

UNITED STATES
INTERNATIONAL TRADE COMMISSION
1989 ANNUAL REPORT

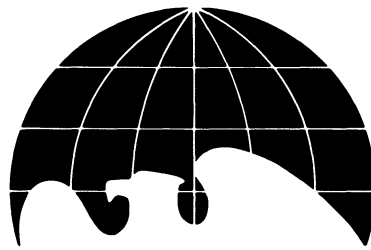


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USITC Publication 2264

U N I T E D S T A T E S
INTERNATIONAL TRADE
COMMISSION

A N N U A L R E P O R T



UNITED STATES
INTERNATIONAL
TRADE COMMISSION

Commissioners:

Anne E. Brunsdale, Chairman
Ronald A. Cass, Vice Chairman
Alfred E. Eckes, Jr.
Seeley G. Lodwick
David B. Rohr
Don E. Newquist



CONTENTS

Message From the Chairman	3
The Commissioners	4
The Commission	6
Summary of Investigations Completed	6
Introduction	7
Part I. Highlights	9
Investigations Under Section 337 of the Tariff Act of 1930	9
Investigations Under Title VII of the Tariff Act of 1930	9
Investigations Under the Trade Act of 1974	10
Investigations Under the Agricultural Adjustment Act of 1933	10
Investigations Under Section 332 of the Tariff Act of 1930	10
Studies Relating to Probable Effects Advice for the Uruguay Round of Multilateral Trade Negotiations	10
Studies Analyzing Various Aspects of U.S. Free Trade Agreements . .	11
Studies Analyzing the Competitiveness of U.S. Industry	12
Studies on Special Areas of Congressional Interest	12
Part II. Organizational Activities	15
Office of Operations	15
Office of Investigations	15
Office of Industries	16
Office of Economics	17
Office of Tariff Affairs and Trade Agreements	19
Office of Unfair Import Investigations	20
Trade Remedy Assistance Office	21
Office of Data Systems	21
Office of Administration	22
Office of the Administrative Law Judges	23
Office of Congressional Liaison	23
Office of Inspector General	24
Office of the Secretary	24
Office of Executive and International Liaison	25
Office of the General Counsel	26
Office of Public Affairs	26
Part III. Management and Finance	27
Figures	
1. Summary of Principal Activities, Fiscal Years 1986-89	29
2. Commission Organization and Functions of Offices	30
3. Statutory Timetables for Antidumping and Countervailing Duty Investigations	32
Appendixes	
A. Summary of Investigations Completed During Fiscal Year 1989 and Pending on September 30, 1989	33
B. Statutes Involving the U.S. International Trade Commission	50
C. Reports Submitted to Congress on Proposed Legislation, Fiscal Year 1989	54
D. Litigation in Fiscal Year 1989	60

MESSAGE FROM THE CHAIRMAN



This past year was characterized by greater concern in the public and private sectors about the problems and challenges of international trade and by a corresponding increase in the demands placed on the resources of the U.S. International Trade Commission. As the Government's "think tank" on international trade, we played a major part in the international trade community by providing counsel, technical assistance, and analysis to Congress and the executive branch on a wide variety of issues. In addition, our statutory investigations took on added dimensions as trade patterns continued to become more complex. In our research and adjudicative capacities, we were mindful of our responsibility to maintain the expertise necessary to keep pace with the dynamic world economy.

This past year brought significant changes in domestic and foreign markets—in particular, the European Community's progress in integrating its internal market—along with growing interest in the economic effects on U.S. industry of the globalization of capital and product markets. The Commission was asked to conduct more studies that focus on the economic effect

of foreign market activities and fewer that address product-specific issues. For example, in 1989 we completed studies on foreign investment barriers, the economic effects of import restraints, and the acceleration of tariff reductions agreed to in the United States-Canada Free-Trade Agreement. Also, two of our most significant studies for the year addressed the European Community—specifically, the study of proposed changes in the EC government procurement regulations, and the study of the impact on U.S. commerce of the integration of EC markets.

The Commission also conducted field hearings in 11 cities as part of a massive report assessing the effect the Uruguay Round of Multilateral Trade Negotiations might have on the U.S. business community. Despite the emphasis on foreign market conditions and trends, we nevertheless addressed a number of product-specific topics during the year, including the Western steel market and the effects of steel voluntary restraint agreements on U.S. steel-consuming industries.

Although our title VII caseload remained relatively low in 1989, the cases tended not only to be more complex but to involve industries having large volumes of imported products. The Commission's investigation of all-terrain vehicles affected nearly \$700 million worth of imported products, and the investigation of antifriction ball-bearings affected nearly \$400 million worth of imports. As for section 337 activity, filings increased dramatically as interest in, and concern for, intellectual property rights escalated.

The Commission also made procedural changes in certain adjudicative investigations in response to the Omnibus Trade Act of 1988. Under new interim rules implementing changes to section 337 (19 U.S.C. 1357), we issued our first temporary exclusion order that denied, pending adjudication, entry to goods deemed to be infringing a U.S. patent. Another notable

change was the Commission's implementation of title VII rules releasing business information under administrative protective orders.

During the year, the Commission established two new offices as mandated by new legislation. In response to the 1988 Trade Act, we set up a Trade Remedy Assistance Office whose responsibilities are greater than those of the previously established center. Second, in response to the Inspectors General Act Amendments of 1988, we established an independent Office of Inspector General. Among other things, the Inspector General has expanded the Commission's audit program to ensure Commission activities are in compliance with Federal regulations and practices.

By September 1989, the Harmonized Tariff System had been adopted by 53 countries, including the United States. The use of this tariff classification system facilitates the preparation of international trade documentation, the comparison of foreign trade statistics, and the negotiation of international trade agreements. The contributions of Commission staff were central to the development and implementation of the Harmonized Tariff System.

As 1989 ends and the new decade begins, we welcome the opportunity to meet new challenges and we look forward to playing a major part in the international trade community. We expect to perform our responsibilities with a continued sense of dedication and commitment to the highest professional standards. For the Commission, problems and challenges have always been opportunities to broaden our expertise, sharpen our skills, and increase our efficiency. We look forward to more of the same in 1990.

Anne Burundelle

THE COMMISSIONERS



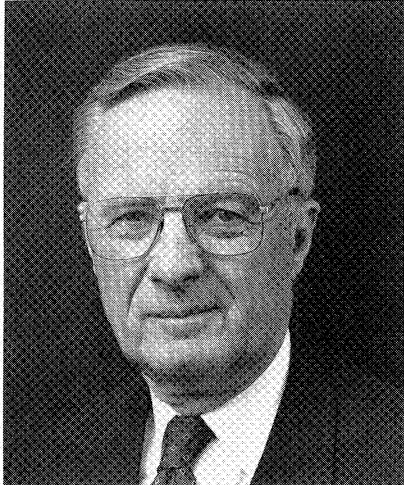
Anne E. Brunsdale, a Republican of the District of Columbia, was appointed by President Bush on March 28, 1989, as Chairman for a term expiring June 16, 1990. She had served as Acting Chairman since June 27, 1988, and previous to that, as Vice Chairman since June 16, 1986. A native of Minnesota, she became a member of the Commission on January 3, 1986, for a term expiring June 16, 1993. She came to the Commission from the American Enterprise Institute for Public Policy Research, Washington, DC, where she had served most recently as resident fellow and managing editor of *Regulation*, a bimonthly magazine.



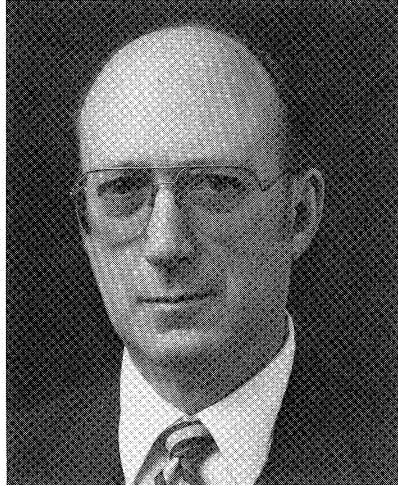
Ronald A. Cass, a Democrat of Massachusetts, was appointed by President Bush on March 28, 1989, as Vice Chairman for a term expiring June 16, 1990. He had been sworn in as a member of the Commission on January 20, 1988, on a recess appointment by President Reagan. On August 11, he was confirmed by the Senate for a term expiring June 16, 1996. Mr. Cass came to the Commission from the Boston University School of Law, where he had been an associate professor from 1981 to 1983 and professor since 1983. A native of Washington, DC, he practiced law in Washington from 1974 to 1976 and was assistant professor of law at the University of Virginia from 1976 to 1981.



Alfred E. Eckes, a Republican of Virginia, joined the Commission on September 21, 1981, for a term expiring June 16, 1990. He was designated by President Reagan as Chairman for a two-year period beginning in June 1982. A native of New Hampshire, Mr. Eckes came to the Commission from the Republican Conference of the U.S. House of Representatives, where he was executive director. Before that, he was editorial page editor of the Columbus, OH, *Columbus Dispatch* (1977-79) and an associate professor of history at the Ohio State University in Columbus (1969-79).



Seeley G. Lodwick, a Republican of Iowa, was sworn in as a member of the Commission on August 12, 1983, for a term expiring December 16, 1991. A native of Iowa, Mr. Lodwick came to the Commission from the U.S. Department of Agriculture, where he served as Undersecretary of Agriculture for International Affairs and Commodity Programs from 1981 to 1983. He is a former Iowa State senator (1962-69) and was elected president pro tempore from 1968 to 1969. Mr. Lodwick maintains active farming interests in his home State.



David B. Rohr, a Democrat of Maryland, became a member of the Commission on March 27, 1984, and was subsequently reappointed to a term ending December 16, 1994. Before his appointment to the Commission, Mr. Rohr was a staff director of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives. He was a trade advisor and was principal liaison to the Commission, the Office of the United States Trade Representative, and other Federal agencies. Mr. Rohr also served as director of the Trade Negotiations and Agreements Division of the U.S. Department of Commerce. He joined Commerce in 1961 as an international economist.



Don E. Newquist, a Democrat of Texas, was appointed to an unexpired term on October 18, 1988, and reappointed to a nine-year term ending December 16, 1997. Prior to his appointment, Mr. Newquist was with Valero Energy Corporation as Senior Vice President for Corporate Relations. He also served as general manager of the Chamber of Commerce of Denver, CO, and before that was with the Chamber of Commerce of Corpus Christi, TX. He is past president of the South Texas Chamber of Commerce.

The six Commissioners are appointed by the President and are confirmed by the Senate for terms of nine years unless appointed to fill an unexpired term. A Commissioner who has served for more than five years is not eligible for reappointment. Not more than three Commissioners may be members of the same political party. The Chairman is designated by the President and serves for a two-year statutory term. The Chairman may not be of the same political party as the preceding Chairman, nor may the Chairman and the Vice Chairman be of the same political party.



THE COMMISSION

The International Trade Commission is an independent, quasi-judicial, and bipartisan agency established by Congress with broad investigative powers on matters of trade.

In its adjudicative role, the ITC makes determinations as to whether imports injure or threaten injury to a U.S. industry.

In its factfinding role, the ITC is a national resource for trade data collection and analysis. It provides much of the information it compiles to the President and Congress to assist in the development of a national trade policy. Most of this information is also available to the public.

Commission activities include—

- Making recommendations to the President regarding relief for industries seriously injured by increasing imports;

- Determining whether U.S. industries are materially injured by imports that benefit from pricing below fair value or from subsidization;

- Directing actions, subject to Presidential disapproval, against unfair trade practices such as patent infringement;

- Advising the President whether agricultural imports interfere with price-support programs of the U.S. Department of Agriculture;

- Conducting studies on trade and tariff issues and monitoring import levels; and

- Participating in the development of uniform statistical data on imports, exports, and domestic production and the establishment of an international harmonized commodity code.

SUMMARY OF INVESTIGATIONS COMPLETED

Tariff Act of 1930:

Section 332 investigations 23

Section 337 investigations of alleged unfair practices in the importation and sale of imported products 11

Antidumping and countervailing duty investigations, (52 antidumping investigations, 17 preliminary and 35 final; 12 countervailing duty, 4 preliminary and 8 final.) 64

Trade Act of 1974:

Sections 131 and 503 advice on possible trade agreements 5

Section 203 "escape clause" 1

Agricultural Adjustment Act

Section 22, import interference with agricultural programs 1

Total 105

Investigations completed during fiscal year 1989 and investigations pending on September 30, 1989, are shown in appendix A, which is titled "Summary of Investigations Completed during Fiscal Year 1989 and Pending on September 30, 1989."



I N T R O D U C T I O N

Research was the focal point of the work of the United States International Trade Commission in fiscal year 1989. The Commission experienced increased emphasis on its role in providing research and analysis for the executive branch and the Congress. Major research projects were requested to explore important new issues relating to U.S. trade policy and performance. The Commission produced background studies on significant emerging U.S. trade questions, including the effects on the United States of increased economic integration of the European Community in 1992 and possible free trade agreements with the nations of the Pacific Rim region.

In its capacity of providing data and background support to the negotiations of U.S. trade agreements, the Commission provided the United States Trade Representative with a number of studies related to Uruguay Round negotiations. These include a 6,000-page report on the probable economic effects of modifying U.S. tariffs, which will form the basis of the U.S. negotiating position on tariffs. As part of the information base for this study, the Commission held field hearings in 11 cities, from Atlanta to Portland, to gain perspectives of witnesses from business, industry, agriculture, and government on the question of liberalizing tariffs.

Because of its extensive industry expertise, the Commission often is asked to produce studies that are industry specific in nature. This year was no exception. The Commission published studies on competitive conditions in the Western steel market, in the U.S. markets for asparagus, broccoli, and cauliflower, and in the U.S. and world markets for fresh cut roses, to name a few.

After serving as Acting Chairman since June 27, 1988, Anne E. Brunsdale was appointed Chairman by President Bush on March 28, 1989, for a term expiring June 16, 1990. At the same time, President Bush appointed Ronald A. Cass Vice Chairman for a term also expiring June 16, 1990. In addition, Don E. Newquist was sworn in as a Commissioner to fill the unexpired term of Susan Liebeler and subsequently was appointed to a full, nine-year term that began December 16, 1988.

A summary of the Commission's activities during fiscal years 1986-89 is shown in figure 1. An explanation of the functions of each office and the organization of the Commission are shown in figure 2. Statutory timetables for countervailing duty and antidumping investigations are presented in figure 3.

The USITC building, in southwest Washington, DC.



PART I. HIGHLIGHTS

INVESTIGATIONS UNDER SECTION 337 OF THE TARIFF ACT OF 1930

During 1989 the Commission issued the first temporary exclusion order and first temporary cease and desist orders under the new provisions of the 1988 Omnibus Trade Act for temporary relief in section 337 investigations. The previous rules governing complainants' requests for temporary relief allowed seven months for the Commission to determine whether temporary relief should be granted. In Investigation 337-TA-297, *Certain Cellular Radiotelephones and Subassemblies and Component Parts Thereof*, the Commission made a determination to issue temporary relief in favor of the domestic industry within the 90-day period now prescribed by the 1988 Trade Act. The products at issue were mobile and portable cellular telephones. The complainant asserted infringement of three U.S. patents in its motion for temporary relief, and the Commission found reason to believe that two of these patents were infringed and that the domestic industry would suffer immediate and substantial harm without temporary relief. Under another new provision of the 1988 Trade Act, the complainant was required to post a bond equal to five percent of its annual revenues from the products at issue in order to obtain temporary relief.

In another noteworthy investigation, involving an antibiotic, Investigation 337-TA-293, *Certain Crystalline Cefadroxil Monohydrate*, the Commission again concluded temporary relief proceedings in 90 days. In that case, however, the Commission determined that the complainant was not entitled to temporary relief.

The Commission conducted numerous other section 337 investigations in fiscal year 1989, involving products ranging from novelty items (such as chemilumi-

nescent jewelry that glows in the dark and electronic dart games) to electric power tools, semiconductors, polymer chemicals, and chemotherapy drugs. Many of these investigations involved large numbers of parties and numerous asserted intellectual property rights. For example, Investigation 337-TA-284, *Certain Electric Power Tools, Battery Cartridges, and Battery Chargers*, involved 33 parties, over 30 alleged trademarks, and over 140 different models of power tools.

INVESTIGATIONS UNDER TITLE VII OF THE TARIFF ACT OF 1930

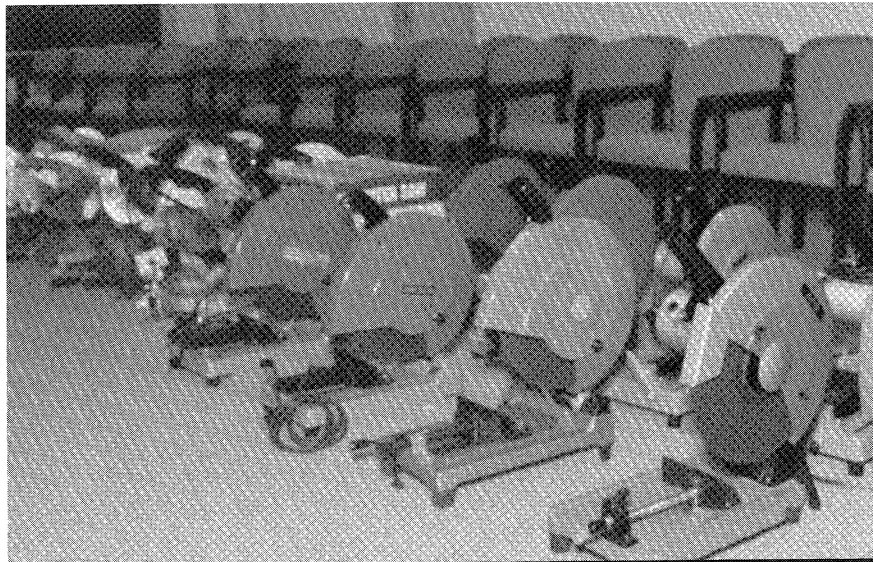
The Omnibus Trade and Competitiveness Act of 1988 amended title VII in a number of ways, some of which served to codify existing Commission practice. The principal changes affecting Commission activity addressed the factors to be considered in making determinations of material injury and threat of material injury. Separate provisions were added for cases involving processed agricultural products as well as new guidelines on the cumulation of imports. In addition, the act expanded the provisions for the release to authorized parties of business proprietary information under administrative protective orders (APOs). With respect to access to business proprietary information, the Commission now releases all such information collected or presented to it during title VII investigations to authorized persons under APO provisions. Previously, only certain price and cost-of-production information had been released. This year, the Commission implemented the procedures for releasing business proprietary information under APOs. The procedures involved not only

the Office of Investigations but also the Offices of the Secretary and the General Counsel.

