate foreign trade issues rather than to respond to foreign trade crises.

Despite the growth in demands on the Commission for services, we have made the decision not to request further growth in our basic resources at this time. The Commission intends to concentrate its fiscal year 1977 efforts on improvements in the utilization of its resources, which in large part means its personnel, rather than on continued expansion. We believe that through improved management we shall be able to finance effective fiscal year 1977 operations with the funds we requested.

It is our understanding that your committee may wish to authorize fiscal year 1977 appropriations with a specific dollar limit rather than an open amount, as proposed in the Commission's draft bill. If so, we make two requests.

First: In view of the strong possibility that the Commission may have to vacate its deteriorating building and seek better but more expensive space, we request an authorization of \$250,000 above the appropriation we have so far requested, making the total \$11,789,000. This would allow a later appropriation request when rental plans are firmed, without the need for rehearings by this committee.

Second: We ask inclusion of a clause like that in last year's Department of State authorization legislation permitting automatic increases for compulsory cost increases such as statutory pay raises.

You have indicated a desire to process an authorization bill covering fiscal year 1978 as well as fiscal year 1977. We have projected a need for authorization of \$12,036,000 for fiscal year 1978. This would cover a continuation of the services planned for fiscal year 1977 and allow the \$250,000 provision for possible increases in rent costs and the allowance for pay raises, and so forth, that were requested a moment ago for fiscal year 1977. This would cover estimated compulsory cost increases of \$247,000.

However, it is necessary to add a caveat. Fiscal year 1978 is far ahead. The probability of change in the estimated workload for the more distant future is high, particularly since so much Commission work must be done when required or requested by others. The Commission, therefore, might request an increase or a decrease from this estimate for fiscal year 1978 next year when we have a closer view of probable workload demands.

Perhaps as much as anyone, I realize the longstanding and faithful interest that this committee has maintained in the Commission. Thank you for that interest.

I hope that on the basis of merit we can continue to have your interest and do the important work that must be done for you, the rest of Congress, the executive and the American people to see that the impact of international trade is increased job opportunity, raised standards of living and worldwide peace.

I shall, of course, be pleased to try to respond to your questions. First though, with your permission, may the Vice Chairman of the Commission be permitted at this point to add any remarks he cares to make?

Senator TALMADGE [presiding]. Mr. Minchew.

Vice Chairman MINCHEW. Mr. Chairman, I will simply add that I would like to associate myself with the comments of our Chairman and associate myself with those words of appreciation for the introductory remarks of Chairman Long, those of yourself and Senator Ribicoff.

I would also be happy to respond as well as I can to any questions the committee may have.

Senator TALMADGE. Mr. Chairman, I want to congratulate you on your statement. I have been in the Senate slightly more than 19 years, and this is the first Federal agency I have seen during that period that has come before a committee of Congress requesting a reduced authorization for personnel, a landmark probably in American history.

I compliment you also for taking seriously the desire of this committee and Congress that the International Trade Commission be truly independent and free of any restraint of any kind whatsoever except to comply with the law.

Senator Curtis?

Senator CURTIS. Mr. Chairman, I have no questions. I have looked into the budget matter in a limited way, and I think it is satisfactory, and [that is all we are considering this morning, isn't it, the budget? So I have no questions.

The CHAIRMAN [presiding]. I have a number of questions which I believe I ought to submit and ask you to give me an answer in writing, if you would. That would save the time of this meeting. With the enormous responsibilities that your Commission has over trade, which is, if you count imports and exports it works out to about \$100 billion in terms of volume of trade. It seems to me that this is a very minute expenditure considering the vast amount of money involved in the movement of trade in and out of this country.

I am concerned because I have never been able to get figures that I thought were adequate to help and show us where we stand in this area. Now, I am about decided to ignore these Commerce Department figures, these so-called good news announcements, because every quarter they have these statements indicating that the balance of trade will be a \$12 billion surplus. Last year, for example, this was the case.

Now, by the time we get through discounting that by the fact that they left freight and insurance off the imports, and the fact that they put in all giveaways, whether you are giving away military equipment or where you are giving or making soft currency sales, they never pay back, they never pay back to anyone. That is a situation where we look as though we are the world's richest trader. Half of the time we are going broke and these are the figures just for starters.

If they say we broke even, that means we lost \$11 billion. So I would like to try to get some figures, or have someone get us some figures, try to show whether we have made money or lost money in trade.

Now, the way I analyze it, we had a small surplus this last year, around \$1 billion rather than the \$12 billion that the Commerce Department claimed in the fourth quarterly announcements last year, and the greatest trade year in history, and I say if we have had that kind of good trade year throughout the last 20 years, you won't see much difference. And what dismayed me is for 12 years running they claimed they made about \$14 billion profit when, in fact, you had a \$16 billion loss.

I wonder if your Commission could make a study and look into the matter and get together some figures, looking in terms of trade not as where you leave the aid out, leave out the giveaways, leave out stuff for which we have not or will not be paid, put a shipping account in the balance, so we can see whether we are actually making money or not.

For example, it may be that you want to take into account how much money we actually made from American-controlled shipping where the ships are built in foreign lands and they are manned by foreign seamen, but a few dollars once in a while leak into this country, and having looked at all those factors, give us your estimate of how much it looks to you like we are winning or losing in the trade area.

Can you make available or prepare and release some figures of that sort from time to time?

Chairman LEONARD. Mr. Chairman, I don't think there will be much of a problem taking the basic data that the Department of Commerce is using, but arraying and analyzing it somewhat along the lines you have indicated. I might say, we have done something like this in the past. For example in the most recent year that we have, which was 1972, 6.4 percent or \$3.1 billion of our recorded reports were expenditures on merchandise under U.S. Government grants and credits. If I understand what you have been saying here, you would like to have trade statistics which have that sort of item taken out of our overall U.S. export trade figures. Is that correct, sir?

The CHAIRMAN. Yes. I think that the trade figures ought to reflect the freight that we are paying. Any time a man buys something, I don't care whether he is a small businessman or a little businessman, he has books setting that item up for what he paid and that includes the freight.

I think every other nation on earth except Britain keeps their trade figures that way.

