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THE EXPANDING ROLE OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION

By DANIEL MINCHEW*

The Trade Act of 1974¹ has changed markedly the powers and responsibilities of the United States International Trade Commission (Commission). The authority of the Commission, formerly known as the United States Tariff Commission (Tariff Commission), now extends well beyond the tariff area. This article will examine the growth of the Commission's authority and structure and, perhaps, provide some insight into its possible future development.

I. EARLY HISTORY OF THE TARIFF COMMISSION

The Tariff Commission was established by an act of Congress in 1916 as one of several revenue measures. Section 700 of that act provided:

That a commission is hereby created and established, to be known as the United States Tariff Commission (hereinafter in this title referred to as the commission), which shall be composed of six members, who shall be appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall be members of the same political party.²

The purpose of dividing the Tariff Commission among political parties was to remove political considerations from its decisions and procedures. Congress hoped that the Tariff Commission would provide it with advice, as is evidenced by section 703 of the same revenue measure, which provides:

That the commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress, and shall report to Congress on the first Monday of December of each year hereafter a statement of the methods adopted and all expenses incurred, and a summary of all reports made during the year.³

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1. 19 U.S.C.A. §2101 *et. seq.* (Supp. Feb., 1975). (All section references will be to the Trade Act of 1974 unless specified otherwise.)

2. Act of Sept. 8, 1916, ch. 463, §700, 39 Stat. 795.

3. Act of Sept. 8, 1916, ch. 463, §703, 39 Stat. 796.

In addition to the responsibility of reporting to the President and Congress, other Tariff Commission duties were set out in section 702 as follows:

That it shall be the duty of said commission to investigate the administration and fiscal and industrial effects of the customs laws of this country now in force or which may be hereafter enacted, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.⁴

Considerable achievement in the research of international commercial policies marked the early years of the Tariff Commission. The accomplishments in these years included studies on *Reciprocity and Commercial Treaties* (1919), *Handbook of Commercial Treaties* (1922), and *Colonial Tariff Policies* (1933).⁵ These scholarly publications greatly enhanced the reputation of the Tariff Commission and firmly established it as a primary source of information on international trade policy to both the Executive and Legislative Branches of government.⁶ The Tariff Commission's role as the primary research arm on international trade matters for both the Executive and Legislative Branches grew from the reputation established in its early history.

The Antidumping Act of 1921⁷ provided the basis for a significant amount of the Tariff Commission's work. Called at one time a "model of draftsmanship,"⁸ the act provided that two elements must be present to justify action against an imported product—price discrimination directed against the U.S. market and injury to domestic industry.⁹

The Tariff Act of 1922¹⁰ required the Tariff Commission to investigate and determine the differences in costs of production of similar articles in the United States and foreign countries¹¹ and established guidelines for the treatment of unfair methods of import competition¹² and discrimination against U.S. trade.¹³

4. Act of Sept. 8, 1916, ch. 463, §702, 39 Stat. 796.

5. See O. RYDER, U.S.T.C. HISTORY 38-42 (1960) [hereinafter cited as RYDER].

6. *Id.* at 39.

7. Act of May 27, 1921, ch. 14, 42 Stat. 11.

8. J. VINER, DUMPING, A PROBLEM IN INTERNATIONAL TRADE 262 (1923).

9. This will be discussed more fully in Part II, Section C.

10. Act of Sept. 20, 1922, ch. 356, 42 Stat. 858.

11. Act of Sept. 20, 1922, ch. 356, §315, 42 Stat. 941.

12. Act of Sept. 20, 1922, ch. 356, §316, 42 Stat. 943-44.

13. Act of Sept. 20, 1922, ch. 356, §317, 42 Stat. 944-46.

The period of time between the Tariff Act of 1922 and the Tariff Act of 1930 is characterized by an insistence on the equalization of production costs. During this time, the Tariff Commission tended toward protective measures with an emphasis on increased tariff duties.¹⁴

The Tariff Act of 1930¹⁵ repealed section 700 of the Revenue Act of 1916 and reenacted it with modifications. In theory, this abolished the Tariff Commission and reconstituted it, with section 330(b) reducing the Commissioners' terms of service from twelve to six years. Among other things, section 336 of the new act altered section 315 of the Tariff Act of 1922 to allow interested private parties, in addition to Congress and the President, to request investigations by the Tariff Commission¹⁶ and also made it a statutory requirement to consider costs of transportation as a factor of production costs.¹⁷

For the next few decades the Tariff Commission remained much as it had been established by the Tariff Act of 1930, in spite of the numerous tariff bills and trade acts passed during that period.¹⁸ Then, the Trade Expansion Act of 1962 (TEA)¹⁹ was passed, and with it came the apparent revitalization of the Tariff Commission.