Most of the title VII petitions filed with the Commission in fiscal year 1989 dealt with the machinery and equipment sector, including such products as light-duty hydrostatic transmissions, small business telephone systems, mechanical transfer presses, drafting machines, residential door locks, motorcycle batteries, steel pails, and limousines. Four cases were filed on chemical products (cephalexin, aluminum sulfate, nitrocellulose, and neoprene), two on textile products (martial arts uniforms and sweaters of manmade fibers), one on portland cement and cement clinker, and one on an agricultural product (fresh, chilled, and frozen pork).

Much of the Commission's title VII workload in fiscal year 1989 consisted of final countervailing, duty and antidumping investigations conducted during the fiscal year for which petitions were filed during fiscal year 1988. These included cases on all-terrain vehicles, 3.5-inch microdisks, digital readout systems, antifriction bearings, appliance thermostats, sewn cloth headwear, electrolytic manganese dioxide, light-walled rectangular pipes and tubes, calcined bauxite proppants, industrial belts, steel wheels, and steel rails. See appendix B for a discussion of title VII.

Large dollar volumes of imported products were at issue in several of these cases. For example, imports subject to the all-terrain vehicle investigation totaled nearly \$700 million in 1987, and imports subject to the antifriction bearings investigations totaled nearly \$400 million. In other cases, imports totaled less than \$1 million. Irrespective of the volumes involved, the Commission collected and analyzed extensive information on the U.S. market in each investigation, obtaining such information directly from market participants (producers, importers, and purchasers) and from submissions from parties to the investigations.



Products submitted to Commission as exhibits for an investigation on power tools.

INVESTIGATIONS UNDER THE TRADE ACT OF 1974

The Commission initiated no escape clause or market disruption investigations during the year.

INVESTIGATIONS UNDER THE AGRICULTURAL ADJUSTMENT ACT OF 1933

The President requested two investigations under section 22 of the Agricultural Adjustment Act of 1933 during fiscal year 1989. The investigation into ice cream was completed, and the investigation into cotton comber waste is pending.

INVESTIGATIONS UNDER SECTION 332 OF THE TARIFF ACT OF 1930

Under section 332 of the Tariff Act of 1930, the Commission conducts general investigations on any matter involving tariffs and international trade. See appendix B

for a discussion of section 332 in detail; most of the studies mentioned are available to the public. In addition to completing the studies highlighted below that resulted from one-time requests, the Commission staff produces recurring industry surveys such as *Nonrubber Footwear Quarterly Statistical Report*, 332-191; *U.S. Automobile Industry: Monthly Report on Selected Economic Indicators*, 332-207; *Annual Survey Concerning Competitive Conditions in the Steel Industry and Industry Efforts to Adjust and Modernize*, 332-209; and *Annual Surveys on Ammonium Paratungstate, Tungstic Acid, and Tungsten Oxide*, 332-252.

Studies Relating to Probable Effects Advice for the Uru- guay Round of the Multilat- eral Trade Negotiations

Service Sector Profiles and Barriers to U.S. Trade in Services (332-257).

This study was requested late in fiscal year 1988 by the Office of the United States Trade Representative (USTR). Its purpose was to provide sector profiles on certain U.S. and foreign service industries. It assessed how nontariff measures,

both domestic and foreign, affect U.S. trade in services and estimated the effects on U.S. service sectors of removing trade impediments. The 11 domestic service sectors examined included accounting and related services; advertising; construction, engineering, and architectural services; educational and training services; equipment rental and leasing; franchising; health and medical services; insurance; management consulting; telecommunications and information services; and tourism.

Agricultural and Tropical Products: Literature Search Regarding Trade Distortions and Effect of Trade Liberalization, and Calculation of Tariff Equivalents (332-258).

This study was requested by the USTR. It provided a summary of the available literature on the magnitudes and effects of nontariff measures affecting trade in agricultural and tropical products, and provided estimates of the tariff equivalents for nontariff measures on a selected group of these products.

Tropical Products: Probable Economic Effects on U.S. Industry and Consumers of Elimination of U.S. Tariffs (131(b)-12).

This request was received from the USTR late in fiscal year 1988. The Commission gave expedited advice on how the staged elimination of U.S. duties on tropical products would affect U.S. consumers and U.S. industries producing like or directly competitive products. This advice was required under section 131 of the Trade Act of 1974 for use by U.S. negotiators in the course of the Uruguay Round negotiations on agriculture and tropical products. It involved a miscellany of products defined by the General Agreement on Tariffs and Trade (GATT) and covered by 524 tariff line items in the new Harmonized Tariff Schedule (HTS). Advice on these particular products was sought prior to the comprehensive request received in December 1988 for all tariff items. The Punta del Este

declaration inaugurating the Uruguay Round called for special attention and early timing for tropical products.

Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs and Modification or Removal of Certain U.S. Nontariff Measures (131(b)-14).

The USTR sent a formal request to the Commission in December 1988, calling for advice on probable effects on U.S. imports, production, employment, and consumers if all U.S. tariffs were liberalized as a result of the Uruguay Round. For each of the 332 analyzed product groupings (referred to as "digests"), the study provided background information on product description and uses, a U.S. industry and trade profile, the relative competitive position of the

...light-duty hydrostatic transmissions, small business telephone systems, mechanical transfer presses, drafting machines, residential door locks, motorcycle batteries, steel pails...

U.S. and foreign industry, imports and exports, price elasticity of demand and supply for imports, the position of interested parties, and probable effects advice on import levels, U.S. industry, and U.S. consumers. In addition to the digest-level advice, the Commission also provided advice on the import and production effects of the multilateral trade negotiations (MTN) for every individual tariff line item within the new HTS.

Studies Analyzing Various Aspects of U.S. Free Trade Agreements

Report on the Pros and Cons of Entering into Negotiations on Free Trade Area Agreements With Taiwan, the Republic of Korea, and ASEAN, or the Pacific Rim Region in General (332-259).

This study was requested by the Senate Committee on Finance. It summarized the views of private recognized authorities on U.S. trade relations with Pacific Rim countries concerning the pros and cons of entering into negotiations for a United States-Taiwan Free Trade Agreement, a United States-Korea Free Trade Agreement, a United States-Association of Southeast Asian Nations (ASEAN) Free Trade Agreement, or a broader free trade arrangement for the Pacific Rim region in general. The study elicited the views of 60 U.S. Government officials, 36 in the U.S. and 24 overseas; 23 academics, 9 in the U.S. and 14 foreign; 51 private sector experts, 28 in the U.S. and 23 foreign; 40 foreign authorities and government officials; and 13 other nongovernment experts.

United States-Israel Free Trade Agreement: Probable Effects on U.S. Industry and Consumers of Certain Remaining U.S. and Israel Tariff Reductions (332-265).

This study was requested by the USTR. It compared two tariff scenarios and advised the President on the probable economic effect on U.S. industries and consumers of each. Both scenarios involved the removal of duties from selected articles from Israel that are like or directly competitive with U.S. products. One scenario would remove the duties in six equal annual stages, commencing January 1, 1990. The other would remove the duties without staging on January 1, 1995, the latest date for duty elimination provided in the implementing legislation for the agreement. The study also reported on the likely economic benefits to U.S. exporters of selected

products of a similar six-stage elimination of the Israeli duties over the period in question.

Advice Concerning Probable Economic Effects of Modification of Rules of Origin Under the U.S.-Canada FTA for Certain Animal Fat and Vegetable Oil Products (332-276).

This request from the USTR sought advice on the probable economic effect of modification of the rules of origin in the United States-Canada Free-Trade Agreement (FTA) for animal fat and vegetable oil products.

Studies Analyzing the Competitiveness of U.S. Industry

Competitive Conditions in the U.S. Market for Asparagus, Broccoli, and Cauliflower (332-253).

This study was instituted by the Commission at the request of the USTR. It reported on the significant competitive, technological, and economic factors affecting the performance in major U.S. markets of the California and Arizona vegetable industries producing asparagus, broccoli, and cauliflower. The study concluded that California is currently very competitive in the U.S. market for fresh and frozen asparagus, broccoli, and cauliflower, due in large part to its comparative strengths of being able to diversify into other fresh-market and processed products, the use of its established distribution channels, and its industrywide reputation as a dependable year-round supplier of such products. In recent years, the market share of such vegetables, accounted for by California producers, has remained about the same or risen slightly, even as imports have risen.

The Western U.S. Steel Market: Analysis of Market Conditions and Assessment of the Economic Effects of the Voluntary Restraint Agreements on Steel-Producing and Steel-Consuming Industries (332-256).

This study was requested by the Senate Finance Committee late in fiscal year 1988. It assessed the effects of the steel voluntary restraint agreements (VRAs) on the Western U.S. steel market. The study concluded that the VRAs contributed to higher steel prices during the initial years of the pro-

The study concluded that California is currently very competitive in the U.S. market for fresh and frozen asparagus, broccoli, and cauliflower...

gram (1985-86) but that other factors (including the decline in the value of the dollar versus major foreign suppliers' currencies and the rise in demand for steel worldwide) were of significantly greater importance in explaining the overall price increases that occurred in the Western U.S. market during 1985-88. The study also concluded that significant investment in new plant and equipment during 1983-88 as well as negotiation of favorable raw materials and labor agreements has led to reduced costs and a better competitive position for the Western U.S. steel producers.

Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses (332-263).

The Omnibus Trade and Competitiveness Act of 1988 required the Commission to investigate and report on (1) the competitive factors affecting the domestic

rose-growing industry, including competition from imports; (2) the effect that the European Community (EC) tariff rate for imported roses has on world trade of roses; and (3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

Studies on Special Areas of Congressional Interest

Ethyl Alcohol and Mixtures Thereof: Assessment Regarding the Indigenous Percentage Requirements for Imports in Section 423 of the Tax Reform Act of 1986 (332-261).

This study, required by the Omnibus Trade and Competitiveness Act of 1988, was instituted by the Commission at the request of the House Committee on Ways and Means and the Senate Committee on Finance. The study investigated the economics of ethanol production in the Caribbean region and examined the effect of various alternative indigenous product percentage requirements on production and employment in the region and on U.S. ethanol imports.

The study concluded that the economic feasibility of fuel ethanol production from indigenous materials in the Caribbean Basin was strongly influenced by the trade policies of major sugar-consuming nations, by domestic sugar needs, and by the world price of sugar and molasses. It also found that the viability of the Caribbean Basin Initiative (CBI) ethanol industry could not be maintained by establishment of a single, constant indigenous percentage requirement. Continuing variations in other market conditions—such as net corn costs, gasoline prices, sugar prices, and European wet ethanol prices—make establishment impossible.



Senator John Heinz (R-PA) addresses the Commission during field hearings on multilateral trade negotiations in Pittsburgh.

The Economic Effects of Significant U.S. Import Restraints, Phase I, Manufacturing (332-262).

This will be a three-year, three-phase study of the costs and benefits of restraints on U.S. trade (excluding title VII duties) in manufacturing, agriculture, and services. The first phase, dealing with manufacturing, has been completed. It covered such restraints as the steel and auto VRAs and the Multifiber Arrangement. The second phase, due in September

1990, will cover agricultural products and natural resources. The third phase is due in September 1991 and will cover trade in services.

The Effects of Greater Economic Integration Within the European Community on the United States (332-267).

The House Committee on Ways and Means and the Senate



Congresswoman Nancy Pelosi (D-CA) apprises the Commission of the effect of trade liberalization on her constituents.

Committee on Finance requested this investigation to provide objective information on the EC single market and a comprehensive analysis of its potential economic consequences for the United States. The investigation focused on the following:

- The anticipated changes in EC and member-state laws, regulations, policies and practices that may affect U.S. exports to the EC and U.S. investment and business operating conditions in the EC.
- The likely impact of such changes on major sectors of U.S. exports to the EC and on U.S. investment and business operating conditions in the EC.
- The trade effects on third countries, particularly the United States, of particular elements of the EC efforts.
- The relationship and possible impact of the single market exercise on the Uruguay Round of GATT MTN.

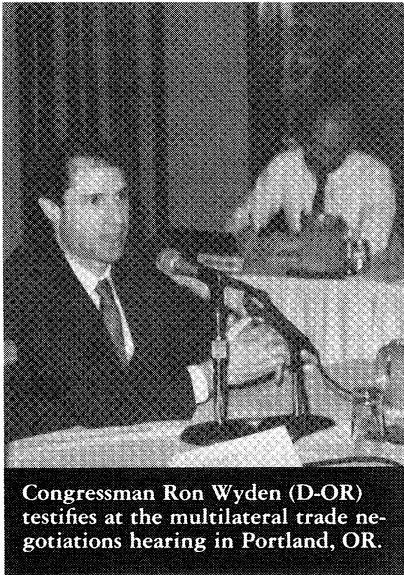
Continuing reports on EC '92 will be produced as directives are issued.

Foreign Investment Barriers or Other Restrictions That Prevent Foreign Capital From Claiming the Benefits of Foreign Government Programs (332-268).

This request from the USTR sought an investigation to identify countries that maintain investment

barriers or other restrictions that effectively prevent foreign capital from claiming the benefit of government programs on the same terms as domestic capital. This request was the result of conference report language (Report 100-576, p. 587) for the Omnibus Trade and Competitiveness Act of 1988.

The study concentrated on the natural-resource-rich nations of Mexico, Canada, China, the Soviet Union, and the Organization of Petroleum Exporting Countries (OPEC). It found that investment barriers or restrictions vary widely in these countries but include such limitations as exclusive rights held



Congressman Ron Wyden (D-OR) testifies at the multilateral trade negotiations hearing in Portland, OR.

by the state to develop natural resources and domestic ownership requirements for foreign/domestic partnerships or joint ventures.

Changes in EC Government Procurement in Excluded Sectors and the Impact on U.S. Industries (332-269).

This study was requested by the USTR in late 1988. It examined the effects that changes in proposed EC government procurement practices will have on the United States in the telecommunications, energy, transportation, and

water industries, the so-called excluded sectors, which were not included in the "discipline of existing EC rules on public procurement."

The Effects of Steel Voluntary Restraint Agreements on U.S. Steel Consuming Industries (332-270).

This study, requested by the House Ways and Means Committee, provided estimates of the effects of the steel VRAs on U.S. exports, imports, and domestic sales of the major consuming industries for each of the years from 1985 through 1988. Of particular interest were the economic effects of the VRAs on the automotive, construction, heavy equipment, household appliance, forging, and metalstamping industries. The analysis included the likely effects of continuing these restraints in the future.

Conditions of Competition Between U.S. and Mexican Lime in the United States Market (332-271).

This request from the USTR sought an investigation into, and a report to the President on, the probable economic effect on U.S. industry of revocation by the U.S. Department of Commerce of the outstanding countervailing duty order on lime from Mexico. The Commission advised the USTR that removal of the aforementioned order would not materially injure nor threaten with material injury a national or southwest lime industry.

Importation of Certain Drug Paraphernalia into the United States (332-277).

This investigation, requested by the Senate Committee on Finance, concerned the importation (legal or illegal) into the United States of certain drug paraphernalia, such as plastic bags, plastic and glass vials, cigarette papers, small spoons, gem scales, glass pipes and tubes, and other articles used in packaging and use of "crack" cocaine and other illegal drugs. The study also evaluated the effectiveness of the Mail Order Drug Control Act in restricting such imports.

PART II. ORGANIZATIONAL ACTIVITIES

OFFICE OF OPERATIONS

The Director of Operations supervises all substantive work of the subordinate offices of Operations: Office of Investigations, Office of Industries, Office of Economics, Office of Tariff Affairs and Trade Agreements, Office of Unfair Import Investigations, Trade Remedy Assistance Office, and Office of Data Systems. The Director is responsible for initiation, supervision, completion, and publication (where appropriate) of all statutory investigations, studies, and special work projects assigned by the Commission. The work includes completing the investigations within the statute-imposed deadlines and with a level of accuracy and detail suitable for subsequent review by the courts.