The International Monetary Fund currently takes freight into account, and they try to prepare figures for everybody. It seems to me that you ought to have figures which take into account the cost of insurance and freight. It is all right with me if we can look more deeply at the freight, I would be perfectly happy if you could do a balanced statement to carefully look and see just how much of the freight figure is being paid into our economy and how much is being paid into the other fellow's economy.

I would be curious to see how the Commission would analyze Public Law 480 sales. Some might contend that at some point we will get some money back into our Treasury. If that is the case, it would seem by now we have a right to think that the pipeline has been fully filled; it would seem that we could give credit on exports only insofar

as money that is flowing back into the Treasury of the United States, not money that is simply put down on the books.

Senator TALMADGE. If the chairman will yield, I think we just canceled the \$3 billion on India last year. If my memory serves me correctly, the only nation we have ever been repaid in full from was little Finland. That dates back to World War I.

The CHAIRMAN. By the time we got through trying to help Finland fight the Soviet Union, they paid that back, a repayment 10 times over. One might say that this Nation should show everlasting gratitude, because one country finally did pay us what they owed us on their debts.

Now if you can get together some statistics, I think it would be helpful if the Trade Commission, an independent agency not subject to all that bureaucratic machinations and the pulling and tugging that exists elsewhere, could prepare us some figures and let us know what you think our balance of trade is when you take everything into account.

I certainly don't think you ought to be considering these gifts of military hardware or some forum of subsidized sales, only to the extent we are being paid for it, so we can see what is being paid.

Do you think you can prepare some figures of that sort?

Chairman LEONARD. Yes, sir.

Mr. Chairman, as I understand, the Commission could prepare a set of balance-of-trade statistics which on the import side would reflect the value of imports on the CIF basis, including freight, including insurance; and on the export side would not reflect the exports that are financed by U.S. giveaways or by sales for soft currencies. Yes, sir, we will try to do so.

The CHAIRMAN. I would like to prepare some figures that would put in there everything that in your judgment ought to be in, and leave out everything that you don't think ought to be in there.

I cannot think of anything that could be more helpful to this Senator than to have an honest statement of where we stand in our balance of trade. If you can give us that, then we would feel that we have something we can provide the special trade representatives and something we can look to ourselves when we are looking at these trade agreements to see whether we could afford some of these generous things that we do for the benefit of other nations.

I think we have a tremendous capacity in our economy, but I don't like this type of thing where people add up one enormous column of minus figures and end up with a big plus at the bottom. So, if you can give us something, I think it would be very helpful.

Chairman LEONARD. We can certainly try to comply, yes, sir.

The CHAIRMAN. We have some written questions, and I would hope, Mr. Leonard and Mr. Minchew, you can look at these questions that you provide us with an answer for them as well.

Commissioner LEONARD. I would be more than happy to.¹

We thank you very much for the kind reception we received.

The CHAIRMAN. Thank you very much, gentlemen.

The committee is adjourned.

[By direction of the chairman the following statement was made a part of the record:]

¹ See appendix.

STATEMENT OF THE ELECTRONIC INDUSTRIES ASSOCIATION, V. J. ADDUCI,
PRESIDENT

The Electronic Industries Association (EIA) is pleased to submit this statement in connection with the hearing of the Senate Committee on Finance, Russell B. Long, Chairman, on appropriations for the U.S. International Trade Commission (USITC). We wish to note the Commission's apparent objectivity and responsiveness to the needs of the American business community since passage of the Trade Act of 1974.

EIA's member companies, 268 U.S. manufacturers of all types of electronic products . . . component parts, equipment, and systems for the consumer, commercial, and industrial markets . . . have considerable stake in matters that lie within the scope of the USITC and, before that, in those of its predecessor, the U.S. Tariff Commission. Out of \$35 billion worth of electronic products manufactured yearly in the USA, \$5.2 billion worth is exported. \$4.6 billion is imported. The U.S. balance of electronic trade is favorable by \$600 million.

We emphasize the \$9.8 billion magnitude of this nation's international trade in electronics.

As a matter of broad principle, EIA favors freer and fairer trade among nations and, toward that end, has supported policies designed to provide for a mutual lowering of trade barriers. Our industries strongly supported the passage of the Trade Act of 1974, and were gratified to see that its Title I took steps toward assuring the statutory independence of the USITC.

We were also gratified to see the USITC's expanded role in the investigation of import injury and recommendation of remedy, as set forth in Section 201 of Title II.

Thus, the need for an investigatory agency that is neither free-trade nor protectionist is greater than ever. We are hopeful that the Congress will preserve the Commission's independence and objectivity.

A number of claims for relief from import injury have been adjudicated by the Commission. Upon investigation, in four instances, the Commission found that injury neither threatened nor had occurred. It found, in fact, that the general economic recession had set into play other forces which caused the claimants' sales to decline with a consequential loss of employment and profitability; imports were not a substantial cause. Accordingly, the Commission recommended against relief.

These cases were widely publicized. Meanwhile, another claim had been filed, also alleging that import injury had occurred. As this Committee knows, mounting pressures were directed at the USITC by external parties who chose opposing sides of this most complex case. That the Commission did find injury . . . that is, was not bound by its previous investigatory findings . . . is in our opinion strong evidence of its objectivity.

In addition to its new responsibilities, the USITC retains many carry-over authorities from its predecessor body. We cite as but one example its investigatory and determinative province concerning predatory competition and unfair trade practices covered in Section 337 of the Tariff Act of 1930. Cases and investigations brought under this and other statutes are becoming increasingly complex and, we believe, more demanding of clear and objective judgment. In this context, we affirm our confidence in the Commission's abilities as its case-load inevitably becomes more onerous.

In addition, the Commission is now called upon to advise the President's Special Trade Representative (STR) on this country's position at the bargaining tables in Geneva. For instance, it will be asked to quantify the possible economic impact of "trade-offs" proposed during the Multilateral Trade Negotiations. This entails the calculation of net improvement to our balance of payments as a consequence of the USA's lowering a given duty rate by "X" in exchange for the EEC's lowering its rate by "Y". These are not purely mathematical manipulations of historical statistics; they require economic insight and responsible judgment.

Under these new circumstances of broader franchise and aggravated complexity, EIA advocates that the Committee on Finance consider the Commission's probable need for qualified professionals rather than increased personnel ceilings.