The TEA of 1962 provided a general outline for the workings of the Tariff Commission, which was refined by the Trade Act of 1974. It imposed additional responsibilities on the Tariff Commission's advice to the President on adjustment assistance, for the Tariff Commission was now required to determine whether the domestic industry had made reasonable efforts to adjust to import competition.²⁰

As the Tariff Commission's authority and responsibility gradually increased over its first 50 years, the prestige that it had acquired in its infancy was largely lost. However, the Trade Act of 1974, building on the foundation established by the TEA of 1962, has brought about a more significant series of changes in the structure of the Commission and the scope of its authority than ever before and has offered it the opportunity of regaining some of its early clout.

II. THE TRADE ACT OF 1974

Provisions contained in the Trade Act of 1974 reflected a feeling in the Congress that the United States had fared badly in the 1960's and early

14. RYDER, *supra* note 5 at 119; F. TAUSSIG, *THE TARIFF HISTORY OF THE UNITED STATES* 487 (8th ed. 1931).

15. Act of June 17, 1930, ch. 497, 46 Stat. 590.

16. 19 U.S.C.A. §1336(a)(4) (Rev. 1965).

17. 19 U.S.C.A. §1336(e)(2)(B) (Rev. 1965).

18. In general, it may be said that the Trade and Tariff Acts during this period did little more than affect duty rates or terms of entry and had little impact on the Tariff Commission.

19. Act of Oct. 11, 1962, Pub. L. No. 87-794, 76 Stat. 872, *codified in* 19 U.S.C.A. §1801 *et seq.* (Rev. 1965).

20. Act of Oct. 11, 1962, Pub. L. No. 87-794, §301(b)(2), 76 Stat. 884.

1970's in international trade. The Congress apparently felt that many of the U.S. difficulties in trade and payments deficits were a result of fundamental inequities in the world trading system and a lack of reciprocity in international economic relations.²¹

The changes effected under the Trade Act of 1974 could potentially be the most significant actions ever taken by the Congress in the international trade area. As the world's international economic order is being altered by the actions of the Organization of Petroleum Exporting Countries and other raw materials sources, the authorities given to the President in the Trade Act of 1974 could be extremely useful tools in adjusting to the changes involved. A discussion of the more important roles the United States International Trade Commission²² plays in this process, as a result of the Trade Act of 1974, may provide a better understanding of the Commission's workings.

A. *Advice Of Probable Economic Effects Of Proposed Trade Agreements*

Title I, ch. 3, section 131 of the Trade Act of 1974²³ requires the President to furnish the Commission with lists of articles which may be considered for modification in future trade agreements. Section 131(b) provides that:

Within 6 months after receipt of such a list or, in the case of a list submitted in connection with a trade agreement authorized under section 123, within 90 days after receipt of such list, the Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States manufacturing, agriculture, mining, fishing, labor, and consumers.²⁴

In addition, the Commission may consider whether any reduction in the rate of duty should take place over a longer period than is set out in section 109,²⁵ and the Commission must make such investigations and reports as may be requested by the President for his assistance in determining whether to enter into agreements under section 102.²⁶

The Commission is required under section 163(b) to submit to Congress

21. See REPORT OF THE COMMITTEE ON FINANCE, U.S. SENATE, TRADE REFORM ACT OF 1974, S. REP. No. 93-1298, 93d Cong., 2d Sess. at p. 15 [hereinafter SENATE FINANCE COMMITTEE REPORT].

22. Section 171, Trade Act of 1974, 19 U.S.C.A. §223(a) (Supp. Feb., 1975), changed the name of the United States Tariff Commission to the United States International Trade Commission.