OFFICE OF INVESTIGATIONS

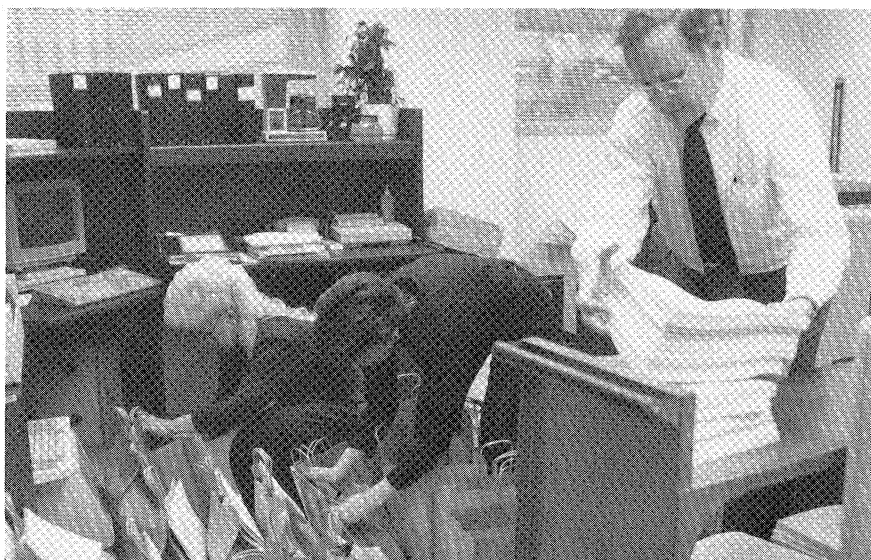
Investigations is responsible for coordinating the Commission's countervailing duty, antidumping, and review investigations under provisions of the Tariff Act of 1930; escape clause and market disruption investigations pursuant to the Trade Act of 1974; and investigations under section 22 of the Agricultural Adjustment Act that determine whether imports of agricultural products are interfering with programs of the U.S. Department of Agriculture. The staff of 20 investigators and four supervisory investigators coordinates all facets of an investigation, beginning with the identification of primary data to be collected and ending with the publication of the final report. In addition the investigative teams are supported by two divisions: the Financial Analysis and Accounting Division, which evaluates the financial performance of U.S. firms and industries that are the subject of Commission investigations, and the Statistical Analysis Division, which facilitates

the collection, aggregation, presentation, and reporting of questionnaire data throughout the course of an investigation.

In conducting an investigation, the investigative team acquires a thorough knowledge of the industry and the product under investigation, principally from primary sources such as industry questionnaires and visits to production facilities. The investigative team is directed by a supervisory investigator and is composed of the following: an investigator, a financial analyst/accountant from Investigations, an economist, a commodity analyst, and an attorney. In most cases, staff members visit all major U.S. producers of the product under investigation.

In preparing the report to the Commission, the Investigations staff gathers and presents data to reflect the economic condition and performance of the industry. Such data include, but are not limited to, capacity, production, capacity utilization, domestic and export shipments, inventories, imports, domestic market shares held by U.S. and foreign suppliers, employment, hours worked, productivity, wages and total compensation, unit labor costs, pricing, distribution channels, and full financial data on the U.S. companies producing the product under investigation. The staff members also analyze an abbreviated form of such information regarding the foreign industry producing the subject product. Throughout the investigation, the entire investigative team is responsible for protecting the confidentiality of business proprietary information.

Investigations staff members work closely with officials at the U.S. Department of Commerce and U.S. Customs Service, parties to the investigations and their attorneys, and company officials for



The volume of documentation from one investigation often takes the careful attention of several staff members.

both U.S. producers and importers of the product to obtain information and to manage the administrative details of an investigation effectively. Investigators also provide assistance to the United States Trade Representative (USTR), following Commission recommendations to the President of action to take in escape clause and market disruption cases.

The principal cases handled by Investigations during FY 1989 are discussed in the "Highlights" section of this report. Administratively, the office strengthened several of its investigative techniques during the year to improve the Commission's data collection and analysis efforts. Chief among these was the expansion of onsite verifications of data submitted by firms in Commission questionnaires. Investigations auditors and accountants now routinely conduct such verifications in every title VII investigation.

In addition, Investigations made numerous modifications in the questionnaires to make them easier for recipients to complete and to gather better information on the subject markets. The office also continued to refine the computer programs used in compiling data in ways that speed processing and yield more usable output. Finally, the office developed proce-

dures for releasing confidential business information under administrative protective order, as mandated by the 1988 Omnibus Trade and Competitiveness Act. As this was the first year of Commission operation under the new administrative protective order (APO) provisions, Investigations staff worked with those representing parties in investigations to facilitate proper implementation.

OFFICE OF INDUSTRIES

The Office of Industries has more than 140 international trade analysts and support staff to provide the Commission, the Office of the President, the Congress, and the public with technical and economic information and assessments of U.S. industries and merchandise trade.

The office is organized into six commodity divisions covering the major industrial sectors: agriculture and forest products, textiles and apparel, energy and chemicals, minerals and metals, machinery and equipment, and miscellaneous manufactures. Within divisions, international trade analysts track the import, export, production, and sale of more than 8,000 agricultural, raw materials, and manufac-

tured products. In addition, the office has trade analysts who monitor U.S. services, which are the focus of increasing attention in international trade. The primary analyst function is to assess the impact on U.S. industry of international trade (imports and exports) and factors influencing U.S. competitiveness. Evaluation of the probable economic effects of liberalization of tariff and nontariff measures to support U.S. bilateral trade negotiations such as the Uruguay Round is one of the most demanding and resource-intensive activities of the office.

The Office of Industries focused its principal efforts on two important investigations during the past year: (1) the *Probable Economic Effect on U.S. Industries and Consumers of Modification on U.S. Tariffs and Modification or Removal of Certain U.S. Nontariff Measures (in support of the Uruguay Round of Multilateral Trade Negotiations (MTN))* and (2) the *Effects of Greater Economic Integration Within the European Community on the United States (EC '92)*. The first investigation involved a two-year program to develop detailed, "tariff line-item" probable effects advice for the President, as required by law. The Commission's 6,000-page report was delivered to the USTR during the past year and will form the basis of the U.S. negotiating position on tariff reductions. The second investigation provided the Senate Committee on Finance and the House Committee on Ways and Means with the first in a series of reports on the EC '92 program for completion of the EC internal market by 1992. This investigation was the largest interoffice project undertaken at the Commission in recent years. It required contributions from all of the Commission's principal operating offices. In the preparation of the report, the Commission developed a completely new information base on the complex EC '92 directive program, analyzed the impact of this program on U.S. industry, and prepared a public report for the Congress covering all aspects of the EC effort.

During fiscal year 1989, the office conducted 27 investigations under section 332 of the Tariff Act

of 1930, including both one-time, factfinding studies and continuing industry surveys. A number of these studies explored areas in which there is relatively little available information or investigative precedent. These efforts included an assessment of the effects of greater economic integration within the EC on the United States; domestic and foreign service sectors and barriers to trade in services; the probable economic effects of certain remaining United States and Israel tariff reductions under the United States-Israel Free Trade Agreement; foreign investment barriers that prevent foreign capital from claiming the benefits of foreign government programs; and the probable effects of various changes in U.S. tariff levels under the United States-Canada Free-Trade Agreement, as well as under the U.S. Generalized System of Preferences (GSP). In addition, the office led studies of the international competitiveness of U.S. producers in such areas as roses, ethyl alcohol, gears, certain vegetables, and steel.

Ten continuing industry surveys were conducted under section

...the office also undertook a pilot project during the past year to test a new system of information storage and retrieval.

332 to aid the Congress or the executive branch in monitoring U.S. imports and domestic production of various products. Three of these were at the request of the President, six at the request of Congress, and one continuing survey by the Commission's own motion. In addition, during fiscal year 1989, the office published surveys covering synthetic organic chemicals, trade under provisions 806.30/807.00 of the Tariff Schedules of the United States (TSUS),

stainless steel and alloy tool steel, steel subject to the President's program of voluntary restraint agreements (VRAs), competitive conditions in the steel industry and industry efforts to adjust and modernize, automobiles, rum, various tungsten compounds, nonrubber footwear, and lamb meat. The office periodically reviews all repetitive studies and recommends to the requester the reduction or elimination of studies as appropriate.

In the last months of fiscal year 1989, the office began the second phase of its comprehensive analysis of the effects of greater integration of the EC market. The second phase will consist of semi-annual reports to Congress analyzing the effects of new EC '92 directive proposals, amendments to previously proposed directives, decisions by the European Court of Justice affecting EC '92 market integration, decisions by EC standards bodies pursuant to EC '92 standards directives, and any other developments related to the EC '92 effort. The first semiannual report will be published in March 1990. EC '92 is complex and it affects virtually every aspect of commercial activity in the EC. EC '92 is an attempt to achieve complete EC internal integration through the elimination of barriers to the free movement of goods, services, people, and capital by the end of 1992. Such barriers are generally viewed to be at least in part responsible for the poor economic performance in Europe that has adversely affected the competitiveness of the EC nations in the world market. The specific barriers to be eliminated under EC '92 were set out in the white paper issued by the EC Commission in June 1985. Elimination is to take place through the issue of approximately 280 "directives," each to correct one or more of the barriers to an internal free trade market.

At the end of fiscal year 1989, the Commission also had under way an investigation (332-275) on the competitive position of the U.S. gear industry in U.S. and global markets. As requested by the USTR, the Commission's report will provide, to the extent possible, the following: (1) profiles

of the U.S. industry and major foreign industries; (2) a descriptive assessment of the global market for gears, to the extent possible, using categories of gear products most useful to the industry; and (3) a comparison of U.S. and foreign producers' strengths and weaknesses in regard to raw material, labor, and capital availability; technological capabilities; and the extent of plant and equipment modernization. This investigation is scheduled to be submitted to the USTR in March 1990.

A further investigation (332-278), which the USTR requested late in the fiscal year, will assess the probable economic effect of the accelerated elimination of U.S. tariffs under the United States-Canada Free-Trade Agreement, on domestic industries in the United States producing like or directly competitive products, and on consumers. The study will be completed in November 1989.

The USTR requested another investigation (332-279) late in the fiscal year for advice as to the probable effects of the designation and/or modification of treatment of certain articles under the GSP. This type of request is received annually and seeks six different types of advice from the Commission. This study will be completed in November 1989.

In support of its section 332 investigative work, the office also undertook a pilot project during the past year to test a new system of information storage and retrieval. The system involves optical scanning and storage of commodity/industry data files with full indexing of text that permits research of data through the use of key words and phrases. If successful, this system can greatly facilitate and enhance research capabilities of the office.

OFFICE OF ECONOMICS

The three divisions of the Office of Economics provided economic analyses to help the Commission perform its two main functions: to investigate the effects of imports on competing U.S. industries, and to provide expert advice to Congress and the President

on international economic issues.

The Research Division provides economic analysis for all aspects of the Commission's work but devotes most of its time to section 332 investigations. The division led investigations on the effects of trade distortions in agricultural and tropical products, the effects of significant import restraints, the effects of changes in rules covering government procurement by members of the European Community, and the effects of the steel VRAs on U.S. steel-consuming industries.

The investigation into significant import restraints is a three-phase study. As part of this investigation, the division is developing a computable general equilibrium (CGE) model that will allow it to examine the indirect effects of import restraints on industries other than those protected by the restraints. The report on the third phase of the study will include the results of the CGE model for the import restraints examined in all three phases.

The Research Division also contributed to a number of other Commission studies. Those studies included the following:

United States-Israel Free Trade Agreement: Probable Effects on U.S. Industry and Consumers of Certain Remaining U.S. and Israel Tariff Reductions (332-265)

The Effects of Greater Economic Integration Within the European Community on the United States (332-267)

The Effects of Steel Voluntary Restraint Agreements on U.S. Steel-Consuming Industries (332-270)

Probable Economic Effect on U.S. Industries and Consumers of Modification of U.S. Tariffs and Modification or Removal of Certain U.S. Nontariff Measures (131(b)-14)

Service Sector Profiles and Barriers to U.S. Trade in Services (332-257)

Ethyl Alcohol and Mixtures Thereof: Assessment Regarding the Indigenous Percentage Requirements for Imports in Section 423 of the Tax Reform Act of 1986 (332-261)

United States-Canada Free-Trade Agreement: Probable Economic

Effect on U.S. Industries and Consumers of Accelerated Elimination of U.S. Tariffs on Certain Articles From Canada (332-278)

Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers (332-227)

In addition to working on studies, Research Division staff devoted considerable time to import injury investigations and developed a comprehensive method for estimating the effects of unfair trade practices on domestic producers.

The Trade Reports Division is the Commission's "country desk" resource. Economists in the division regularly monitor trade policy and trade-related economic trends in key trading nations—the EC, Japan, Canada, Mexico, Brazil, and the newly industrialized economies of Asia. Activities of the main international organizations dealing with trade issues—the General Agreement on Tariffs and Trade (GATT), the Organization for Eco-

The Trade Reports Division is the Commission's "country desk" resource.

nomic Cooperation and Development (OECD), and the United Nations Conference on Trade and Development (UNCTAD)—are also monitored, including developments in the current Uruguay Round of GATT-sponsored MTN. The country-desk resources of the division complement the commodity/industry expertise of the Office of Industries. Together, they give the Commission a capability to respond to the needs of U.S. trade policy-makers for research and information, using either an industry or country approach or some combination, whichever is most suitable.

The Trade Reports Division staff worked on a wide range of issues, conducting section 332 investigations, producing statutory reports on U.S. trade, and providing

policy makers and the public with information and analysis on bilateral and multilateral trade issues. Division economists led a major research project requested by the Senate Committee on Finance on free trade area agreements with Pacific Rim countries (332-259). The Senate Committee on Finance also requested an investigation on granting most-favored-nation status to the Soviet Union. The study (332-280) is scheduled for completion in January 1990. Division staff also participated in Commission studies on the 1992 integration of the EC, on rule changes in government procurement by European Community members, on the effects of trade distortions in agricultural and tropical products, and on the effects on U.S. industries and consumers of accelerated elimination of U.S. tariffs on certain articles from Canada.

The Trade Reports Division prepared several recurring trade reports in fiscal 1989 that are required by statute. In July 1989, the 40th annual *Operation of the Trade Agreements Program* report was released. This report highlighted major developments in U.S. trade policy in 1987, including the enactment of the Omnibus Trade and Competitiveness Act of 1988 and the Montreal midterm review of the Uruguay Round. The report also included data on U.S. trade under the GSP program and the Caribbean Basin Initiative (CBI), a comprehensive review of developments within the GATT and other multilateral forums and actions taken under U.S. trade law. The report covered details of trade relations with seven major trading partners—the European Community, Canada, Japan, Mexico, Taiwan, the Republic of Korea, and Brazil.

Trade Reports Division economists also prepared the fourth *Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers*. This report covered several topics, including the effects of the Caribbean Basin Economic Recovery Act (CBERA) on investment in Caribbean countries.



Commissioners in San Francisco gather around a speakerphone for a conference-call meeting and vote with a colleague in another location. The vote was on fresh, chilled, or frozen pork from Canada. Clockwise from left: Chairman Brunsdale, Vice Chairman Cass, Commissioner Newquist, Commissioner Rohr, Secretary Mason, and Commissioner Lodwick.

The *Report to the Congress and the Trade Policy Committee on Trade Between the United States and the Nonmarket Economy Countries* (the East-West Trade Report) was prepared quarterly, as required by law. The ongoing report provides current data on U.S. trade with 16 nonmarket economy countries (NMEs) along with analyses of significant developments in commercial relations and trade. The report also presents the results of the East-West Trade Statistics Monitoring System, which analyzes imports of manufactured goods from NMEs. The system identifies manufacturing industries experiencing rapid growth in imports and significant import penetration by NME suppliers.

Division staff responded to more than 250 informal requests for specialized information and technical assistance from Congress, the public, and other Government agencies. The Trade Reports Division also produced a monthly review of trade and policy developments, the *International Economic Review*, which gives timely information on significant economic and policy developments abroad that may affect U.S. commerce. The *Review* is distributed to Members

of Congress and the public on request.

Investigation Support Division economists worked on a wide variety of injury cases over the past year, including light-walled rectangular pipes, calcined bauxite propants, electrolytic manganese dioxide, sewn headwear, antifriction bearings, industrial belts, door locks, motorcycle batteries, cephalixin, pork, lamb, steel rails, martial arts uniforms, carbon steel structural shapes, and small business telephone assemblies. Economists in the division also participated in a section 332 investigation of chemical lime and an investigation of the probable economic effects of providing duty-free treatment for watches under the GSP.

In response to requests from Commissioners, division economists prepare for each final investigation an analysis of the characteristics of the products subject to investigation—including estimates of supply, demand, and substitution elasticities—and the structure of the market. These analyses are accompanied by a discussion of the factors examined by the economist in estimating the range of elasticity

ties. The estimates are made available for comment to the parties in each investigation, and final estimates for Commission consideration incorporate the comments of the parties.

Elasticity estimates, along with information on market shares, are used in every final title VII investigation to estimate the effects of dumping or of subsidies on the price and volume of sales of the domestic product. The effects estimates are based on the Comparative Analysis of the Domestic Industry Condition (CADIC) model developed by the Research Division. The most recent version of the model now allows economists to estimate dumping or subsidy effects in the case of an oligopoly situation (in which a product is sold by only a few companies, each of which behaves as if competitors will not alter their production and sales in response to changes in their own production and sales). Efforts are under way to use estimated ex factory prices of imported products to develop more accurate estimates of the price and volume effects of dumping. Although the theoretical work on this enhancement is complete, it will take further work to develop the data to implement it.

OFFICE OF TARIFF AFFAIRS AND TRADE AGREEMENTS

The most important event affecting the office's work in fiscal year 1989 was the implementation of the *Harmonized Tariff Schedule of the United States* (HTS), which replaced the TSUS. The first edition of the HTS and its first supplement had been published during fiscal year 1988. During fiscal year 1989, the entire HTS was replaced by the second supplement in order to reflect, among other things, recently enacted tariff legislation and the reduced duty rates negotiated in the United States-Canada Free-Trade Agreement. The second supplement was subsequently amended by the third and fourth supplements.