Elsewhere in the Trade Act of 1974, Title VI authorizes the Commission to engage in two other activities of significant, eventual benefit to American companies and their workers. Pursuant to this authority, the USITC in cooperation with the U.S. Bureau of Census and the U.S. Customs Service is developing a needed Comparability between the three disparate systems of trade and production nomenclature and classification used in this country: the "TSUS" system for

imports, the "Schedule B" system for exports, and the "SIC" system for domestic production. Comparability, when properly achieved, will be especially beneficial to U.S. industry in all facets of its business planning and, we would hope, in reducing the duplication presently required in reporting to Government.

In Title VI, as well, the Commission is asked to participate, alongside representatives of other agencies, in the Harmonized Systems Committee of the Customs Cooperation Council in Brussels. There, the major trading nations are attempting to establish a single international system of nomenclature. This, too, could be immensely beneficial, particularly in reducing the very high costs of documentation that now exist in international trade.

Finally, the Commission chairs the so-called "484-E Committee", comprised of several governmental agencies concerned with imports. There, TSUS nomenclature is annually reviewed toward improving its ability to yield statistics which are current and usable by U.S. industries and Government. For example, to our electronic industries, it is not enough to know that \$4.6 billion worth of electronic products were imported into the USA in a given year. We must also be able to differentiate statistically among the many types of equipment or components, and . . . within each type . . . among the various subclassifications (i.e., with respect to "semiconductors": transistors as opposed to diodes as opposed to thyristors).

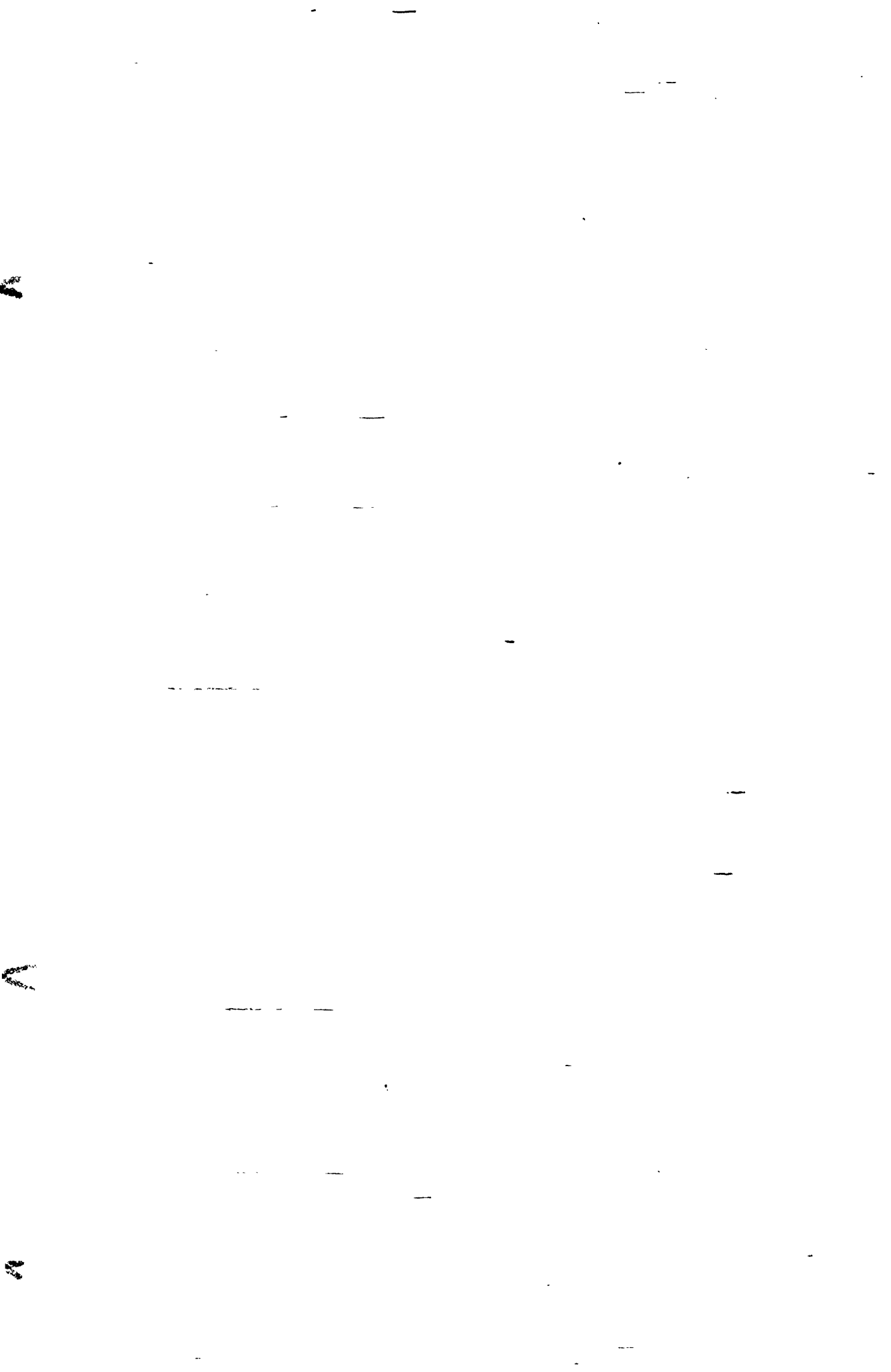
In respect to Comparability, an internationally-harmonized nomenclature, and Section 484-E activities, EIA has consistently found the USITC to be responsive to the needs of our industries and, indeed, has been pleased that the Commission has regularly sought our advice on matters of our concern.

EIA's purpose in this statement is to emphasize the value of the Trade Commission's activities to the electronic industries of this nation. We applaud the Commission's work on domestic and international nomenclature systems. We applaud its efforts to make Government's statistics more useful to industry. And we applaud the Congress' wisdom in having passed a Trade Act that establishes the International Trade Commission as an independent body whose investigations can be conducted objectively.

[Whereupon, at 10:35 a.m. the committee adjourned, to reconvene at the call of the Chair.]

APPENDIX

Written Questions Submitted by Members of the Committee



QUESTIONS SUBMITTED BY SENATOR LONG

Senator LONG. In your statement, you say you are requesting a lower staff level for 1977 than 1976. However, you use only 378 of a current authorized level of 430 positions. Aren't you, in fact, asking for an increase of 48 positions for 1977 rather than a decrease?