23. 19 U.S.C.A. §2151 (Supp. Feb., 1975).

24. 19 U.S.C.A. §2151(b) (Supp. Feb., 1975).

25. Section 131(b), Trade Act of 1974, 19 U.S.C.A. §2151(b) (Supp. Feb., 1975).

26. Section 131(c), Trade Act of 1974, 19 U.S.C.A. §2151(c) (Supp. Feb., 1975).

a factual report on the operation of the trade agreements program at least once a year.²⁷

B. Import Relief

The Trade Act of 1974 made major changes in the criteria for import relief established in the Trade Expansion Act of 1962. Section 20(b)(1) of the Trade Act of 1974 provides, in part, that

the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.²⁸

Under the TEA of 1962, one criterion for import relief was that the increased imports be "in major part" the result of trade agreement concessions.²⁹ This meant that a causal link had to be proven between increased imports and trade concessions before an injured industry could qualify for relief. In addition, the TEA of 1962 required the increased imports to be "the major factor" of injury to domestic industry.³⁰

As indicated by the statutory passage, quoted above, under the Trade Act of 1974 the causal link requirement no longer exists, and it is only necessary to show that increased imports are "a substantial cause" of serious injury to domestic industry.

Before making an affirmative determination under section 201(b)(1), the Commission must find that three important statutory requirements are met. These requirements are as follows:

- (1) that an article is being imported into the United States in increased quantities (such increased imports may be actual or relative to domestic production);³¹
- (2) that a domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury;³² and
- (3) that such increased imports of an article are a substantial cause of the serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.³³

27. 19 U.S.C.A. §2251(b)(1) (Supp. Feb., 1975).

28. 19 U.S.C.A. §2251(b)(1) (Supp. Feb., 1975).

29. Act of Oct. 11, 1962, Pub. L. No. 87-794, §301(b)(1), 76 Stat. 884.

30. Act of Oct. 11, 1962, Pub. L. No. 87-794, §301(b)(3), 76 Stat. 884.

31. 19 U.S.C.A. §2251(b)(2)(c) (Supp. Feb., 1975).

32. 19 U.S.C.A. §2251(b)(1) (Supp. Feb., 1975).

33. *Id.*

As of mid-November, 1975, the Commission has failed to find in the affirmative in the two investigations brought before it.³⁴ In the *Birch Door Skins* determination³⁵ the majority held negatively, finding that either the first criterion above, *i.e.*, increased imports,³⁶ or the third criterion, *i.e.*, substantial cause,³⁷ was not met. In the second decision, *Cigar Wrapper Tobacco*,³⁸ the Commission determined unanimously that the third criterion, substantial cause, was not met.

However, despite negative findings in the early cases, it is clear that the Congress intended the criteria to be relaxed. No doubt there will be numerous opportunities for the Commission to test the new requirements, especially with the number of import relief cases now under investigation by the Commission and with the active interest on the part of domestic industry in the "escape clause" provision.

Despite all of the interest in the "escape clause" provision, however, it should be noted that Congress intended this section to apply only if other statutory relief is not available,³⁹ and that relief granted under this section of the statute is temporary in nature.⁴⁰

Upon finding that import relief should be granted, the Commission advises the President on what relief it feels would be appropriate. Section 203(a) lists the import relief available to the President. It provides that he may

- (1) proclaim an increase in, or importation of, any duty on the article causing or threatening to cause serious injury to such industry;
- (2) proclaim a tariff-rate quota on such article;
- (3) proclaim a modification of, or imposition of, any quantitative restriction on the import into the United States of such article;
- (4) negotiate orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such articles;

or

34. As of mid-November, 1975, there were nine investigations pending before the Commission.

35. U.S. INTERNATIONAL TRADE COMMISSION, *Birch Plywood Door Skins: REPORT TO THE PRESIDENT ON INVESTIGATION No. TA-201-1*, PUBLICATION 743 (October 1975).

36. *Id.* Views of Commissioner Leonard.

37. *Id.* Views of Commissioners Moore, Bedell, Parker, and Ablondi.