Partly as the result of duty-free changes that occurred from the conversion of the TSUS to the

HTS, an unusually large volume of tariff legislation was introduced in Congress. Consequently, the office staff coordinated the Commission's preparation of reports on 345 tariff bills, most of them seeking temporary duty suspensions. The Commission's reports on 162 of these bills were completed and submitted to the Congress as of the end of fiscal year 1989 and are listed in appendix C. The remainder were in the final stages of completion. These reports assisted the House Ways and Means Committee and the Senate Finance Committee in their consideration of tariff legislation.

Statistical changes to the HTS were also sought through the Committee for Statistical Annotation of the Tariff Schedule (484(e) Committee), which is chaired by the director of this office. During this fiscal year, the Committee received 78 petitions for changes affecting hundreds of HTS subheadings.

The office updated the HTS header files and other relevant data bases, as well as the five-year cross-reference between seven-digit TSUS item numbers and eight-digit HTS subheading numbers to reflect the 1987 TSUS and the HTS, as updated through December 31, 1988. Electronic and hard-copy import and export data generated from the cross-reference, Summary Records (indexed by HTS subheading) of all sessions of the Harmonized System Committee, and electronic copies of the HTS were sent to the National Technical Information Service for distribution on a fee basis.

In the area of trade agreements, the office contributed significantly to the preparation of electronic data base files for the ongoing Uruguay Round of MTN and for the proposed acceleration of duty reductions under the United States-Canada Free-Trade Agreement. In addition, office staff assisted the USTR in reviewing petitions and reports in connection with the GSP program.

A major undertaking for the office involved implementing a

United States-Canada Memorandum of Understanding, which calls for the exchange of monthly import statistics to reflect each country's exports to the other. The arrangement will be operational beginning January 1, 1990, and will eliminate the need to prepare and compile over one million export documents annually. Staff also worked on other trade agreement activities that are the responsibility of the Commission and the Trade Policy Staff Committee.

OFFICE OF UNFAIR IMPORT INVESTIGATIONS

The Office of Unfair Import Investigations is a party to adjudicatory investigations conducted under section 337 of the Tariff Act of 1930. These investigations involve claims of unfair competition in the import trade and most frequently include allegations of patent or trademark infringement. Allegations of copyright infringement, misappropriation of trade secrets, passing off, false advertising, and antitrust violations have also

been litigated in these investigations.

The Office of Unfair Import Investigations represents the public interest and is responsible for ensuring that a complete record is developed in section 337 investigations and that the relevant issues are briefed for the factfinders—the administrative law judges and the Commission. Investigative attorneys from the office actively participate along with counsel for the private parties throughout these investigations. Unlike the private litigants, the investigative staff represents the public interest rather than the private interests of a complainant or respondent. This is important because the remedies available in section 337 investigations may affect nonparties and U.S. consumers.

The Office of Unfair Import Investigations has responsibility for reviewing section 337 complaints prior to institution of an investigation and for advising the Commission whether the complaint alleges a cause of action under section 337 and complies with the governing Commission rules. Prior to institution, the office engages in informal



Susan Kraus represents the Kenner Toy Co. before the Commission during field hearings in San Francisco.

investigation of the factual and legal bases for the allegations in the complaint. On request, the office also provides informal advice to prospective complainants regarding the viability of filing a complaint under section 337.

During the violation phase of a section 337 investigation, attorneys from the Office of Unfair Import Investigations take discovery, examine witnesses, and present evidence at the hearing and submit briefs on factual and legal issues to the administrative law judges. The investigative staff also submits briefs to the Commission during the review and remedial phases of these investigations. Given the public interest nature of section 337, the time constraints imposed by the statute, and the fact that many parties do not want to participate, the investigative staff's participation "on the record" ensures that the factfinder has the relevant facts and is offered an independent focus on the myriad issues presented in these investigations.

The investigative staff also attempts to facilitate settlement negotiations among the parties. Accordingly, the staff reviews consent order agreements and settlement agreements to ascertain whether they are in the public interest and comply with the Commission's rules and, when the parties seek a consent order, whether the order would constitute a proper exercise of the Commission's jurisdiction.

During fiscal year 1989, there were 34 active section 337 investigations. In these investigations, producers sought protection from alleged infringement of intellectual property rights in a host of different industries, including those of biotechnology, semiconductors, cellular telephones, pharmaceuticals, industrial machinery, and various consumer products, ranging from electric power tools to carbonated candy. The Commission terminated four investigations as a result of settlement agreements or consent orders entered into by the parties prior to an evidentiary hearing. Settlement agreements and consent orders were also entered in six other investigations.

In providing technical assistance, the office staff is available to meet with eligible small businesses to discuss the procedures for obtaining relief.

Of the nine investigations in which the Commission made final determinations on the merits, a violation of section 337 was found in seven. Temporary relief proceedings were concluded in two section 337 investigations, with a grant of temporary relief being made in one of these proceedings. During fiscal year 1989, there were also two advisory opinions and two enforcement proceedings stemming from prior section 337 investigations.

TRADE REMEDY ASSISTANCE OFFICE

The Trade Remedy Assistance Office is a new office established under the Omnibus Trade and Competitiveness Act of 1988 to expand the assistance made available by the Commission to the public and to small businesses seeking benefits or relief under U.S. trade laws. The office replaces the Trade Remedy Assistance Center that was part of the Office of Unfair Import Investigations.

In response to inquiries from the public, the office provides information on the various trade laws identified in 19 U.S.C. 1339. When appropriate, the office makes referrals to other offices within the Commission and to other agencies responsible for administering particular trade laws. The Trade Remedy Assistance Office will provide general information to all members of the public.

The office also provides technical assistance, as defined in the

Commission's rules, to eligible small businesses seeking a remedy under one or more of the trade laws. Eligibility for technical assistance is determined by reference to the size standards for small businesses established by the Small Business Administration.

In providing technical assistance, the office staff is available to meet with eligible small businesses to discuss the procedures for obtaining relief. The office has assisted small businesses in analyzing their trade-related problems to determine which statutes may offer relief. Technical assistance may include review of draft complaints or petitions prepared by the eligible small business to assist its efforts to prepare a final petition for filing. Technical assistance may also include informal legal advice and assistance for the eligible business during administrative review of petition and any subsequent appeals.

In fiscal year 1989, the office (and its predecessor, the Trade Remedy Assistance Center), responded to over 300 inquiries, which is an increase of approximately 20 percent over those of fiscal year 1988. In addition to inquiries from small businesses, the office received inquiries from Congress, Government agencies, law firms, trade associations, the press, and academe.

OFFICE OF DATA SYSTEMS

During fiscal year 1989, the Office of Data Systems completed major upgrades to the local area network (LAN) and the customer support services related to using the network for agencywide information processing.

The Computer Services Division added 50 new workstations to the network and five new, high-capacity file servers, which replaced older models. This completes the three-year Office Automation Replacement System (OARS) project with installation of a fully integrated network of workstations. The network was also set

up for WordPerfect 5.0, which was established as the word-processing standard for the agency.

The Statistical Services Division staff served as advisors for the Commission's staff on the application of statistical theory, especially the use of sampling for obtaining information needed in the Commission's investigative and research studies. The division responded daily to inquiries for trade data and assisted in evaluating data reliability. The division also prepared four statistical bulletins summarizing import and export information for use in the trade community. In fiscal year 1989, Statistical Services staff performed 57 detailed statistical reviews of Commission investigative reports. It also assisted the Offices of Industries, Economics, and the Administrative Law Judges with statistics and other information in several 332 and 337 investigations.

The Applications Development Division provided analysis and programming support for new agency applications requiring main-frame computer processing. It also provided technical support for existing production systems. The staff provided data-processing support for several major 332 requests, including the United States-Canada Free-Trade Agreement and the MTN.

During the past year, the National Library of International Trade automated several of its services. Three workstations installed in the reference area provide access to an online, CD-based catalog. At present, the data base consists of publications added to the collection since 1980, while earlier titles are being added as a retrospective conversion project. The system has resulted in considerable savings in staff time, since it almost completely eliminates the need to file catalog cards. In addition, the library has installed a terminal that gives patrons the ability to access Online Computer Library Center (OCLC), an international data base of more than 20 million bibliographic records, including books, serials, microforms, audio and visual media, and other for-



William Bishop and Gretchen Kipp working with Commission's microfiche files.

mats. The library is also installing an automated serials check-in system to manipulate the serials information; this enhancement will result in better claiming of missing issues and other services. In 1990, the library will be adding an automated circulation system.

Fiscal year 1989 data on library operations are as follows:

Reference or research inquiries from—	
Commission staff	17,997
Commissioners and their staff	6,463
Government agencies ...	1,327
The public	2,650
Congress	4
Total	28,441
Computer searches	109
Interlibrary loans:	
Books borrowed	924
Books lent	602
Reference desk circulation	7,881

OFFICE OF ADMINISTRATION

As part of the ongoing process of audits, several activities in the Office of Administration were audited by Arthur Andersen & Co. These included the financial statements for fiscal years 1988 and 1987, the Commission's procurement system, and its property management inventory system. No material weakness was found.

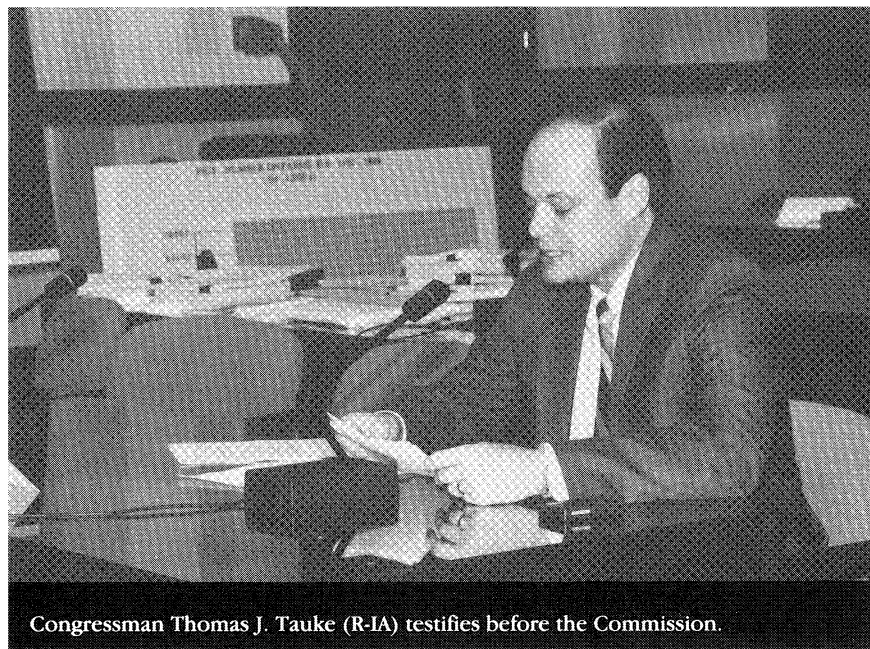
The office played a key role in establishing the new Office of Inspector General. At yearend, Administration was working with the Inspector General on a review of the Commission's compliance with the Federal Managers' Financial Integrity Act and an audit of the agency's imprest funds.

The National Security Agency completed a security assessment of Commission facilities, with a special emphasis on security of automated data processing. This office will implement, as appropriate, agency recommendations for improving the handling of sensitive information. Also it plans to review and modify the present policies and procedures to implement a more formally structured information security program. This year for the first time, an annual security awareness program included computer security training, which is a requirement of the Computer Security Act of 1987. The agency noted in its assessment that the Commission staff has a sound professional awareness of its obligation to safeguard sensitive information.

At the request of Association of Federal Government Employees Local 2211, the agency entered contract renewal talks with the union in December 1988. Negotiations concluded in March 1989 with the signing of a new three-year collective bargaining agreement.

In preparation for the installation of a new generation of word-processing software agencywide, extensive in-house training was offered to employees during the last quarter of fiscal year 1989. The vendor providing this training has also been contracted to provide expanded offerings onsite in various personal computer applications during the coming year. Additionally, a wide range of employee development activities was offered during the year to Senior Executive Service members, managers, and the professional and support staff.

The Office of Administration completed installation of an automated property inventory management system. At yearend, it was embarking on the installation of an automated procurement management system. Improvements were made in the Commission's publishing capability with the introduction of equipment that produces a wrap-around binding for its public



Congressman Thomas J. Tauke (R-IA) testifies before the Commission.

reports. Editorial Branch initiated a Commissionwide course to enhance the report production process and, as a byproduct, to institute written standards into the publishing process. The Design Branch expanded its workload to include the composition of all non-recurring section 332 reports. It also increased its graphics capability, giving the Commission a capacity for graphic design and illustration never before possible.

OFFICE OF THE ADMINISTRATIVE LAW JUDGES

During fiscal year 1989, the Office of the Administrative Law Judges held 12 evidentiary hearings on section 337 cases in accordance with the Administrative Procedure Act. These hearings ranged in length from one day to four weeks and involved a diversity of products including electric power tools, cellular radio telephones, scrap shears, insulated security chests, track lighting systems, and crystalline cefadroxil monohydrate (a pharmaceutical product). During this period, the judges disposed of nine cases without an evidentiary hearing—by settlement, withdrawal of the complaint, or summary determination.

OFFICE OF CONGRESSIONAL LIAISON

The Office of Congressional Liaison serves as the primary point of contact between the Commission and Congress. The office routinely works with congressional staff to clarify congressional intent in 332 investigation requests, responds to inquiries from Members of Congress, and ensures that the Commission is apprised of legislative initiatives that, if enacted, would affect its operations. The office is also active in providing technical advice to Members of Congress and their staff on various trade-related matters.

Congressional interest in international trade remained high during fiscal year 1989, as evidenced by the 11 Members of Congress who testified at Commission hearings and the 13 Members who attended briefings by Commission staff. Members of Congress appeared before the Commission at hearings held in Washington, DC, and in cities across the country in connection with a section 332 investigation request from the USTR. Those hearings were for the purpose of solic-

pared with the number in fiscal year 1988:

	Fiscal year	
	1988	1989
Requests for confidential treatment	253	488
Requests for release of confidential business information under protective order	59	166
FOIA requests:		
Received	77	77
Granted	61	56

In recent months, several new activities have begun within the Office of the Secretary. In connection with Investigation 337-TA-297 (Cellular Telephones), it is receiving and processing the first surety bonds required by the Commission as part of the temporary exclusion order process. Counsel for all of the parties have been interested in posting such bonds promptly in order that their clients can continue to conduct business.

Another outgrowth of the Omnibus Trade and Competitiveness Act of 1988 has been the receipt of a series of letters from the U.S. Customs Service advising that entry had been attempted of merchandise subject to Commission exclusion orders. Under the statute, the Commission is authorized to issue seizure letters enabling the Custom examiner to hold the merchandise. Together with the Office of the General Counsel, the Office of the Secretary has been monitoring the status of these letters.

There continues to be a need to monitor the alleged breaches of Commission Administrative Protective Orders. To date, a total of 29 possible breaches have been found. In four, the Commission invoked sanctions; in two cases, the staff investigation did not disclose evidence of an actual violation. The remaining cases are still under investigation by the Office of the General Counsel.

The next two years will likely see a significant change in the way the office receives and processes the thousands of documents filed with the agency each year. (To date in calendar year 1989, it is averaging almost 1,100 filings per

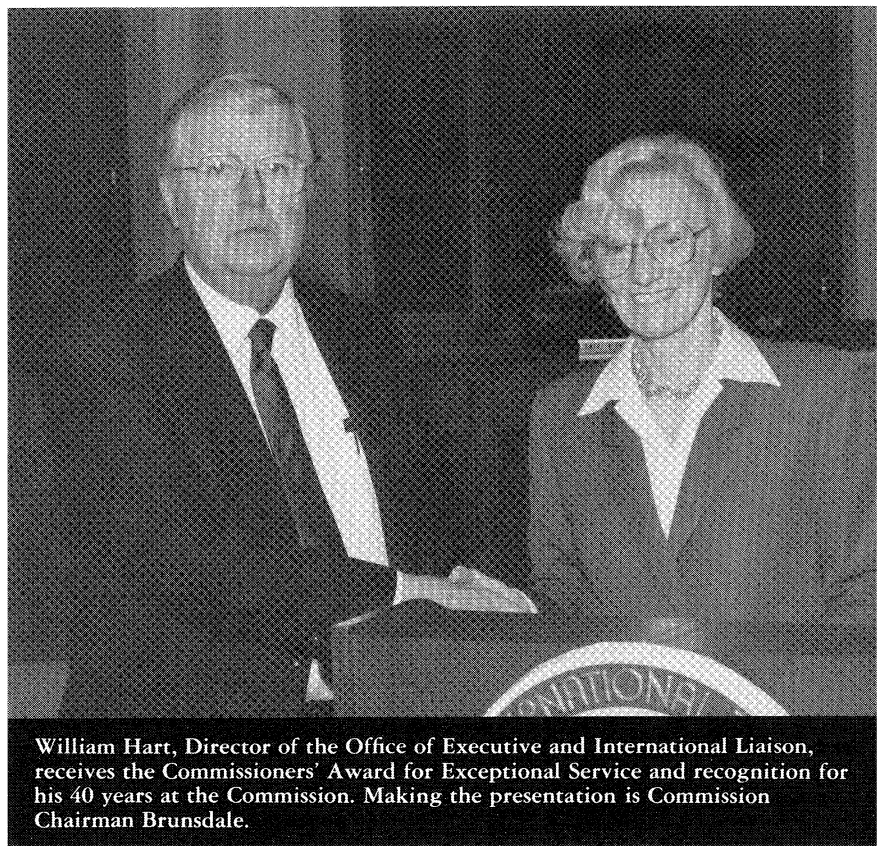
month, compared with fewer than 850 per month in 1988.) When the IBM 4331 mainframe computer is moved out, the office will have to have an alternative system tested and ready to use in the docketing function. At the same time, the office is looking at improved microfilm systems and optical disk technology for introduction in the 1990s. (The office receives an average of almost 200 visitors each month—excluding Commission staff—researching its public files.) A long-range strategic planning document has been drafted addressing these and other concerns.