Mr. LEONARD. We are asking for four fewer employees at the end of fiscal year 77 than are planned to be on board at the end of fiscal year 76. This is, as you say, more employees than are currently on board, but it is not more than we believe are currently needed to do the Commission's work.

Senator LONG. Why do you have so many vacancies? What are your plans for hiring in the future? Do you really need 430 slots?

Mr. LEONARD. There have been many reasons for the delays in filling some of our authorized positions. As I mentioned in my answer to Senator Ribicoff's question, the probability of reorganization of the Commission has been one reason for the delays. There was the possibility that some jobs, particularly some so-called top-level positions, would be changed in their structure, merged with other positions, or perhaps even abolished. We thought it best to wait to fill these positions after reorganization planning was complete. Also, as our ceiling has risen, we have had delays in starting recruiting efforts each year because of delays in enactment of our appropriations. Some of our managers have been very deliberate in attempting to find the highest caliber person to fill their vacancies, an approach I cannot disagree with since we expect the new people to be with us over a long period. There have been other technical recruiting problems that have slowed our staff development.

We think that all of these factors have been or are well on the way to being overcome. We expect to carry out an orderly staff development to reach our authorized ceiling—the level we believe is needed to carry out our total workload effectively.

We need these people because, although we are completing the work specifically required by statutes, we are not able to move forward toward two long-time Commission goals. First, we need to identify and study trade problems in advance of external requests for assistance so as to provide more timely and effective service. We need to devote more adequate efforts to the systematic collection and analysis of economic and technical information and to the development of our professional employees as a basis for all of our other work. Your Committee has specifically recognized these needs in your reports on the Trade Bills of 1970 and 1974. The Commission strongly agrees that we must do more in these areas.

Senator LONG. Do you believe it desirable for the Committee to authorize appropriations for both fiscal year 1977 and fiscal year 1978, at the outset, giving you a longer lead time for financial planning?

Mr. LEONARD. The Commission did furnish your committee with an estimate of fiscal year 1978 needs. This is a new experience for us and our forecast may prove inaccurate, but with your indulgence to an amended request during the year, if necessary, I believe we should try this longer-range financial planning.

Senator LONG. The largest item in your budget is attributable to investigations under Section 332. This committee accounts for quite a bit of that work. For the record, will you give us some examples of such investigations?

Mr. LEONARD. In fiscal years 1973 we submitted to your committee the Commission's report on its studies of Customs valuation, the extent of tariff concessions, and the impact of multinational firms on various aspects of international trade. These three investigations absorbed over 20 man-years of staff time not including the time of individual Commissioners or their immediate staffs. In fiscal year 74 we reported to you on tariff and non-tariff barriers to trade, for which we used nearly 30 man-years of staff resources. In fiscal year 75 we submitted to the President a requested draft conversion of the Tariff Schedules of the United States to the Brussels Tariff Nomenclature format. Completion of this assignment required over 86 man-years of work which will have to be supplemented by additional efforts if the President requests an updating of this material. We have submitted to the President a series of reports on the competitiveness of U.S.

industries, the results of studies requiring some 30 man-years of work, mainly in fiscal years 1973, 1974, and 1975.

In recent months we have reported to your committee on international commodity agreements and the United States-Canadian automotive agreement. Records of the staff time required for these two studies are not yet complete. The Commission has also compiled a list of over 20 topics which it is considering as subjects of investigations to be initiated on the Commission's own motion. We hope to perform much more such self-initiated work than has been possible in recent years.

Senator LONG. Why are you terminating your practice of publishing data on benzenoid chemicals? What would be required to enable the Commission to continue these reports?

Mr. LEONARD. The Commission's decision was prompted by continued concern by the Commission over a number of years as to the justification for doing this work for one segment of one industry when the Commission did not perform the same responsibility with respect to other segments of the same chemical industry or with respect to other industries. This concern was brought into sharp focus by a report of the General Accounting Office to your Committee on the organization of the Commission in which a rather significant portion of the report was devoted to the Commission's work on chemical reports. The GAO report questioned whether the chemical reports should be continued or continued on a basis of reimbursement by the affected industry.

Since deciding to phase out these reports the Commission has received requests to continue the reports from many members of Congress, other Government agencies, and industry. It is my feeling that I would like to get specific authorization to do this work in an authorization bill, in an appropriation bill, or perhaps under the provisions of Section 332 of the Tariff Act of 1930, whereby the Senate Finance Committee, among others, can make a specific request of the Commission to this effect.

If the Commission does reinstate these reports in fiscal year 77, it will need a somewhat larger appropriation and staff than has been requested, or it will have to cut back on other planned operations in order to free resources for this work. Although the cost and staff time required for these reports are much larger, the Commission reduced its fiscal year 77 budget by only a little under \$60,000 and six positions because of the planned phase out. Other employees and costs currently required for these reports will still be needed to develop alternative sources of information in this area to meet the Commission's own needs if the reports are eliminated. If the Commission is to continue publishing these chemical reports, it would be least disruptive to overall Commission operations to have the funds and positions restored to the fiscal year 77 budget.

Senator LONG. Many observers have been quite disturbed by reports which have appeared in trade journals which describe in detail which way Commissioners are leaning on particular cases pending before the Commission. What is your policy toward such stories?

Mr. LEONARD. I believe you are referring to articles such as the one that appeared in the American Metal Marketing paper of November 24, 1975. It is true there was a disclosure, if I recall that article correctly, of how the Commission was tentatively lined up on one vote prior to a final vote, and they even named Commissioners who had voted and those Commissioners who had not yet voted.

That was very alarming to the Commissioners, and the Commission at this point does not know how that information came into the possession of the press, because Commission decisions are not final until they are published, that is, reported to whomever they are supposed to be reported to. It is possible that the Commission can take another vote, change positions, or make a new decision up until the time at which the report is to be issued. In that particular case, the Commission did conduct an inquiry within the agency, trying to find out if there were any way, not deliberately, but by neglect or mistake, that something like that could have been disclosed prematurely.