38. U.S. INTERNATIONAL TRADE COMMISSION, *Cigar Wrapper Tobacco: REPORT TO THE PRESIDENT ON INVESTIGATION No. TA-201-3*, PUBLICATION 744 (November 1975).

39. SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at pp. 122-23.

40. Section 203(h)(1), 19 U.S.C.A. §2253(h)(1) (Supp. Feb., 1975) and section 203(h)(3), 19 U.S.C.A. §2253(h)(3) (Supp. Feb., 1975), Trade Act of 1974 provides that the relief shall terminate after 5 years with a possible extension of 3 years (maximum—may be terminated sooner by the President under section 203(h)(4), 19 U.S.C.A. §2253(h)(4) (Supp. Feb. 1975), if in the national interest, and after taking into account the advice received from the Commission and after seeking advice of the Secretary of Commerce and the Secretary of Labor).

- (5) take any combination of such actions.⁴¹

The President is not compelled by law to follow the advice of the Commission. However, if he chooses another course of action, the Congress may override him and adopt the Commission's proposed relief measures by majority vote in each House.⁴²

C. Antidumping

The Antidumping Act of 1921, as amended by the Trade Act of 1974, requires that the Commission satisfy two conditions before an affirmative determination can be made.

- (1) There must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established;
and
- (2) Such injury or likelihood of injury must be "by reason of" the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.⁴³

Each of the criteria must be met for an affirmative antidumping determination by the Commission.

The Trade Act of 1974 also provides for the Commission to make a preliminary determination as to injury if the Secretary of the Treasury has "substantial doubt" as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.⁴⁴

In such preliminary investigations the Commission has just 30 days to conduct the inquiry and determine whether there is a reasonable indication that an industry in the United States is being, or is likely to be injured or prevented from establishment.⁴⁵ In its first two determinations under this section, the Commission has held in both instances in the negative—that there is "no reasonable indication of injury."⁴⁶ In *New, On-the-Highway, Four-Wheeled, Passenger Automobiles from Belgium, Canada, France, Italy, Japan, Sweden, The United Kingdom, and West Germany*,⁴⁷

41. 19 U.S.C.A. §2253(a) (Supp. Feb., 1975).

42. Section 203(c)(1), Trade Act of 1974, 19 U.S.C.A. §2253(c)(1) (Supp., Feb., 1975).

43. Section 321, Trade Act of 1974, 19 U.S.C.A. §160 (Supp. Feb., 1975). See SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at pp. 169-81 for a discussion of the criteria.

44. Section 321(c)(2), Trade Act of 1974, 19 U.S.C.A. §160(c)(1) (Supp. Feb., 1975).

45. *Id.*

46. The statute is written in the negative so that a determination of the Commission in the negative has the effect of continuing the investigation.

47. Commissioners Leonard, Moore, Bedell, and Parker determined in the negative; Com-

four Commissioners held in the negative, one in the negative in part, and one in the affirmative. While in *Butadiene Acrylonitrile Rubber from Japan*,⁴⁸ four Commissioners held in the negative, with two Commissioners dissenting. The majority view in these two cases would seem to indicate that the Commission will have difficulty reaching any affirmative determination under this section so long as these determinations are used as precedent,⁴⁹ and despite the intention of the Congress to "eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade."⁵⁰

The Congress was clear in its intention that the Antidumping Act, 1921, as amended, should not be considered as protectionist but should instead free U.S. imports from unfair price discrimination practices. The Antidumping Act is not directed toward forcing foreign suppliers to sell in the U.S. market at the same prices at which they sell in their home markets. Instead, the Act is primarily concerned with situations in which the margin of dumping contributes to underselling the U.S. product in the domestic market, resulting in injury or likelihood of injury to a domestic industry.⁵¹

D. Unfair Import Practices

Section 341 of the Trade Act of 1974 amends section 337 of the Tariff Act of 1930 to read as follows:

(a) UNFAIR METHODS OF COMPETITION DECLARED UNLAWFUL
—Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.⁵²

missioner Ablondi determined negative in part and affirmative in part; the author determined in the affirmative to terminate the investigation. See U.S. INTERNATIONAL TRADE COMMISSION, *New, On-the-Highway, Four-Wheeled, Passenger Automobiles from Belgium, Canada, France, Italy, Japan, Sweden, The United Kingdom, and West Germany: INQUIRY No. AA1921-Inq.-2*, Publication 739 (September 1975).