Facilities for research by the public are located in the Office of the Secretary, room 112, and in the Commission libraries. Inquiries should be directed to the specific organizational unit or to the Secretary, U.S. International Trade

Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Publications may be ordered 24 hours a day, seven days a week, by calling 202-252-1809.

OFFICE OF EXECUTIVE AND INTERNATIONAL LIAISON

The Office of Executive and International Liaison has as a principal function the management of the daily technical assistance that the Commission provides to the USTR in the operation of the trade agreements program and the execution of U.S. trade policy. The office is also the channel through which assistance is obtained from U.S. embassies in foreign countries in assembling information for



William Hart, Director of the Office of Executive and International Liaison, receives the Commissioners' Award for Exceptional Service and recognition for his 40 years at the Commission. Making the presentation is Commission Chairman Brunsdale.

PART III. MANAGEMENT AND FINANCE

The Commission maintains an expert staff of professional international trade and nomenclature analysts, investigators, attorneys, economists, data systems programmers, and administrative support personnel to do the work mandated by Congress. All Commission personnel are at 500 E Street SW., Washington, DC 20436.

A total of 471 permanent employees were employed by the Commission on September 30, 1989, compared with 462 at the end of the previous fiscal year. The breakdown of their assignments is as follows:

Organizational Unit	Number as of September 30, 1989
Commissioners	6
Offices of the Commissioners	24
Office of the Administrative Law Judges	13
Office of the Secretary	17
Office of Public Affairs	1
Office of Executive and International Liaison	4
Office of Congressional Liaison	2
Office of the General Counsel	43
Office of Inspector General	2
Office of the Director of Operations	2
Office of Data Systems	40
Office of Economics	43
Office of Industries	135
Office of Investigations	36
Office of Tariff Affairs and Trade Agreements	21
Office of Unfair Import Investigations	15
Trade Remedy Assistance Office	2
Office of the Director of Administration	4
Office of Finance and Budget	11
Office of Management Services	40
Office of Personnel	10
Total	471

The U.S. International Trade Commission submits its budget to the President for transmittal to Congress. The Commission has a unique role as an independent, quasi-judicial, bipartisan agency designed to provide trade expertise to both legislative and executive branches of Government. Thus, Congress provided in section 175 of the Trade Act of 1974 (19

U.S.C. 2232) that the Commission budget not be subject to control by the Office of Management and Budget but would instead be submitted directly to Congress.

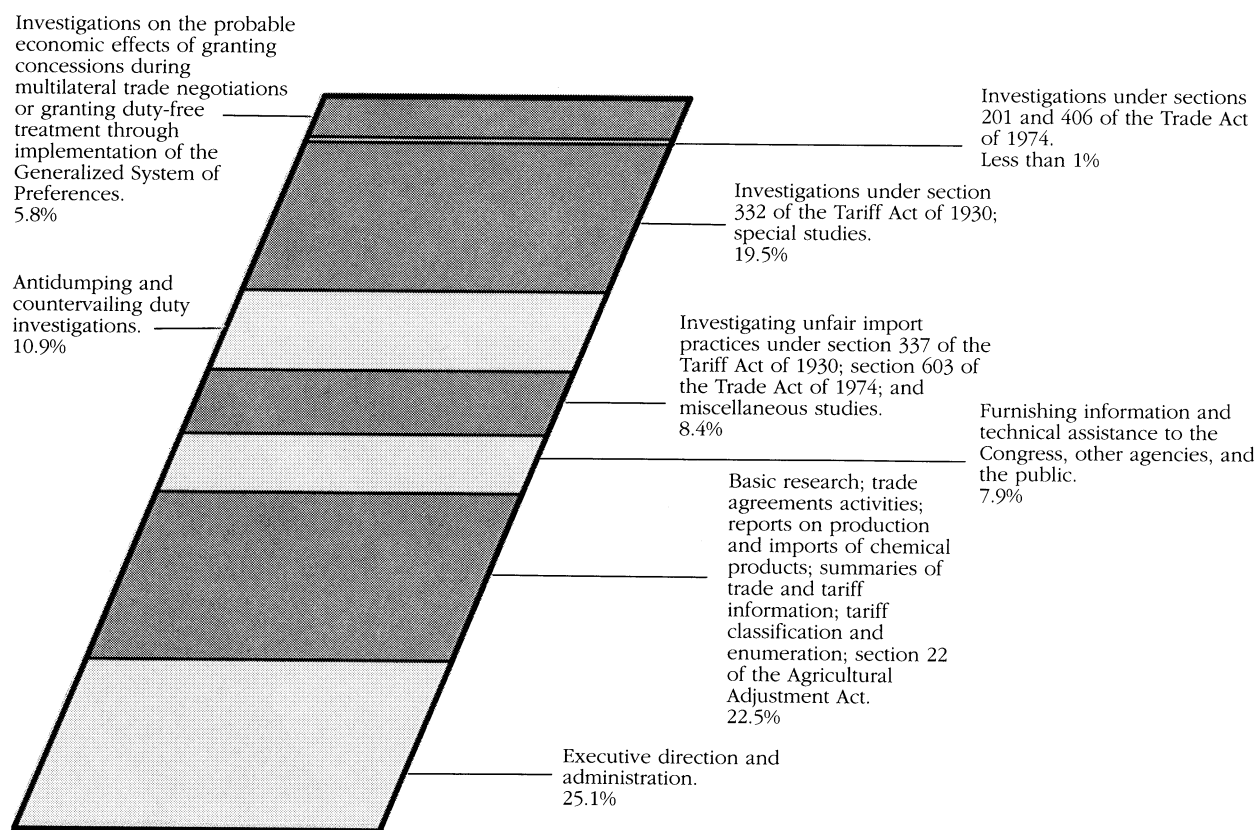
During fiscal year 1989, appropriated funds made available to the Commission amounted to \$35,958,000. Obligations for fiscal years 1988 and 1989 were as follows (in thousands of dollars):

Item	Fiscal Year 1988	Fiscal Year 1989
Salaries and personnel benefits	\$21,812	\$23,314
Travel and transportation	\$21,638	648
Rental and communications services	6,170	7,414
Other services	2,213	2,787
Printing and reproduction	353	202
Equipment, supplies, and material	2,639	1,373
Subtotal	<u>33,825</u>	<u>35,738</u>
Relocation	<u>1,752</u>	<u>(4)¹</u>
Total	\$35,577	\$35,734

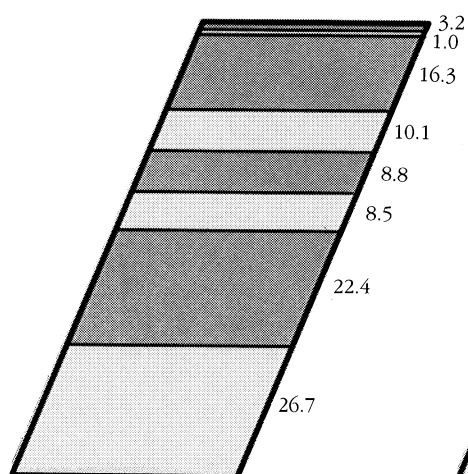
¹Public Law 98-523 (Oct. 19, 1984) transferred the U.S. International Trade Commission's headquarters building at 701 E Street NW, to the Smithsonian Institution and required the General Services Administration (GSA) to relocate all Commission functions to a single downtown Washington, DC office facility. During December 1987 and January 1988, the Commission consolidated all of its operations into a new building at 500 E Street SW., Washington, DC 20436. The Commission's fiscal year budget was amended to include \$4 million to remain available until expended, for expenses related to the relocation. While the relocation was completed during fiscal year 1988, this account remained opened during fiscal year 1989 for possible cost adjustments. Through Sept. 30, 1989, \$3.8 million of the \$4 million was expended, and \$159,830 has been returned to the U.S. Treasury.

Figure 1

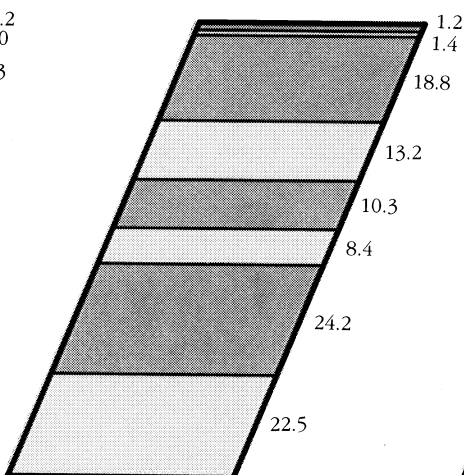
SUMMARY OF PRINCIPAL ACTIVITIES, FISCAL YEARS 1986-89



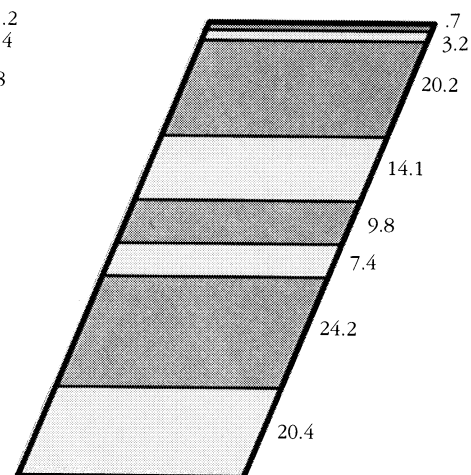
1989



1988



1987



1986

COMMISSION ORGANIZATION AND FUNCTIONS OF OFFICES

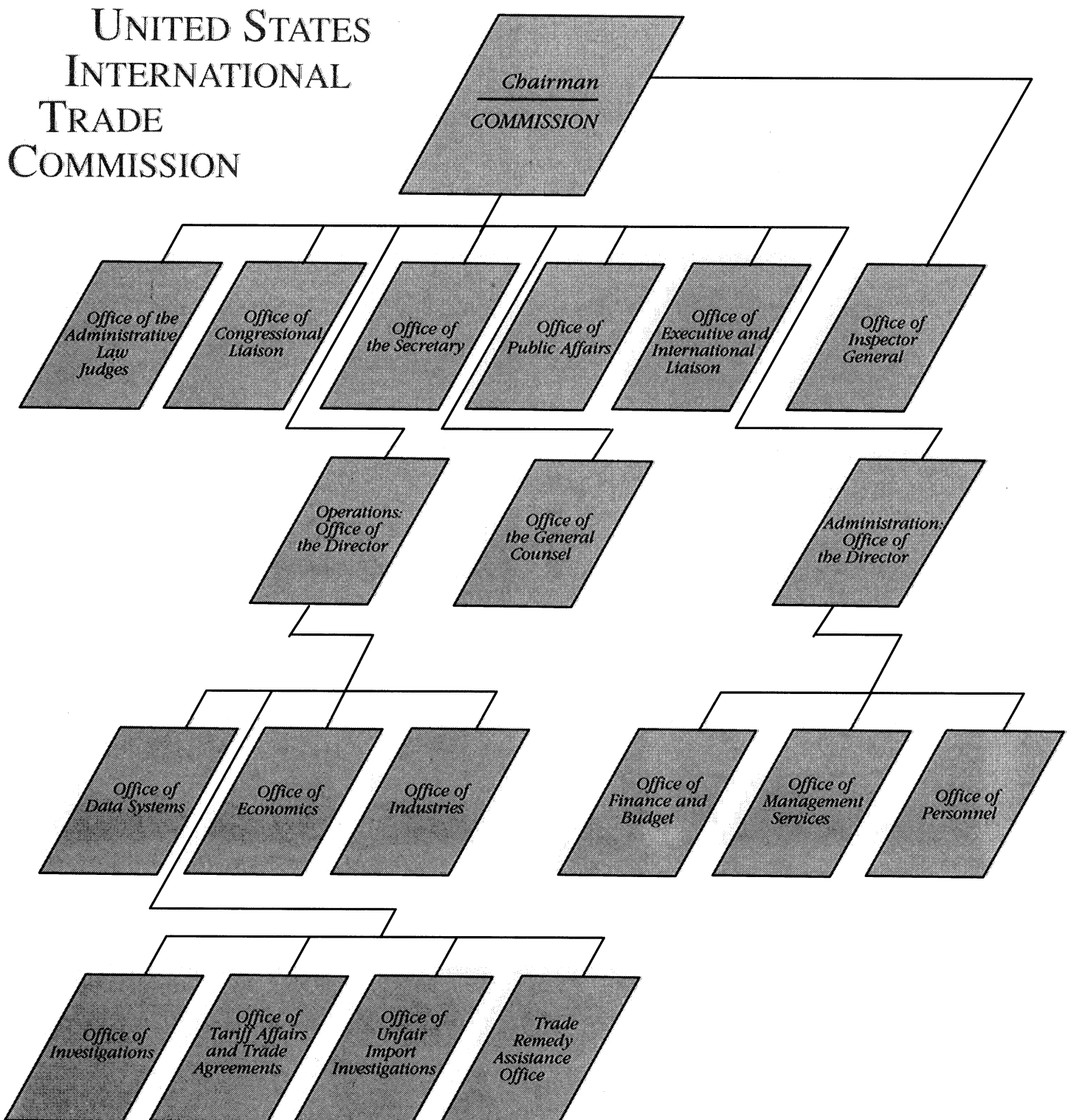


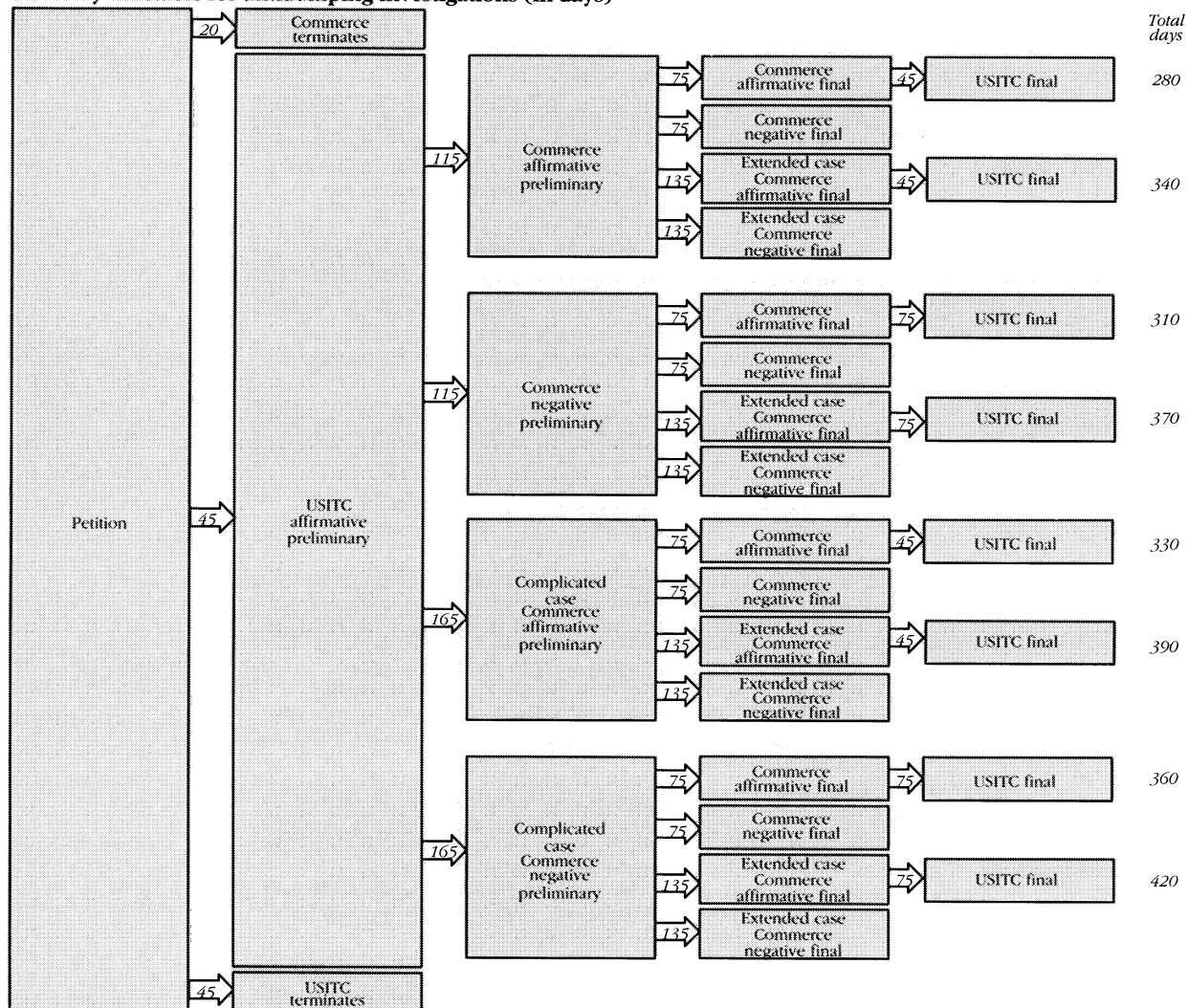
Figure 2

The Commission	The ITC is composed of six Commissioners nominated by the President and confirmed by the Senate.
Office of the Secretary	Compiles and maintains the Commission's official records and receives petitions and briefs.
Office of the Administrative Law Judges	Hears and decides unfair trade practice cases brought under section 337 of the Tariff Act of 1930.
Office of Congressional Liaison	Coordinates activities between the Commission and Congress and responds to inquiries from congressional offices.
Office of Public Affairs	Advises Commissioners and senior staff in public relations matters and plans and administers the media relations program.
Office of Executive and International Liaison	Coordinates relations between the Commission and the United States Trade Representative and other Executive Branch offices.
Office of the General Counsel	The Commission's principal legal advisor, responsible for litigation, input on investigations, and reports on proposed legislation.
Office of Inspector General	Directs and carries out audits and investigations of Commission programs and operations.
Office of Operations	Supervises all substantive work of the Offices of Investigations, Industries, Economics, Data Systems, Tariff Affairs and Trade Agreements, and Unfair Import Investigations.
Office of Data Systems	Provides information services and resources through the ongoing activities of its four divisions—Computer Services, Library, Statistical, and Applications Development.
Office of Economics	Provides economic analyses to help the Commission investigate the effects of U.S. foreign trade on domestic production, employment, and consumption and to provide expert advice to Congress and the President on international economic issues.
Office of Industries	Provides technical and economic information and assessments of U.S. industries and merchandise trade.
Office of Investigations	Coordinates the Commission's countervailing duty, antidumping, and review investigations, escape-clause and market disruption investigations, and investigations under section 22 of the Agricultural Adjustment Act.
Office of Tariff Affairs and Trade Agreements	Prepares reports on tariff legislation, publishes U.S. tariff schedule, chairs import-export statistical committee, participates in Harmonized System Committee.
Office of Unfair Import Investigations	Participates in all investigations conducted under section 337 of the Tariff Act of 1930.
Trade Remedy Assistance Office	Provides information to the public on remedies and benefits available under U.S. trade laws and offers technical assistance to eligible small businesses seeking relief under the trade remedy laws.
Office of Administration	Supervises support services of the Commission, which include the Offices of Finance and Budget, Management Services, and Personnel.
Office of Finance and Budget	Responsibilities include the budget, payroll, and accounting functions.
Office of Management Services	Coordinates mail, supply, and building maintenance services, editorial, graphics, and procurement functions.
Office of Personnel	Recruits, places, and trains employees and administers position classification, benefits, employee relations, and labor relations programs.