The Commission was not able to uncover any evidence of how that information may have been disclosed at that time. It is of concern, and we are going to continue to guard against a recurrence. We think we had a good reputation for not prematurely disclosing decisions and we hope that this one incident is only an incident that is an exception to that reputation.

Senator LONG. When the Commission finds serious injury in an "escape clause" case as was recently determined for stainless steel and shoes, is there a process of trying to work out a common recommendation to the President to remedy the

injury, or does each Commissioner give an individual opinion on how the problem should be handled? Can you describe the process?

Mr. LEONARD. There is a process which is followed, Senator. Once the Commission determines that a domestic industry is eligible for relief from the serious injury or threat of serious injury it finds, the Commission meets in formal session to consider the proper relief to remedy or prevent such injury. The Commission's staff will have prepared memoranda prior to such a meeting setting out available alternative remedies, and individual Commissioners will generally have met with the staff to explore the issue further. At the meeting, a full, open discussion ensues in which proposals are made, examined, and modified. Often a redrafting of proposals is required, and several meetings are necessary before a final vote is made on the issue of the appropriate remedy. I would just add that considerable time, thought and effort is spent on the issue of the appropriate remedy, such work beginning even before it is known whether a decision on relief will ever be necessary.

As a result of this process, Commissioners sometimes agree on the appropriate remedy. But there are times when a Commissioner feels strongly that his or her recommendation is the proper one to remedy or prevent serious injury and he or she cannot compromise that position in order to get a consensus.

Senator LONG. The Trade Act provides that the Commission may reach a determination of injury and recommend appropriate relief to the President in all escape clause cases. Under the law, the President is given 60 days in which to decide what relief, if any, he will provide. If he decides to deny relief, or to provide relief other than that recommended by the Commission, the Congress may override the President's action and reinstate the relief recommended by the Commission. In two recent cases (shoes and stainless steel flatware), a majority of the Commission failed to reach agreement on relief, effectively denying the Congress its opportunity to override the President. Can the Commission reach a majority in the future, or will it be necessary to amend the law?

Mr. LEONARD. Senator, the Commission is very much aware of the situation it creates for the Congress when it is unable to arrive at a Commission position on relief for an industry which it finds entitled to relief. I can honestly say that the Commission does strive mightily to reach a majority position on relief. For example, in one recent case we worked late into the night trying to reach some sort of majority position.

However, I must say that I can understand the feeling of a Commissioner in not wanting to compromise his position on remedy when he feels strongly that such is the best remedy and an alternative remedy is just not adequate to remedy the injury. One also has to remember that in fashioning a remedy, the Commission is grappling with the problem of predicting what effect the action on remedy will have some time in the future on the well-being of an industry. Thus, we are in a rather nebulous area, where Congress in its wisdom has left the decision on remedy to the best economic judgment of six independent individuals. There will be differences in judgment, but majority positions will be reached in future cases. That is not to say that amendment of the law would not be appropriate.

Senator LONG. The Trade Act made some important amendments to Section 337 of the Tariff Act of 1930, relating to unfair import practices. What kinds of cases have been filed under the revised law? What do you see in the future?

Mr. LEONARD. Senator Long, since the amendments to section 337, the Commission has instituted six investigations. All six investigations involve allegations that a U.S. patent is being infringed by certain imported articles. There are five petitions pending at this time, three of which also involve alleged infringement of U.S. patents. The two other pending petitions involve allegations of as such matters as unfair pricing practices, subsidies by foreign governments, protected foreign markets, and improper labor practices. I will submit for the record a table showing the status of the cases about which I have been talking.

As for the future, I just can not say with any certainty what types of cases will be filed with the Commission under section 337. Personally, I and a number of other Commissioners interpret our jurisdiction under section 337 to extend to a wide variety of unfair trade practices, thus presenting the possibility for a number of different types of cases being filed. And I also hope that the Commission will institute investigations on its own motion under the statute. It is in the unfair trade practice area where I feel there is so much to accomplish.

INVESTIGATIONS UNDER SEC. 337 OF THE TARIFF ACT OF 1930 DURING FISCAL 1975

Complainant	Articles concerned	Complaint filed	Preliminary inquiry		Full investigation		
			Instituted (date and No.)	Status	Ordered (date and No.)	Public hearing	Status
Venus Esterbrook Corp.....	Certain writing instruments and nibs therefore.	Nov. 23, 1971	Dec. 7, 1971, 337-L-47.	Complete	Sept. 14, 1972, 337-30.	Mar. 6, 1973	No violation. June 28, 1974, July 24, 1974 (Commissioners Bedell, Leonard, Moore, Young, Parker, and Ablondi).
Wurlitzer Co.....	Certain electronic pianos.....	Mar. 6, 1972	Mar. 30, 1972, 337-L-49.	do	Sept. 14, 1972, 337-31, 337-TA-1.1	Jan. 30, 1973	Terminated, Jan. 30, 1976. ²
W. L. Gore & Association, Inc.....	Polytetrafluoroethylene tape form..	Aug. 29, 1972	Sept. 13, 1972, 337-L-54.	do	May 23, 1974, 337-38, 337-TA-4.	July 22, 1974	Recommended decision issued by presiding officer, Feb. 5, 1976.
ATI Recreation, Inc.....	Convertible game tables.....	Oct. 26, 1972	Nov. 13, 1972, 337-L-55.	do	Aug. 30, 1973, 337-34, 337-TA-2.	Oct. 15, 1973	Proposed affirmative determination on violation published by Commission, Jan. 30, 1976.
Anthony J. Antonious, Ajac Glove Corp.	Certain golf gloves.....	Nov. 8, 1972	Jan. 18, 1973, 337-L-56.	do	June 21, 1974, 337-37.	July 1, 1974 Aug. 24, 1974	No violation, Mar. 13, 1975. (Commissioners Bedell, Parker, Leonard, Moore, Ablondi, and Minchew).
Honeywell, Inc.....	Electronic flash devices.....	Jan. 24, 1973	Feb. 20, 1973, 337-L-57.	do	Nov. 6, 1974, 337-40.		Terminated, Mar. 5, 1975. ²
Pfizer, Inc.....	Doxycycline.....	Apr. 13, 1973	Apr. 27, 1973, 337-L-60.	do	May 16, 1974, 337-36, 337-TA-3.	July 9, 1974	Withholding proceedings June 14, 1974 in progress. Commission suspended investigation, Aug. 7, 1975.
Johnson Products, Inc.....	Certain hydraulic tappets.....	May 10, 1973	June 14, 1973, 337-L-62.	do	Apr. 25, 1974, 337-35.	June 10, 1974	Dismissed, Oct. 10, 1974. ²
CTS Corp.....	Preset variable resistance controls.	May 17, 1973	June 13, 1973, 337-L-63.	Dismissed, Sept. 18, 1974.			
Weston Instruments, Inc.....	Analog-to-digital meters.....	May 25, 1973	June 15, 1973, 337-L-64.	Dismissed, Oct. 17, 1974.			
District Sound, Inc.....	Certain electronic audio and related equipment.	July 10, 1973	July 25, 1973, 337-L-65, 337-TA-7.	In progress		Jan. 12, 1976	Presiding officer's recommended determination issued, Feb. 1, 1976.
Ideal Security Hardware Corp.....	Chain door locks.....	June 21, 1973	July 26, 1973, 337-L-66.	Completed	Oct. 29, 1974, 337-39, 337-TA-5.	Dec. 5, 1974	Presiding officer's recommended determination issued, Feb. 5, 1976; Commission order for hearing, Feb. 27, 1976.