48. U.S. INTERNATIONAL TRADE COMMISSION, *Butadiene Acrylonitrile Rubber from Japan: INQUIRY No. AA1921-Inq.-1*, PUBLICATION 727 (April 1975).

49. The import penetration in *Butadiene Acrylonitrile Rubber from Japan* was just over one percent of domestic production.

50. SENATE FINANCE COMMITTEE REPORT, *supra* note 21, at p. 171.

51. SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at p. 179.

52. 19 U.S.C.A. §1337(f) (Supp. Feb., 1975).

Prior to enactment of the Trade Act of 1974, the Tariff Commission was concerned primarily with violation of U.S. patent rights in unfair trade practice actions. Now, the Commission has the authority to go well beyond patents. This provision has greatly increased the authority of the Commission. It would appear, to this Commissioner at least, that the unfair trade practice section now enables the Commission to extend its investigations into false pricing, false advertising, mislabeling, and false representation of source, in all instances where an international product is involved.

Section 337(f), as amended, also increases the authority of the Commission by allowing the Commission to issue cease and desist orders, in lieu of excluding articles, against persons violating, or believed to be violating section 337(a).⁵³ However, articles covered by the cease and desist order may still be allowed to enter the country under bond.⁵⁴

By allowing the articles to enter under bond, it was hoped that the President could have an opportunity to intervene before the determination and relief became final, when he determines that policy requires it.⁵⁵ This right to intervene, however, goes only to the point of relief, not to the finding of the Commission, that finding being subject only to judicial review.

Any determination that there has been a violation of section 337(a) which has given rise to exclusion of the article (except in subsections (f) and (g)) continues in effect until the Commission notifies the Secretary of the Treasury that the conditions which led to the exclusion no longer exist.⁵⁶

E. Market Disruption

The Commission is directed by section 406(a)(1) of the Trade Act of 1974 to

promptly make an investigation to determine, with respect to imports of an article which is the product of a Communist country, whether market disruption exists with respect to an article produced by a domestic industry.⁵⁷

Market disruption is defined in section 406(e)(2) to exist within a domestic industry

53. The Commission may still choose to use the exclusion authority in section 337(d), Tariff Act of 1930, as amended, 19 U.S.C.A. §1337(d) (Supp. Feb., 1975), which is brought through the Secretary of the Treasury.

54. Section 337(e), Tariff Act of 1930, as amended, 19 U.S.C.A. §1337(e) (Supp. Feb., 1975).

55. Section 337(g), Tariff Act of 1930, as amended, 19 U.S.C.A. §1337(g) (Supp. Feb., 1975); SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at p. 199.

56. Section 337(h), Tariff Act of 1930, as amended, 19 U.S.C.A. §1337(h) (Supp. Feb., 1975).

57. 19 U.S.C.A. §2436(a)(1) (Supp. Feb., 1975).

whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.⁵⁸

A Communist country is defined in section 406(e)(1) as "any country dominated or controlled by Communism."⁵⁹

If the Commission finds affirmatively, *i.e.*, that there is market disruption caused by a nonmarket country, the Commission must report its findings to the President, showing that the required criteria for an affirmative finding have been met. In addition, the Commission must determine under section 406(a)(3):

[T]he amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such market disruption. . . .⁶⁰

It is important to remember that, while section 406 seems to closely parallel section 201, the "material injury" criterion was intended to represent a lesser degree of injury than "serious injury" in section 201 investigations. Also, the requirement that the market disruption be a "significant cause" of injury is an easier standard to satisfy than the "substantial cause" requirement of the import relief section.⁶¹

F. Authority Of The Commission To Represent Itself In Legal Matters

Prior to the Trade Act of 1974, the Commission had no authority to represent itself in judicial proceedings. Any representation required by the Commission had to be directed through the Attorney General of the United States.⁶² Section 174 of the Trade Act of 1974 (amending section 333 of the Tariff Act of 1930) provides in subsection (g):

REPRESENTATION IN COURT PROCEEDINGS—The Commission shall be represented in all judicial proceedings by attorneys who are employees of the commission or, at the request of the commission, by the Attorney General of the United States.⁶³

Section 174 also amended section 333 of the Tariff Act of 1930 to enable the Commission on its own authority to request a court to "issue writs of mandamus commanding compliance with the provisions of this part or any order of the Commission made in pursuance thereof."⁶⁴

58. 19 U.S.C.A. §2436(e)(2) (Supp. Feb., 1975).