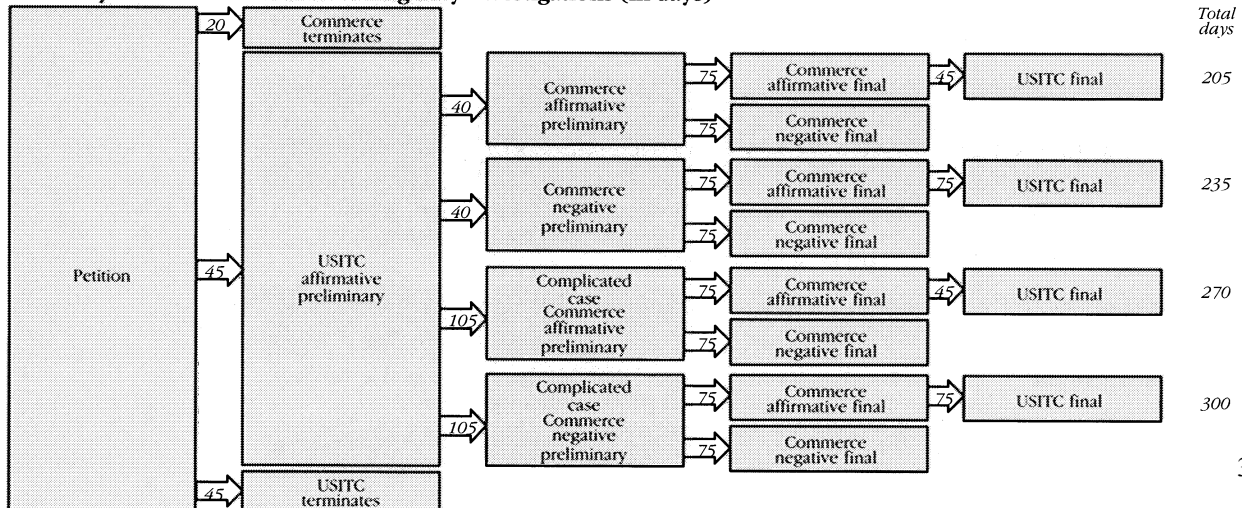
STATUTORY TIMETABLES FOR ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS

Figure 3

Statutory timetable for antidumping investigations (in days)



Statutory timetable for countervailing duty investigations (in days)



A P P E N D I X E S

APPENDIX A

SUMMARY OF INVESTIGATIONS COMPLETED DURING FISCAL YEAR 1989 AND PENDING ON SEPTEMBER 30, 1989

Table 1

GENERAL INVESTIGATIONS OF TRADE AND TARIFF MATTERS COMPLETED UNDER SEC. 332 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Investi- gation No.	Subject	Origin	USITC Publication	
			No.	Date
332-73	Formulation of an inter- national commodity code.	Sec. 608(c)(1) of the Trade Act of 1974.	(¹)	(¹)
332-167	Quarterly and annual reports on certain stainless steel and alloy tool steel.	Presidential Proclamation 5074.	2173	March 1989
332-209	Annual survey concerning competitive conditions in the steel industry and industry efforts to adjust and modernize.	Request from the United States Trade Representative.	(²)	August 1989
332-253	Competitive conditions in the U.S. market for asparagus, broccoli, and cauliflower.	Request from the United States Trade Representative, at the direction of the President.	2136	November 1988
332-254	Men's and boys' woven manmade-fiber shirts from China.	Request from the United States Trade Representative, at the direction of the President.	(³)	November 1988
TA-131(b)-12	Tropical products: Probable economic effects on U.S. industries and consumers of elimination of U.S. tariffs.	Request from the United States Trade Representative.	(³)	October 1988
332-256	The western U.S. steel market: Analysis of market conditions and assessment of the economic effects of voluntary restraint agreements on steel-producing and steel- consuming industries.	Request from the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives.	2165	March 1989
332-257	Service sector profiles, and barriers to trade in services.	Request from the United States Trade Representative, at the direction of the President.	(³)	December 1988 March 1989 September 1989
332-258	Agricultural and tropical products: Literature search regarding trade distortions and effect of trade liberalization, and calculation of tariff equivalents.	Request from the United States Trade Representative.	(³)	April 1989

See footnotes at end of table.

Table 1—Continued

**GENERAL INVESTIGATIONS OF TRADE AND TARIFF MATTERS COMPLETED UNDER
SEC. 332 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989**

Investi- gation No.	Subject	Origin	USITC Publication	
			No.	Date
332-259	Report on the pros and cons of entering into negotiations on free trade area agreements with Taiwan, South Korea, and ASEAN, or the Pacific Rim region in general.	Request from the Committee on Finance, U.S. Senate.	2166	March 1989
332-260 and TA-503(a)-16.	President's list of articles that may be designated or modified as eligible articles for purposes of the U.S. Generalized System of Preferences.	Request from the United States Trade Representative.	2138	November 1988
332-261	Ethyl alcohol and mixtures thereof: Assessment regarding the indigenous percentage requirements for imports in sec. 423 of the Tax Reform Act of 1986.	Omnibus Trade and Competitiveness Act of 1988.	2161	February 1989
332-263	Competitive conditions in the U.S. and world markets for fresh cut roses.	Sec. 4509 of the Omnibus Trade and Competitiveness Act of 1988.	2178	April 1989
332-265	United States-Israel Free-Trade Agreement: Probable effects on U.S. industry and consumers of certain remaining U.S. and Israeli tariff reductions.	Request from the United States Trade Representative, at the direction of the President.	(¹)	March 1989
332-266, TA-503(a)-17 and TA-131(b)-13.	Probable economic effects of providing duty-free treatment for watches under the Generalized System of Preferences.	Request from the United States Trade Representative, made in part at the direction of the President.	2181	April 1989
TA-131(b)-14	Probable economic effect on U.S. industries and consumers of modification of U.S. tariffs and modification or removal of certain U.S. nontariff measures.	Request from the United States Trade Representative.	(¹)	June 1989
332-267	The effects of greater economic integration within the European Community on the United States.	Request from the Committee on Ways and Means of the U.S. House of Representatives and the Committee on Finance of the U.S. Senate.	2204	July 1989
332-268	Foreign investment barriers or other restrictions that prevent foreign capital from claiming the benefits of foreign government programs.	Request from the United States Trade Representative, at the direction of the President.	2212	August 1989
332-269	Likely impact of EC government procurement initiatives affecting excluded sectors.	Request from the United States Trade Representative, at the direction of the President.	(¹)	June 1989
332-270	The effects of the steel voluntary restraint agreements on U.S. steel-consuming industries.	Request from the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives.	2182	May 1989

34

See footnotes at end of table.

Table 1—Continued

**GENERAL INVESTIGATIONS OF TRADE AND TARIFF MATTERS COMPLETED UNDER
SEC. 332 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989**

Investi- gation No.	Subject	Origin	USITC Publication	
			No.	Date
332-271	Conditions of competition between U.S. and Mexican lime in the U.S. market.	Request from the United States Trade Representative under authority delegated by the President.	2210	August 1989
332-272	Certain unmanufactured cigarette leaf tobacco: Probable economic effect of removal from eligibility for duty-free treatment under the Generalized System of Preferences.	Request from the United States Trade Representative under authority delegated by the President.	2190	May 1989
332-276	Advice concerning probable economic effect of modification of rules of origin under the United States-Canada Free-Trade Agreement for certain animal fat and vegetable oil products.	Request from the United States Trade Representative.	(³)	September 1989
332-277	Importation of certain drug paraphernalia into the United States.	Request from the Committee on Finance, U.S. Senate.	2223	September 1989

¹ Not applicable.

² Investigation 332-209 was completed in August 1989. The public report, USITC Publication 2226, was issued in October 1989.

³ Confidential report; no publication number is assigned.

Table 2

**GENERAL INVESTIGATIONS OF TRADE AND TARIFF MATTERS UNDER
SEC. 332 OF THE TARIFF ACT OF 1930 PENDING ON SEPT. 30, 1989**

Investi- gation No.	Subject	Origin	USITC Publication	
			No.	Date
332-135	Synthetic organic chemical reports.	Instituted by the U.S. Inter- national Trade Commission on its own motion.	2219	September 1989
332-175	Rum: Annual report on selected economic indicators.	Request from the Committee on Finance. U.S. Senate.	2188	May 1989
332-191	Nonrubber footwear quarterly statistical reports.	Request from the Committee on Finance. U.S. Senate.	2142 2167 2199 2221	December 1988 March 1989 June 1989 September 1989
332-200	Competitive position of U.S. producers of semiconductors.	Instituted by the U.S. Inter- national Trade Commission on its own motion.	(¹)	(¹)
332-207	Monthly reports providing information on the U.S. auto industry.	Request from the Subcommittee on Trade. Committee on Ways and Means. U.S. House of Representatives.	2133 2137 2145 2151 2157 2168 2180 2191 2201 2206 2214 2224	October 1988 November 1988 December 1988 January 1989 February 1989 March 1989 April 1989 May 1989 June 1989 July 1989 August 1989 September 1989
332-226	Monthly reports on the status of the steel industry.	Request from the Subcommit- tee on Trade. Committee on Ways and Means. U.S. House of Representatives.	2130 2134 2141 2147 2153 2162 2175 2184 2195 2202 2207 2215	October 1988 November 1988 December 1988 January 1989 February 1989 March 1989 April 1989 May 1989 June 1989 July 1989 August 1989 September 1989
332-227	Annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers.	Sec. 215(a). Caribbean Basin Economic Recovery Act.	2225	September 1989
332-237	Production sharing: U.S. imports under Harmonized Tariff Schedule subheadings 9802.00.60 and 9802.00.80 (formerly items 806.30 and 807.00 of the Tariff Schedules of the United States).	Instituted by the U.S. Inter- national Trade Commission on its own motion.	2144	December 1988
332-252	Annual surveys on ammonium paratungstate, tungstic acid, and tungsten oxide.	Presidential Proclamation 5718	(²)	March 1989

See footnotes at end of table.

Table 2—Continued

**GENERAL INVESTIGATIONS OF TRADE AND TARIFF MATTERS UNDER
SEC. 332 OF THE TARIFF ACT OF 1930 PENDING ON SEPT. 30, 1989**

Investi- gation No.	Subject	Origin	USITC Publication	
			No.	Date
332-262	The economic effects of significant U.S. import restraints. ¹ (Phase I)	Request from the Committee on Finance, U.S. Senate.	2222 (Phase I)	September 1989
332-264	U.S. imports of lamb meat	As required by sec. 1937 of the Omnibus Trade and Competitiveness Act of 1988.	(¹)	(¹)
332-273	Certain final judicial decisions relating to tariff treatment.	As required by subsec. 1211(d)(2)(B) of the Omnibus Trade and Competitiveness Act of 1988.	(¹)	(¹)
332-274	Investigation with respect to the operation of the harmonized system subtitle of the Omnibus Trade and Competitiveness Act of 1988.	As required by sec. 1216 of the Omnibus Trade and Competitiveness Act of 1988.	(¹)	(¹)
332-275	Competitive position of the U.S. gear industry in U.S. and global markets.	Request from the United States Trade Representative.	(¹)	(¹)
332-278	United States-Canada Free-Trade Agreement; Probable economic effect on U.S. industries and consumers of accelerated elimination of U.S. tariffs on certain articles from Canada.	Request from the United States Trade Representative, under authority delegated by the President.	(¹)	(¹)
332-279 and TA-503(a)-18.	President's list of articles that may be designated or modified as eligible articles for purposes of the U.S. Generalized System of Preferences.	Request from the United States Trade Representative.	(¹)	(¹)
332-280	Survey of views on the impact of granting most-favored-nation status to the Soviet Union.	Request from the Committee on Finance, U.S. Senate.	(¹)	(¹)

¹ Not applicable.

² Confidential report; no publication number is assigned.

Table 3

INVESTIGATIONS COMPLETED UNDER SEC. 337 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Articles concerned	Complainant	Complaint filed	Date of publication of notice in <i>Federal Register</i> and Investigation No.	Public hearing	Finding and remedy of Commission	Date orders issued	USITC Publication No.
Certain cryogenic ultramicrotome apparatus and components thereof.	Research & Manufacturing Co., Inc.; Tucson, AZ.	8-15-86; 9-3-86; 9-4-86; and 9-9-86 (supplements).	9-17-86; 337-TA-256.	(¹)	Terminated; no violation	6-8-89	(¹)
Certain erasable programmable read-only memories; components thereof, products containing same, and processes for making such memories.	Intel Corp.; Santa Clara, CA.	8-5-87; 8-31-87 (supplement).	9-16-87; 337-TA-276.	(¹)	Violation ²	3-16-89	2196
Certain plastic light-duty screw anchors.	Mechanical Plastics Corp.; Pleasantville, NY.	12-11-87; 12-28-87 and 12-29-87 (supplements).	1-27-88; 337-TA-279.	(¹)	Violation ³	1-27-89	(¹)
Certain recombinant erythropoietin.	Amgen Inc.; Thousand Oaks, CA.	1-4-88; 1-20-88 (amendment).	2-10-88; 337-TA-281.	(¹)	Terminated ⁴	4-10-89	2186
Certain venetian blind components.	Hunter Douglas Inc.; Upper Saddle River, NJ.	4-28-88; 5-18-88 (supplement).	6-2-88; 337-TA-282.	(¹)	Terminated ⁵	1-3-89	(¹)
Certain electronic dart games.	Arachnid Inc.; Rockford, IL.	6-16-88; 7-6-88 (supplement).	7-20-88; 337-TA-283.	(¹)	Terminated ⁶	5-10-89	(¹)
Certain chemiluminescent compositions thereof and methods of using the same.	American Cyanamid Co.; Wayne, NJ.	7-21-88; 8-9-88 (supplement).	8-25-88; 337-TA-285.	(¹)	Violation ⁷	8-17-89	(¹)
Certain track lighting system components including plugboxes.	Cooper Industries, Inc.; Houston, TX.	7-22-88; 8-5-88 (amendment and supplement).	8-25-88; 337-TA-286.	(¹)	Terminated; no violation.	7-7-89	(¹)

See footnotes at end of table.