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Vernitron Corp.....	Piezoelectric ceramic 10.7MH _z electric wave filters.	July 20, 1973	Nov. 20, 1973, 337-L-68, 337-TA-8.	In progress.....	Terminated, Jan. 14, 1975. ²
Alliance Manufacturing Co., Inc....	Ateana rotator systems.....	Oct. 1, 1973	Jan. 30, 1974, 337-L-70.	Dismissed, Mar. 9, 1974.	
American Optical Corp.....	Certain eye-testing instruments incorporating refractive principles.	Feb. 20, 1974	Mar. 13, 1974, 337-L-71.	Completed... Feb. 5, 1975, 337-41, 337-TA-6.	Aug. 26, 1976 Presiding officer's recommendation to terminate, Feb. 25, 1976. ² Commissioner order, Feb. 27, 1976.
Gottwald Industries, Inc.....	Certain wheel-balancing weights.	Mar. 7, 1974	Apr. 4, 1974; 337-L-72.	Dismissed, Sept 3, 1974.	
Eaton Corp.....	Certain hydraulic tappets II.....	June 18, 1974	July 9, 1974, 337-L-73, 337-TA-9.	In progress.....	Presiding officer's recommendation to terminate, Feb. 11, 1976. ² Commission order Feb. 26, 1976.
American Optical Corp.....	Certain ultra microtome freezing attachments.	June 19, 1974	Aug. 13, 1974, 337-L-74, 337-TA-10.	.....do.....	Termination recommended, Feb. 18, 1976.
Addmaster Corp.....	Certain electronic printing calculators.	Aug. 1, 1974	Aug. 28, 1974, 337-L-75, 337-TA-11.	.....do.....	Terminated, Jan. 13, 1967. ²
AMF Inc.....	Certain components of automatic tobacco leaf graders.	Aug. 13, 1974	Sept 18, 1974, 337-L-76, 337-TA-12.	.....do.....	Terminated, Nov. 14, 1975. ²
Scheu Products Co.....	Liquid propane heaters.....	Aug. 12, 1974	Oct. 4, 1974, 337-L-77, 337-TA-11.	.....do.....	Presiding officer's recommendation to terminate, Feb. 23, 1976. ²
Audio Warehouse Sales, Inc., Douglas T.V. Hi-Fi Stereo Center Corp., and Plaza Audio Video, Inc.	Certain high fidelity audio and related equipment.	July 26, 1974	Nov. 6, 1974, 337-L-78, 337-TA-14.	.....do.....	Terminated, Jan. 13, 1976. ²
General Time Corp.....	Overlapping digital movements..	Nov. 14, 1974	Dec. 9, 1974, 337-L-79, 337-TA-15.	.....do.....	Settlement in progress.
Cofinco, Inc., Imperial Commodities Corp., Mitsui & Co. (U.S.A.) S. F. Pallas Co., Inc., and Van Ekris & Stoett, Inc.	Certain Angolan Robuasta coffee.	Nov. 26, 1974	Dec. 23, 1974, 337-L-80, 337-TA-16.	.....do.....	Presiding officer's recommendation to terminate, Feb. 26, 1976. ² Commission's order to terminate, Feb. 27, 1976.

¹ Commissioner Parker dissented in part.

² Settlement agreement entered into between parties; therefore, no violation of statute as no unfair practice exists.

³ Based on withdrawal of complaint.

COMPLAINTS FILED AND INVESTIGATIONS INSTITUTED UNDER SEC. 337 OF THE TARIFF ACT OF 1930 SINCE ITS AMENDMENT BY THE TRADE ACT OF 1974 (APR. 3, 1975)