59. 19 U.S.C.A. §2436(e)(1) (Supp. Feb., 1975).

60. 19 U.S.C.A. §2436(a)(3) (Supp. Feb., 1975).

61. SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at p. 212.

62. Act of June 17, 1930, ch. 497, §333(c), 46 Stat. 704.

63. 19 U.S.C.A. §1333(c) (Supp. Feb., 1975).

64. 19 U.S.C.A. §1333(g) (Supp. Feb., 1975).

It was thought by the Senate Committee on Finance that the Commission should have the authority to represent itself so that it might carry out its "mandate" of providing advice to the Executive and Legislative Branches. The Committee noted that

[i]n certain cases, enforcement of subpoenas of the Commission and representation of the Commission in other matters by the Department of Justice has been characterized by a difference of opinion between the Department and the Commission as to what should be the appropriate policy and action to be taken. If the Commission is not able to enforce its subpoena power and defend its actions on the terms which it deems to be necessary, its ability to perform its statutory functions will be greatly impaired.⁶⁵

G. Organizational Independence Of The Commission

In addition to the new right of the Commission to represent itself in court proceedings, the Congress enacted several other provisions in the Trade Act of 1974 to foster the independence of the Commission and "to prevent the Commission from being transformed into a partisan body or an agency dominated by the Executive Branch."⁶⁶

Section 172(b)(2) takes the right of appointment of the chairman and vice chairman from the President and provides:

Effective on and after June 17, 1975, the commissioner whose term is first to expire and who has at least 18 months remaining in his term shall serve as chairman during the last 18 months of his term . . . and the commissioner whose term is second to expire and who has at least 36 months remaining in his term shall serve as vice chairman during the same 18-month period. . . .⁶⁷

Perhaps the most important organizational change of the Commission is the independent budget and authorization of appropriations found in section 175.⁶⁸ This provision enables the Commission to go directly to the Congress and not to the Office of the Bureau of the Budget (now Office of Management and Budget).⁶⁹

III. CONCLUSION

Congress has stepped into the international trade arena with this latest trade act in an effort to better what it felt was a recent history of international economics "unfavorable to this country, largely because of the anti-

65. SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at p. 117.

66. *Id.* at 115.

67. 19 U.S.C.A. §1330(c)(1) (Supp. Feb., 1975).

68. 19 U.S.C.A. §2232 (Supp. Feb., 1975).

69. SENATE FINANCE COMMITTEE REPORT, *supra* note 21 at p. 118.

quoted rules of the international trade and monetary systems and the related lack of genuine cooperation and reciprocity in international economic relations.⁷⁰

Partly as a check on the new negotiating powers of the Executive and partly to expedite further the arbitration and settlement of international trade disputes, Congress has chosen to invest the newly named United States International Trade Commission with a large measure of new powers and responsibilities. These new powers have not yet been fully applied by the Commission. It is still searching for the proper direction to take. But it is clear that the extended authority in unfair trade practice investigations, relaxation of the criteria for temporary import relief, increased responsibility to provide advice, and its newly acquired independence give the Commission a decisive role in shaping international trade policy.

It is hoped that this extended authority will return the Commission to the preeminent position it once held in its early years as the research arm of the Government in international trade. This will happen only if the Commission complements its enhanced power with a greater efficiency of operation and a new pride of purpose.

Whether it will manage to do this, what use it will make of its great potential, and what initiatives it will take from its position of independence remain to be seen. But it is certain, at least, that for the foreseeable future, Congress has made this Commission's sleepy days a memory.

70. *Id.* at 15.