Table 3—Continued

INVESTIGATIONS COMPLETED UNDER SEC. 337 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Articles concerned	Complainant	Complaint filed	Date of publication of notice in <i>Federal Register</i> and Investigation No.	Public hearing	Finding and remedy of Commission	Date orders issued	USITC Publication No.
Certain strip lights.	Vista Manufacturing Inc., Elkhart, IN.	8-24-88; 9-8-88 (amendment and supplement).	9-28-88; 337-TA-287.	(¹)	Violation ²	9-28-89	(¹)
Certain straight-knife cloth-cutting machines.	Eastman Machine Co., Buffalo, NY.	11-23-88; 12-13-88 (supplement).	12-28-88; 337-TA-288.	(¹)	Terminated ³	5-23-89	(¹)*
Certain carrier materials bearing ink compositions to be used in a dry adhesive-free thermal transfer process and signfaces made by such a process.	Minnesota Mining & Manufacturing Co., St. Paul, MN.	2-14-89	3-22-89; 337-TA-294.	(¹)	Terminated ³	8-16-89	(¹)
Certain food-treatment ovens, components, parts thereof, and processes carried out therein.	Heat Control, Inc., San Francisco, CA.	5-3-89; 5-19-89 and 5-23-89 (supplements).	6-7-89; 337-TA-299.	(¹)	Terminated ¹⁰	9-15-89	(¹)

¹ Not applicable.² Limited exclusion order and cease and desist order; subsequently issued modified cease and desist order on 4-28-89. President took no action; became final on 6-5-89.³ General exclusion order. President took no action; became final on 3-30-89.⁴ Lack of subject matter jurisdiction.⁵ Three-respondent settlement agreement, foreign respondents with prejudice.⁶ Consent orders. President took no action; became final on 7-10-89.⁷ General exclusion order. President's review period not over at end of fiscal year.⁸ Consent order. President took no action; became final on 7-22-89.⁹ Consent order. President's review period not over at end of fiscal year.¹⁰ Settlement agreement.

Table 4

INVESTIGATIONS UNDER SEC. 337 OF THE TARIFF ACT OF 1930 PENDING ON SEPTEMBER 30, 1989

Articles concerned	Complainant	Complaint filed	Date of publication of notice in <i>Federal Register</i> and Investigation No.
Certain electric power tools, battery cartridges, and battery chargers.	Makita, USA, Inc.; Cerritos, CA. Makita Corp. of America; Buford, GA.	4-1-88; 7-7-88; 7-25-88; 7-27-88; and 7-29-88 (supplements).	8-17-88; 337-TA-284.
Certain concealed cabinet hinges and mounting plates.	Julius Blum, Inc., Lowesville, Stanley, NC.	11-23-88; 12-13-88 (supplement).	12-28-88; 337-TA-289.
Certain wire electrical discharge machining apparatus and components thereof.	Elox Corp.; Davidson, NC. A.G. fur Industrielle Elektronik AGIE; Lausanne, Switzerland.	1-23-89; 2-8-89 (supplement).	3-8-89; 337-TA-290.
Certain insulated security chests	John D. Brush & Co., Inc.; Rochester, NY.	1-25-89; 2-8-89 (supplement).	3-8-89; 337-TA-291.
Certain methods of making carbonated candy products.	General Foods Corp.; White Plains, NY. Carbonated Candy Ventures; Buffalo, NY. Pop Rocks, Inc; Stamford, CT.	1-31-89; 2-21-89 (amendment and supplement).	3-8-89; 337-TA-292.
Certain crystalline cefadroxil monohydrate	Bristol-Myers Co.; New York, NY.	2-1-89; 2-24-89 (supplement).	3-15-89; 337-TA-293.
Certain novelty teleidoscopes	Homespun Imports, Inc., d/b/a Silver Deer Ltd.; Boulder, CO.	3-7-89; 3-29-89; 3-30-89 and 4-3-89 (supplements).	4-13-89; 337-TA-295.
Certain phenylene sulfide polymers and polymer compounds and products containing same.	Phillips Petroleum Co.; Bartlesville, OK.	3-20-89; 4-5-89 and 4-6-89 (supplements).	4-27-89; 337-TA-296.
Certain cellular radiotelephones and subassemblies and component parts thereof.	Motorola, Inc.; Schaumburg, IL.	4-19-89; 5-9-89 (supplement).	5-31-89; 337-TA-297.
Certain low-friction drawer supports, components thereof, and products containing same.	GWN Inc., d/b/a Delta Industries; Chatsworth, CA.	4-26-89; 5-9-89 (supplement).	5-31-89; 337-TA-298.
Certain doxorubicin and preparations containing same.	Erbamont, Inc.; Stamford, CT.	5-21-89; 6-5-89 (supplement).	6-21-89; 337-TA-300.

Table 4—Continued

**INVESTIGATIONS UNDER SEC. 337 OF THE TARIFF ACT OF 1930 PENDING ON
SEPTEMBER 30, 1989**

Articles concerned	Complainant	Complaint filed	Date of publication of notice in <i>Federal Register</i> and Investigation No.
Certain imported artificial breast prostheses and the manufacturing processes therefor.	Amoena Corp.; Marietta, GA.	6-2-89; 7-6-89 and 7-21-89 (supplements).	8-2-89; 337-TA-301.
Certain self-inflating mattresses	Cascade Designs Inc.; Seattle, WA.	7-10-89	8-16-89; 337-TA-302.
Certain polymer geogrid products and processes therefor.	Tensar Corp.; Morrow, GA.	8-10-89; 8-31-89 (supplement).	9-20-89; 337-TA-303.

Table 5

COUNTERVAILING DUTY INVESTIGATIONS COMPLETED UNDER SEC. 701 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Investigation No.	Article concerned	Preliminary investigation					Final investigation				
		(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.
701-TA-292	Thermostatically controlled appliance plugs and probe thermostats from Taiwan.	(¹)	(¹)	(¹)	(¹)	(¹)	(a) 7-22-88 (b) 12-15-88 (c) 1-25-89	(¹)	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	2152
701-TA-293	Industrial belts from Israel.	(¹)	(¹)	(¹)	(¹)	(¹)	(a) 2-1-89 (b) 4-27-89 (c) 5-31-89	Eckes Newquist	Brunsdale Cass Lodwick Rohr	(¹)	2194
701-TA-295 (terminated 5-23-89).	Industrial belts from South Korea.	(¹)	(¹)	(¹)	(¹)	(¹)	(a) 2-1-89	(¹)	(¹)	(¹)	(¹)
701-TA-296	Certain steel wheels from Brazil.	(¹)	(¹)	(¹)	(¹)	(¹)	(a) 10-28-88 (b) 4-20-89 (c) 5-24-89	(¹)	Brunsdale Cass Eckes Lodwick Newquist	Rohr ²	2193
701-TA-297	New steel rails from Canada.	(a) 9-26-88 (b) 10-19-88 (c) 11-10-88	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	(¹)	2135	(a) 4-18-89 (b) 7-27-89 (c) 9-8-89	Eckes Rohr Newquist	Brunsdale Cass Lodwick	(¹)	2217
701-TA-298	Fresh, chilled, or frozen pork from Canada.	(a) 1-5-89 (b) 1-26-89 (c) 2-21-89	Eckes Rohr Newquist	Brunsdale Cass	Lodwick ²	2158	(a) 5-8-89 (b) 8-1-89 (c) 9-5-89	Eckes Rohr Newquist	Brunsdale Cass	Lodwick ²	2218
701-TA-299	Aluminum sulfate from Venezuela.	(a) 3-29-89 (b) 4-19-89 (c) 5-15-89	Cass Eckes Lodwick Rohr Newquist	Brunsdale	(¹)	2189	(¹)	(¹)	(¹)	(¹)	(¹)
701-TA-300	Limousines from Canada.	(a) 7-24-89 (b) 8-15-89 (c) 9-7-89	Brunsdale Cass Eckes Lodwick Newquist	(¹)	Rohr ²	2220	(¹)	(¹)	(¹)	(¹)	(¹)

¹ Not applicable.

² Did not participate in this vote to avoid the possible appearance of conflict of interest.

Table 6

**ANTIDUMPING INVESTIGATIONS COMPLETED UNDER SEC. 731 OF THE TARIFF ACT OF 1930,
FISCAL YEAR 1989**

Investigation No.	Article concerned	Preliminary investigation					Final investigation									
		(a) Request received	(b) Conference	(c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce	(b) Hearing	(c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	
731-TA-207 (Remand).	Cellular mobile telephones and sub-assemblies thereof from Japan.	(1)		(1)		(1)	(1)	(1)	(a) 10-31-88 (b) ² (c) 2-16-89			Brunsdale Eckes Lodwick Rohr Cass Newquist	(1)		(1)	2155
731-TA-238	12-volt motor-cycle batteries from Taiwan.	(1)		(1)		(1)	(1)	(1)	(a) 4-18-89 (b) 7-6-89 (c) 8-16-89		(1)	Brunsdale Cass Eckes Lodwick Rohr Newquist		(1)		2213
731-TA-388	Certain all-terrain vehicles from Japan.	(1)		(1)		(1)	(1)	(1)	(a) 9-12-88 (b) 1-26-89 (c) 3-10-89		(1)	Brunsdale Eckes Lodwick Rohr Cass Newquist		(1)		2163
731-TA-389	3.5-inch microdisks and media therefor from Japan.	(1)		(1)		(1)	(1)	(1)	(a) 9-29-88 (b) 2-9-89 (c) 3-22-89		Eckes Lodwick Rohr Newquist	Cass		Brunsdale ³		2170
731-TA-390	Digital readout systems and sub-assemblies thereof from Japan.	(1)		(1)		(1)	(1)	(1)	(a) 9-12-88 (b) 12-1-88 (c) 1-9-89		Brunsdale Cass	Eckes Lodwick Rohr Newquist		(1)		2150
731-TA-391 through 731-TA-399.	Anti-friction bearings (other than tapered roller bearings) and parts thereof from West Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom.	(1)		(1)		(1)	(1)	(1)	(a) 11-9-88 (b) 3-30-89 (c) 5-8-89		Cass ⁴ Eckes ⁵ Lodwick ⁶ Rohr ⁵ Newquist ⁵	Cass ⁷ Eckes ⁸ Lodwick ⁹ Rohr ⁸ Newquist ⁸		Brunsdale ¹⁰		2185

See footnotes at end of table.

Table 6—Continued

**ANTIDUMPING INVESTIGATIONS COMPLETED UNDER SEC. 731 OF THE TARIFF ACT OF 1930,
FISCAL YEAR 1989**

Investigation No.	Article concerned	Preliminary investigation					Final investigation								
		(a) Request received	(b) Conference	(c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce	(b) Hearing	(c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.
731-TA-400 and 731-TA-402 through 731-TA-404.	Thermostatically controlled appliance plugs and probe thermostats from Canada, Japan, Malaysia, and Taiwan.	(1)			(1)	(1)	(1)		(a) 9-28-88 (b) 12-15-88 (c) 1-25-89			(1)	Brunsdale Eckes Lodwick Rohr Cass Newquist	(1)	2152
731-TA-405	Sewn cloth headwear from China.	(1)			(1)	(1)	(1)		(a) 11-8-88 (b) 3-29-89 (c) 5-1-89			(1)	Brunsdale Cass Eckes Lodwick Rohr Newquist	(1)	2183
731-TA-406 and 731-TA-408.	Electrolytic manganese dioxide from Greece and Japan.	(1)			(1)	(1)	(1)		(a) 11-14-88 (b) 3-9-89 (c) 4-10-89		Eckes Lodwick Rohr Newquist		Brunsdale Cass	(1)	2177
731-TA-409	Certain light-walled rectangular pipes and tubes from Argentina.	(1)			(1)	(1)	(1)		(a) 11-21-88 (b) 2-8-89 (c) 5-15-89		Brunsdale Cass Eckes Newquist		Lodwick Rohr	(1)	2187
731-TA-410	Certain light-walled rectangular pipes and tubes from Taiwan.	(1)			(1)	(1)	(1)		(a) 11-21-88 (b) 2-8-89 (c) 3-20-89		Brunsdale Eckes Cass Newquist		Lodwick Rohr	(1)	2169
731-TA-411	Calcined bauxite proppants from Australia.	(1)			(1)	(1)	(1)		(a) 11-29-88 (b) 2-22-89 (c) 3-28-89			(1)	Brunsdale Eckes Lodwick Rohr Newquist	Cass ¹¹	2172

See footnotes at end of table.

Table 6—Continued

**ANTIDUMPING INVESTIGATIONS COMPLETED UNDER SEC. 731 OF THE TARIFF ACT OF 1930,
FISCAL YEAR 1989**

Investigation No.	Article concerned	Preliminary investigation					Final investigation					
		(a)	(b)	(c)	USITC Publication No.	(a)	(b)	(c)	Affirmative	Negative	Not participating	USITC Publication No.
		Request received	Conference	Report to Secretary of Commerce								
731-TA-412 through 731-TA-419.	Industrial belts from Israel, Italy, Japan, Singapore, South Korea, Taiwan, the United Kingdom, and West Germany.	(¹)	(¹)	(¹)	(¹)	(¹)	(a) 2-1-89 (b) 4-27-89 (c) 5-31-89	Eckes Newquist Rohr ^{1,2}	Brunsdale Cass Lodwick Rohr ^{1,3}	(¹)	2194	
731-TA-422	New steel rails from Canada.	(a) 9-26-88 (b) 10-19-88 (c) 11-10-88	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	(¹)	2135	(a) 4-18-89 (b) 7-27-89 (c) 9-8-89	Eckes Rohr Newquist	Brunsdale Cass Lodwick	(¹)	2217	
731-TA-423	Generic cephalixin capsules from Canada.	(a) 10-27-88 (b) 11-16-88 (c) 12-12-88	Eckes Lodwick Rohr Newquist	Brunsdale Cass	(¹)	2143	(a) 4-12-89 (b) 6-28-89 (c) 8-10-89	(¹)	Brunsdale Cass Eckes Lodwick Rohr Newquist	(¹)	2211	
731-TA-424	Martial arts uniforms from Taiwan.	(a) 11-15-88 (b) 12-6-88 (c) 12-30-88	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	(¹)	2148	(a) 5-1-89 (b) 7-25-89 (c) 8-28-89	Eckes Newquist	Brunsdale Cass Lodwick Rohr	(¹)	2216	
731-TA-425	Light-duty integrated hydrostatic transmissions and sub-assemblies thereof, with or without attached axles, from Japan.	(a) 11-22-88 (b) 12-14-88 (c) 1-6-89	Cass	Brunsdale Eckes Lodwick Rohr Newquist	(¹)	2149	(¹)	(¹)	(¹)	(¹)	(¹)	
731-TA-426 through 731-TA-428.	Certain telephone systems and sub-assemblies thereof from Japan, South Korea, and Taiwan.	(a) 12-28-88 (b) 1-18-89 (c) 2-13-89	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	(¹)	2156	(¹)	(¹)	(¹)	(¹)	(¹)	

See footnotes at end of table.

Table 6—Continued

**ANTIDUMPING INVESTIGATIONS COMPLETED UNDER SEC. 731 OF THE TARIFF ACT OF 1930,
FISCAL YEAR 1989**

Investigation No.	Article concerned	Preliminary investigation					Final investigation				
		(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.
731-TA-429	Mechanical transfer presses from Japan.	(a) 1-12-89 (b) 2-3-89 (c) 2-27-89	Brunsdale Eckes Lodwick Rohr Cass Newquist	(¹)	(¹)	2160	(a) 8-18-89 (b) 1-4-90 (c) 2-8-90	(¹)	(¹)	(¹)	(¹)
731-TA-430	Dry aluminum sulfate from Sweden.	(a) 2-13-89 (b) 3-6-89 (c) 3-30-89	(¹)	Brunsdale Cass Eckes Lodwick Rohr Newquist	(¹)	2174	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-431	Aluminum sulfate from Venezuela.	(a) 3-29-89 (b) 4-19-89 (c) 5-15-89	Cass Eckes Lodwick Rohr Newquist	Brunsdale	(¹)	2189	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-432	Drafting machines and parts thereof from Japan.	(a) 4-7-89 (b) 4-28-89 (c) 5-22-89	Brunsdale ¹⁴ Cass ¹⁴ Eckes Lodwick ¹⁴ Rohr ¹⁴ Newquist ¹⁴	Brunsdale ¹⁵ Cass ¹⁵ Lodwick ¹⁵ Rohr ¹⁵ Newquist ¹⁵	(¹)	2192	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-433	Certain residential door locks from Taiwan.	(a) 4-24-89 (b) 5-15-89 (c) 6-8-89	Brunsdale Cass Lodwick Newquist	Eckes Rohr	(¹)	2198	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-434	12-volt motorcycle batteries from South Korea.	(a) 5-17-89 (b) 6-7-89 (c) 7-3-89	(¹)	Brunsdale Cass Eckes Lodwick Rohr Newquist	(¹)	2203	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-435	Certain steel pails from Mexico.	(a) 5-31-89 (b) 6-20-89 (c) 7-17-89	Brunsdale Eckes Rohr Newquist	Cass Lodwick	(¹)	2205	(¹)	(¹)	(¹)	(¹)	(¹)
731-TA-436 and 731-TA-437 (terminated 8-1-89).	Generic cephalixin capsules from Israel and Portugal.	(a) 7-12-89	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)

See footnotes at end of table.

Table 6—Continued

ANTIDUMPING INVESTIGATIONS COMPLETED UNDER SEC. 731 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Investigation No.	Article concerned	Preliminary investigation					Final investigation				
		(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.
731-TA-438	Limousines from Canada.	(a) 7-24-89 (b) 8-15-89 (c) 9-7-89	Brunsdale Cass Eckes Lodwick Newquist	(¹)	Rohr ¹⁰	2220	(¹)	(¹)	(¹)	(¹)	(¹)

¹ Not applicable.

² No hearing was held.

³ Did not participate in this investigation in order to avoid the appearance of impropriety.

⁴ With respect to imports of spherical plain bearings from France, Japan, and West Germany.

⁵ With respect to imports of ball bearings, spherical plain bearings, and cylindrical roller bearings.

⁶ With respect to imports of ball bearings and spherical plain bearings.

⁷ With respect to imports of ball bearings, cylindrical roller bearings, spherical roller bearings, needle roller bearings, and slewing rings from France, Italy, Japan, Romania, Singapore, Sweden, Thailand, the United Kingdom, and West Germany and spherical plain bearings from Italy, Romania, Singapore, Sweden, Thailand, and the United Kingdom.