Date complaint filed (investigation No.)	Action on complaint	Principle parties involved	Product involved	Disposition
Mar. 18, 1975 (337-TA-17)	Investigation instituted, July 7, 1975.	Complainant: Harmon-Kardon, Inc., Plainview, Long Island, N.Y.; Jacob Rabinow, Bethesda, Md. Respondents: Bang & Olufsen a/s, DK-7600, Struer, Denmark; Bang & Olufsen of America, Inc., 2271 Devon Ave., Elk Grove Village, Ill.; High Fidelity House, Pasadena, Calif.	Record players incorporating straight line tracking systems.	Pending. Determination by Commission due, July 24, 1976. ¹ Notice and order terminating the investigation issued Mar. 1, 1976; objections and request for reconsideration must be filed within 10 days after publication in the Federal Register. ²
May 2, 1975 (337-TA-18)	Investigation instituted, July 15, 1975.	Complainant: Engelhard Minerals & Chemical Corp., New York, N.Y. Respondents: Volkswagenwerk A.G., Wolfsburg, West Germany; Volkswagen of America, Inc., Englewood Cliffs, N.J.; Johnson & Matthey, Ltd., England.	Monolithic catalytic converters	Pending. Determination by Commission due July 23, 1976. ¹
May 2, 1975—Amendments filed: June 13, 1975; July 14, 1975 (337-TA-19).	Investigation instituted, Aug. 8, 1975.	Complainant: American Cystoscope Makers, Inc., Stamford, Conn. Respondents: Olympus Optical Co., Ltd., Shibuya-Ku, Tokyo, Japan; Olympus Corp. of America, New Hyde Park, N.Y.	Glass fiber optic devices and instruments equipped with glass fiber optic devices.	Pending. Determination by Commission due, Aug. 27, 1976. ¹ Parties requested termination, Feb. 19, 1976.
May 30, 1975—Amendment filed: July 3, 1975 (337-TA-20).	Investigation instituted, Sept. 22, 1975.	Complainant: Standard Oil Co. (Sohio), Cleveland, Ohio. Respondents: Rohm & Haas Co., Philadelphia, Pa.; Nippon Shokubai Kagaku Kogyo Co., Ltd., Osaka, Japan.	Certain bismuth molybdate catalysts.	Pending. Determination by Commission due, Oct. 15, 1976. ¹
May 30, 1975 ³	Additional information requested of complainant on Oct. 29, 1975. ⁴	Complainant: Harry J. Rashti & Co., New York, N.Y.; Edward S. Wagner Co., Inc., New York, N.Y. Respondent: Yoolimax, Seoul, Korea (also known as Reliance Products, Washington, D.C.)	Infants booties, sweaters and bonnets.	
Aug. 20, 1975—Amendment filed: Oct. 10, 1975 (337-TA-21).	Investigation instituted Nov. 6, 1975. June 8, 1976.	Complainant: Superior Dry Wall Screw Manufacturing Co., Inc., Landover, Md. Respondent: John Wagner Associates, Inc., Walnut Creek, Calif. Complainant: Minigrip, Inc., Orangeburg, N.Y. Co-Complainant: KCL Corp., Shelbyville, Ind.; Millhiser, Inc., Richmond, Va. Respondents: Imperial Gems, Oroville, Calif.; Jadco Supply, Countiful, Utah; Alberto Ades, San Francisco, Calif.; Trans-Orient Polyethylene Trading Co., Encino, Calif.; House of Onyx, Greenville, Ky.; Polishook Corp., New York, N.Y.; Zwest, Inc., Glendale, Calif.; Design Packaging Co., Chicago, Ill.; Central	Dry wall screws Reclosable plastic bags	Pending. Determination by Commission due Nov. 13, 1975. ¹ Pending. Determination by Commission due Jan. 15, 1977. ¹

		Bag, Los Angeles, Calif.; Seal Bag Co., Inc., Rochester, N.Y.; Furst Bolt & Screw Corp., Los Angeles, Calif.; Cal Richards Import Co., Pittsburgh, Pa.; Ewing International, Albuquerque, N. Mex. Pri Labs Industries, Des Plaines, Ill.; Ragan Poly Bag Manufacturing Co., Brooklyn, N.Y.; Southland Papers, Los Angeles, Calif.; Hogn Ter Products Co. Ltd., Taipei, Taiwan; Ampoc Enterprise Corp., Ltd., Taipei, Taiwan; Shirley Chieh Enterprises Co., Ltd., Kaohsiung, Taiwan; Auditex International, Taipei, Taiwan; Taiwan Variety and Novelty Supplies, Taipei, Taiwan; Moralburg Trading Corp., Taipei, Taiwan; Gideons Plastic Industrial Corp., Taipei, Taiwan; Olympia Industrial Corp., Taipei, Taiwan.	
Jan. 15, 1976 ¹	Complainants requested that Commission temporarily withhold decision, Feb. 26, 1976.	Complainants: GTE Sylvania, Inc. and Philco Consumer Electronics Corp., Stamford, Conn. Respondents: Hitachi, Ltd., Hitachi Kaden; Hitachi Sales Corp. of America; Mitsubishi Electric Corp.; Mitsubishi Corp.; Mitsubishi International Corp.; Sanyo Electric Co., Ltd.; Sanyo Electric, Inc.; Sanyo Electric Trading Co., Ltd.; Sharp Corp.; Sharp Electronics Corp., Tokyo Shibauro Electric Co., Ltd.; Toshiba America, Inc.	Color television sets 19 in. and Pending under.
Feb. 2-3, 1976 ²	In progress	Complainant: Rainbow Lifeguard Products, Inc., El Monte, Calif. Respondent: Point Enterprises Co., Ltd., Anaheim, Calif.	Exercising devices Do.
Feb. 25, 1976 ³	do	Complainant: Coleco Industries Inc., Hartford, Conn. Respondents: Diamond Pools, South Amboy, N.J.; Branch Brook Co., Newark, N.J.; Harrow Stores, Melville, N.Y.; Pool City, Pittsburgh, Pa.; Irwin Toy, Ltd., Toronto, Ontario.	Above-ground swimming pools Do.
Feb. 26, 1976 ³	do	Complainant: American Beef Packers, Inc., Omaha, Nebr. Respondent: Les Aliments Papineau Foods, Inc., Montreal, Quebec, Canada.	Edible beef feet Do.

¹ By statute, is 1 year after date of publication in Federal Register, also these dates assume that Commission will not suspend investigations, tolling time limits, nor declare investigation more complicated.

² Settlement agreement entered into between parties; therefore no violation of statute as no unfair practice exists.

³ Investigation has not been instituted.

⁴ Complainant has been requested to show cause why an investigation of the alleged activities under sec. 337 should be instituted.

QUESTIONS SUBMITTED BY SENATOR TALMADGE

Senator TALMADGE. Why are the Commissioners able to agree on injury determinations but unable to reach a majority on relief? Are you aware that the statement of the conferees in the conference report explicitly states that the Commissioners, to the maximum extent feasible, avoid tie votes? You indicated in response to the question of Chairman Long that you are aware that your failure to agree on a remedy in two recent decisions (shoes and stainless steel flatware) denies the Congress its opportunity to override the President under the Trade Act? Now I know Chairman Long asked you the same question, but I want to repeat it anyway. Are you confident that the Commission will reach a majority decision on a remedy in the future, or is it really going to be necessary to amend the law?

Mr. LEONARD. Senator Talmadge, with respect to the first part of your question, the Commission is aware of language in both the Conference Report and this Committee's Report which urges the Commission to avoid tie or inconclusive votes and to try to arrive at definitive determinations, presumably for the guidance of the President and the Congress. As I said in response to Senator Long's question, the Commission is striving to do this.

I think we have been somewhat successful, at least with respect to our eligibility-for-relief determinations. I believe that the reason we can arrive at majority determinations on the issue of eligibility for relief is that there are three relatively circumscribed findings which must be made in order to find an industry eligible for relief:

- (1) There must be increased imports of an article;
- (2) There must be injury, or the threat thereof, to an industry producing an article like or directly competitive with the imported article; and
- (3) The increased imports must be a substantial cause of such requisite injury.

There is language in the statute telling us what these three criteria mean and telling us some factors to look at to see if the criteria are satisfied. There is also legislative history on the meaning of the criteria in this Committee's report, the Ways and Means Committee report, and the conference report.

However, with respect to the issue of the appropriate remedy, the only statutory guidance is that the Commission find the relief necessary to remedy or prevent the requisite injury. Obviously, the Commission is meant to use its discretion, and each Commissioner exercises his economic judgment. It is inevitable in such a circumstance that there be divergent views, in some cases irreconcilable views, as to the appropriate remedy.

Moving to the second part of your question, the Commission is aware that by not arriving at a Commission position it obviates the possibility of Congress overriding the President on the question of relief. The Commission is exerting efforts to reach majority decisions on the issue of the appropriate remedy, and we shall succeed, I am sure, in many instances. Again, however, amendment to the law may help the situation.

Senator TALMADGE: The Trade Act made numerous changes in the organization and structure of the Commission. Are those changes proving satisfactory?

Mr. LEONARD: Senator Talmadge, I would say on the whole that the changes in the organization and structure of the Commission have been beneficial in making the Commission even more independent and unbiased than in past years.

Further, while some of my fellow Commissioners may differ with me, I do not believe such changes have in any measurable way affected the efficiency of the Commission in performing its tasks. The Commission has never been the most efficiently run place around town; one could never really expect that, when there are six Commissioners of equal authority running the agency. By the way, this very cause of some inefficiency is the genius, if I may say so, and strength of the Commission, for it allows six independent views to be heard and gives Congress and the executive branch, as well as the American people, the unbiased perspective which is so necessary if just and rational decisions are to be made in the area of international trade. Efforts to increase efficiency must always be measured against any losses in independence and objectivity in order to decide if such efforts should be made.

QUESTIONS SUBMITTED BY SENATOR RIBICOFF

Senator RIBICOFF. We intended to increase the authority and status of the Commissioners by the provisions we wrote into law in 1974. Do you feel you have adequate independence now, and adequate control of the Commission staff, to accomplish the purposes this Committee and the Congress as a whole set out for you? If not, what legislative remedies would you propose?

Mr. LEONARD. While it may be too early to give a final assessment, it appears to date that the intentions of Congress have been realized with respect to the independence of the Commission. Of course, specific cases and decisions have been of particular interest to members of both the legislative and executive branches of the government, and the Commission has received inquiries and comments in this respect. But they have not compromised the independent judgement of the Commission. I believe the changes made by the Trade Act of 1974 were healthy ones from a point of view of making the Commission more independent.

With regard to adequate control of the Commission staff, you may be aware that individual Commissioners have, at times, voiced their opinions on that subject. There has been some frustration, both on the part of the Commissioners and the staff, regarding the internal workings of the Commission. Some of this is due to the growing pains which we are experiencing under the expanded responsibilities of the Trade Act of 1974. Additionally, direction of an agency by a six-member Commission, each of whom has equal responsibility for that direction, may not be the most expeditious way to get things done.

Another problem is one faced by most Federal agencies—the rigidities of the Civil Service system which can sometimes prevent the optimum use of staffing resources. Any legislative remedies I would propose would perhaps be directed to the Civil Service system to make it more responsive to managers and agency heads so as to accomplish agency goals and missions. Neither do I see the need for any legislative action at this time. The Commission itself has taken recent action with respect to reorganization of the staff and it is expected that some problem areas will be addressed during the course of the reorganization process.

Senator RIBICOFF. With your many new responsibilities do you have adequate staff? I gather you have about 50 vacancies now—can you explain this? Are the funds provided in the budget adequate?

Mr. LEONARD. We believe we shall have adequate staff when we reach our planned ceiling. We have operated below this level recently for a number of reasons, of which the most important has been the need to hold off on filling some positions until we could develop a new organizational structure for the Commission. We have made major progress on our reorganization plans and expect this and other obstacles to recruitment of necessary employees to be overcome soon. The Commission is confident that the funds provided in the budget will be adequate to support the currently envisioned Commission workload. I believe with better direction and motivation we can produce more and better work with the personnel requested than ever before.

Senator RIBICOFF. What plans do you have for reorganizing the Commission?

Mr. LEONARD. On February 23 a letter was sent to the staff of the United States International Trade Commission regarding the steps which the Commission had taken with respect to reorganization. I will submit the letter for the record following my response.¹ In essence, the Commission has approved an organizational concept through the division level which identifies functional areas which report directly to, or are once removed from, the Commission itself. One remaining area which has yet to be approved is that of the liaison/external relations function—whether it will be a separate activity or split up and assigned to various other areas. Additionally, the Commission has approved, with four exceptions, mission and function (M. & F.) statements for each of the above functional areas. Of the four exceptions, M & F statements for the Special Advisor for Trade Agreements and the Senior Advisor to the Commission are written but awaiting

¹ The letter referred to was made a part of the official file of the committee.

final determination of the liaison/external affairs function mentioned above. Two others—Management Systems and Consumer Affairs—are being revised in accordance with Commission desires. I will also submit for the record the M & F statements approved to date.

It now is the intention of the Commission, as indicated in the letter to the staff, to assign the approved mission and function statement to the appropriate senior staff personnel in each of the respective functional areas in an attempt to obtain their expertise in filling out the organizational concept below the divisional level. For example, the Personnel Officer will receive the new mission and function statement for Personnel and he will recommend the organization, staffing, and position descriptions which he feels will be necessary to carry out that mission. To coordinate these activities, and to assure compliance with present budget constraints, a coordinating committee has been established. It will report to the Commission and to the staff with respect to progress being made and will also recommend to the Commission a timetable for the various stages of the reorganization process.

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