⁸ With respect to imports of spherical roller bearings, needle roller bearings, and slewing rings.

⁹ With respect to imports of cylindrical roller bearings, spherical roller bearings, needle roller bearings, and slewing rings.

¹⁰ Did not participate in this vote to avoid the possible appearance of conflict of interest.

¹¹ Did not participate in this vote because the vote had to be rescheduled for a time when he was out of the country and unreachable.

¹² With respect to imports of V-belts from Singapore: V-belts and synchronous belts from Italy and Japan; and round belts and flat belts, in part or wholly of rubber or plastic and containing textile fiber (including glass fiber) or steel wire, cord, or strand, and whether in endless (i.e., closed-loop) belts or in belting in lengths or links, from Japan and West Germany.

¹³ With respect to imports of synchronous belts from Singapore: V-belts and synchronous belts from Israel, South Korea, Taiwan, the United Kingdom, and West Germany; and round belts and flat belts, in part or wholly of rubber or plastic and containing textile fiber (including glass fiber) or steel wire, cord, or strand, and whether in endless (i.e., closed-loop) belts or in belting in lengths or links, from Israel, Italy, Singapore, South Korea, Taiwan, and the United Kingdom.

¹⁴ With respect to imports of commercial drafting machines.

¹⁵ With respect to imports of portable drafting machines.

Table 7

COUNTERVAILING DUTY INVESTIGATIONS COMPLETED UNDER SEC. 303 OF THE TARIFF ACT OF 1930, FISCAL YEAR 1989

Investigation No.	Article concerned	Preliminary investigation					Final investigation					USITC Publication No.	
		(a) Request received	(b) Conference	(c) Report to Secretary of Commerce	Affirmative	Negative	Not participating	USITC Publication No.	(a) Advice received from Commerce	(b) Hearing	(c) Report to Secretary of Commerce		Affirmative
303-TA-19 and 303-TA-20.	Antifric-tion bearings (ball bearings) from Singa-pore and Thailand and spherical roller bearings from Singapore.	(1)	(1)	(1)	(1)	(1)	(1)	(a) 9-6-88 (b) 3-30-89 (c) 5-8-89	Eckes ² Lodwick ² Rohr ² Newquist ²	Cass Eckes ³ Lodwick ³ Rohr ³ Newquist ³		Brunsdale ¹	2185

¹ Not applicable.² With respect to imports of ball bearings from Singapore and Thailand.³ With respect to imports of spherical roller bearings from Singapore.⁴ Recused herself from voting to avoid the possible appearance of conflict of interest.

Table 8

ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS PENDING ON Sept. 30, 1989

Investigation No.	Article concerned	Effective date
731-TA-234 (F) (Remand)	Carbon steel structural shapes from Norway	11-30-88
731-TA-300 (F) (Suspended)	Dynamic random access memory semiconductors (DRAMs) of 256 kilobits and above from Japan.	3-14-86
731-TA-374 (F) (Suspended)	Potassium chloride from Canada	8-25-87
731-TA-426 through 731-TA-428 (F)	Certain telephone systems and subassemblies thereof from Japan, South Korea, and Taiwan.	8-2-89
731-TA-429 (F)	Mechanical transfer presses from Japan	8-18-89
731-TA-431 (F)	Aluminum sulfate from Venezuela	8-9-89
731-TA-432 (F)	Drafting machines and parts thereof from Japan	8-25-89
731-TA-439 through 731-TA-445 (P)	Industrial nitrocellulose from Brazil, Japan, China, South Korea, the United Kingdom, West Germany, and Yugoslavia.	9-19-89
731-TA-446 and 731-TA-447 (P)	Polychloroprene from France and West Germany	9-22-89
731-TA-448 through 731-TA-450 (P)	Sweaters wholly or in chief weight of manmade fiber from Hong Kong, South Korea, and Taiwan.	9-22-89
731-TA-451 (P)	Gray Portland cement and cement clinker from Mexico	9-27-88
701-TA-254 (F) (Suspended)	Certain red raspberries from Canada	10-21-85

Table 9

**REVIEW INVESTIGATION COMPLETED UNDER SEC. 203 OF THE TRADE ACT OF 1974,
FISCAL YEAR 1989**

Investi- gation No.	Article concerned	Petitioner or requester	Petition or request filed	Public hearing	Commission's report	
					To the President	USITC Publication No.
TA-203-18	Wood shakes and shingles.	United States Trade Representative.	7-1-88	8-16-88	10-7-88	2131

Table 10

**INVESTIGATION COMPLETED UNDER SEC. 22 OF THE AGRICULTURAL ADJUSTMENT ACT,
FISCAL YEAR 1989**

Investigation No.	Article concerned	Re- quest re- ceived	Date investi- gation insti- tuted	Public hearing	Finding and recommendations	Date report was—		USITC Publication No.
						Submitted to President	Released by President	
22-50	Ice cream	5-18-89	6-5-89	7-18-89	(¹)	August 1989	(¹)	(²)

¹ Confidential.

² Confidential report; no publication
number is assigned.

Table 11

**INVESTIGATION UNDER SEC. 22 OF THE AGRICULTURAL ADJUSTMENT ACT PENDING ON
SEPT. 30, 1989**

Investigation No.	Article concerned	Re- quest re- ceived	Date investi- gation insti- tuted	Public hearing	Finding and recommendations	Date report was—		USITC Publication No.
						Submitted to President	Released by President	
22-51	Cotton comber waste.	7-25-89	8-18-89	(¹)	(¹)	(¹)	(¹)	(¹)

¹ Not applicable.

APPENDIX B

STATUTES INVOLVING THE U.S. INTERNATIONAL TRADE COMMISSION

KEY STATUTES

The Omnibus Trade and Competitiveness Act of 1988, which the President signed into law on August 23, 1988, amended several of the statutory provisions under which the Commission is authorized to act. In particular, the 1988 act amended section 201 of the Trade Act of 1974 to place a greater emphasis on industry adjustment to import competition in the granting of relief. It amended the antidumping and countervailing duty law provisions to provide new provisions relating to release of business proprietary information under protective orders. The act also amended section 337 of the Tariff Act of 1930 to eliminate the injury test in certain intellectual property cases. For the most part, the amendments became effective upon enactment and thus were in effect only during the last six weeks of fiscal year 1988. In order that its Rules of Practice and Procedure might reflect these statutory changes, the Commission published interim rules in the *Federal Register* on August 29, 1988. The summaries below incorporate the 1988 act changes and describe the statutory provisions as they existed at the end of fiscal year 1988.

Section 201, Trade Act of 1974 (Escape-Clause Investigations), Import Relief for Domestic Industries

Section 201 provides a procedure whereby domestic industries seriously injured by increased im-

ports can petition for import relief generally in the form of tariffs or quantitative restrictions. To be found eligible for relief under section 201, industries need not prove that an unfair trade practice exists, as is necessary under the antidumping and countervailing duty laws and section 337 of the Tariff Act of 1930. However, under section 201, a greater degree of injury, "serious" injury, must be found to exist, and imports must be a "substantial" cause (not less than any other cause) of that injury. In addition, relief under section 201, although temporary, should be tailored to the needs of the injured industry and facilitate positive adjustment to import competition.

Criteria for import relief set forth under section 201 are based on article XIX of the General Agreement on Tariffs and Trade (GATT), an international agreement to which the United States is a signatory. Article XIX of the GATT is referred to as the escape clause, because it permits a country to "escape" temporarily from its obligations under the GATT with respect to a product when increased imports of that product are causing or threatening to cause serious injury to domestic producers of a like or directly competitive product. Commission investigations under section 201 provide a basis for the President to invoke article XIX.

When: The Commission conducts investigations upon receipt of a petition from a firm, trade association, group of workers, or other entity representative of a domestic industry, upon receipt of a request from the President or the Office of the United States Trade Representative (USTR), upon receipt of a resolution of the House Committee on Ways and Means or the Senate Committee on Finance, or upon its own motion, to determine whether a product is being imported 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.

Duration: In general, the Commission must make its injury finding within 120 days and must transmit its report, together with any recommendations with respect to relief, within 180 days of receipt of the petition, request, or resolution or institution on its own motion.

Finding: If the Commission finding is affirmative, it must recommend a remedy to the President, who has discretion to take action to provide import relief, which could be in the form of a tariff increase, quantitative restrictions, or orderly marketing agreements.

Followup: The Commission reports with respect to developments within an industry that has been granted import relief and advises the President of the probable economic effect on the industry of the reduction, modification, or termination of the relief in effect. At the conclusion of any relief action, the Commission is required to report to the President and the Congress on the effectiveness of the relief action in facilitating the position adjustment of the domestic industry to import competition. (For further information, see sec. 201 of the Trade Act of 1974, 19 U.S.C. 2251.)

Section 337, Tariff Act of 1930, Investigations of Unfair Practices in Import Trade

Under section 337, the Commission applies U.S. statutory and common law of unfair competition to the importation of products into the United States and their sale. Section 337 declares unlawful unfair methods of competition and unfair acts in the importation or sale of products in the United States, the threat or effect of which is to destroy or substantially injure a domestic industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce in the United States. Section 337 also declares as unlawful per se infringement of a

valid and enforceable U.S. patent, copyright, registered trademark, or mask work; no resulting injury need be found.

Section 337 investigations require formal evidentiary hearings in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.). The hearings are held before an administrative law judge (ALJ). Parties to these investigations include complainants, respondents, and the Commission attorney representing the public. Following a hearing, the ALJ issues an initial determination on all issues in relation to violations of section 337; the Commission may exercise its right to review and may reverse the ALJ decision. Complainants may seek temporary relief pending final resolution of the case.

When: After receipt of a complaint under oath from an interested party or upon its own motion, the Commission conducts investigations to determine whether unfair methods of competition or unfair acts are occurring in the importation of articles into the United States or in their sale.

Duration: The investigation must be completed in no more than one year, or 18 months in a more complicated case, after the date of publication of notice of investigation in the *Federal Register*.

Finding: In general, if the Commission finds that the importation of such articles is such that the threat or effect is to destroy or substantially injure an industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce in the United States, it may issue orders excluding the products from entry and/or directing the violating parties to cease and desist from certain actions. However, in the case of importations that infringe a U.S. patent, copyright, registered trademark, or mask work, the Commission may issue an exclusion and/or cease and desist order without having to find a threat or effect to destroy or substantially injure an industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce. Commission orders become effective unless disapproved by the

President for policy reasons within 60 days of issuance. Appeals of Commission orders are heard by the Court of Appeals for the Federal Circuit. Violators of Commission section 337 orders are liable for civil penalties of up to \$100,000 a day or twice the value of the imported articles. (For further information, see sec. 337 of the Tariff Act of 1930, 19 U.S.C. 1337.)

Title VII of the Tariff Act of 1930

Under title VII of the Tariff Act of 1930 (19 U.S.C. 1671, as added by the Trade Agreements Act of 1979), the Commission conducts preliminary and final investigations to determine whether (in preliminary investigations) there is a reasonable indication or whether (in final investigations) a U.S. industry is materially injured or threatened with material injury, or the establishment of such an industry is materially retarded, by reason of imports of merchandise that is being sold at less than fair value (dumped) or is benefiting from foreign subsidies. The Department of Commerce determines whether dumping or subsidies exist and, if so, the margin of dumping or amount of the subsidy.

Section 703(a), Tariff Act of 1930 (Preliminary Countervailing Duty Investigations), Subsidized Imports

When: After the simultaneous filing of proper petitions with it and the U.S. Department of Commerce, the Commission conducts investigations to determine, on the basis of the best information available to it at the time of the determination, (1) whether there is a reasonable indication that an industry is materially injured, or is threatened with material injury, or (2) whether the establishment of an industry is materially retarded, by reason of imports of the allegedly subsidized merchandise that is the subject of the investigation by Commerce.

Duration: The investigation must be completed within 45 days of the receipt of the petition.

Finding: If both the Commerce Department and the Commission determinations are affirmative, Commerce continues its investigation.

Section 705(b), Tariff Act of 1930 (Final Countervailing Duty Investigations), Subsidized Imports

When: After a preliminary determination by the Secretary of Commerce that imported products are subsidized, the Commission conducts investigations to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the subsidized merchandise.

Duration: The investigation must usually be completed within 120 days after an affirmative preliminary determination by the Secretary of Commerce or 45 days after an affirmative final determination by the Secretary of Commerce that a subsidy is being provided, whichever is longer.

Finding: If the Commission determination is affirmative, the Secretary of Commerce issues a countervailing duty order. (For further information, see sec. 701 et seq. of the Tariff Act of 1930, 19 U.S.C. 1671 et seq.)

Section 733(a), Tariff Act of 1930 (Preliminary Antidumping Investigations), Imports Marketed at Less Than Fair Value

When: After the simultaneous filing of a proper petition with it and the Department of Commerce, the Commission conducts investigations to determine, on the basis of the best information available to it at the time of the determination, whether there is a reasonable indication that an industry is materially injured, or is threatened with material injury, or the establishment of an industry is materially re-

tarded, by reason of imports of the allegedly dumped merchandise that is the subject of investigation by Commerce.

Duration: The investigation must be completed within 45 days of receipt of the petition.

Finding: If the Commission determination is affirmative, Commerce continues its investigation.

Section 735(b), Tariff Act of 1930 (Final Antidumping Investigations), Imports Marketed at Less Than Fair Value

When: After a preliminary determination by the Secretary of Commerce that imported products are being, or are likely to be, sold at less than fair value, the Commission conducts investigations to determine whether any industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the dumped merchandise.

Duration: The investigation must usually be completed within 120 days after an affirmative preliminary determination by the Secretary of Commerce that the imported products are being, or are likely to be, sold at less than fair value.

Finding: If both the Commerce Department and Commission determinations are affirmative, the Secretary of Commerce issues an antidumping duty order. (For further information, see sec. 731 et seq. of the Tariff Act of 1930, 19 U.S.C. 1673 et seq.)

Section 332, Tariff Act of 1930, General Factfinding Investigations

When: Upon official request (from the President, the Congress, or the USTR) or upon its own motion, the Commission initiates a factfinding investigation on any matter involving tariffs and international trade. This broad provision allows the Commission to investigate trade matters of immediate concern to the Government and the public.

Duration: Unless otherwise directed, the Commission establishes

an administrative deadline.

Finding: Unless the President or the Congress directs otherwise, the Commission's final reports are made available to all interested parties, the general public, the President and executive departments, and the Congress. (For further information, see sec. 332 of the Tariff Act of 1930, 19 U.S.C. 1332.)

Section 22, Agricultural Adjustment Act, Import Interference With Agricultural Programs

When: The Commission conducts investigations at the direction of the President to determine whether any products are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any loan, purchase, or other program or operation of the Department of Agriculture, including price-support programs for agricultural commodities or products thereof, or to reduce substantially the amounts of any product processed in the United States from such commodities or products. The Commission makes findings and recommendations to the President.

Finding: The President may restrict the imports in question by imposition of either quotas or import fees (not to exceed 50 percent of the imported product's value). (For further information, see sec. 22 of the Agricultural Adjustment Act, 7 U.S.C. 624.)

OTHER AREAS OF INVOLVEMENT BY STATUTE

Countervailing Duty Investigations Under Section 303 of the Tariff Act of 1930

In the case of countervailing duty investigations not covered by section 701 of the Tariff Act of 1930 that involve articles that enter free of duty, the Commission

determines, with respect to any article on which the Secretary of Commerce has determined that a bounty or grant is being paid, whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such article. (For further information, see sec. 303, Tariff Act of 1930, 19 U.S.C. 1303.)

Caribbean Basin Economic Recovery Act

The Commission submits annual reports to the Congress and the President on the economic impact on U.S. industries and consumers of the Caribbean Basin Economic Recovery Program. (For further information, see 19 U.S.C. 2704.)

Uniform Statistical Data

The Commission, in cooperation with the Secretary of the Treasury and the Secretary of Commerce, establishes for statistical purposes an enumeration of articles imported into the United States and exported from the United States, and seeks to establish comparability of such statistics with statistical programs for domestic production. (For further information, see sec. 184(e), Tariff Act of 1930, 19 U.S.C. 1484(e).)

Harmonized Tariff Schedule of the United States Annotated

The Commission issues a publication containing the Harmonized Tariff Schedule (HTS) and related material and considers questions concerning the arrangement of the HTS and the classification of articles. (For further information, see sec. 1207 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3007 and secs. 332(A) and 184(e) of the Tariff Act of 1930, 19 U.S.C. 1484(e).)

Harmonized System Convention

The ITC has responsibility, along with the Department of the Treasury and the Department of Commerce, to represent the U.S. Government with respect to the activities of the Customs Cooperation Council relating to the Harmonized System Convention and to formulate U.S. Government positions on technical and procedural issues relating to the Convention. (For further information, see sec. 1210 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3010.)

In addition, the ITC has responsibility for keeping the HTS under review and for recommending to the President such modifications to the HTS as the Commission considers necessary or appropriate to conform the HTS with amendments to the Harmonized System Convention, to ensure that the HTS is kept up-to-date and to alleviate unnecessary administrative burdens. (For further information, see sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3005.)

Annual Report on the U.S. Trade Agreements Program

The Commission prepares for the Congress and the interested public a "factual report on the operation of the trade agreements program." The report contains information on U.S. participation in multilateral trade negotiations and agreements, as well as related material on foreign economic and trade developments and the administration of U.S. trade laws. (For further information, see sec. 163(b), Trade Act of 1974, 19 U.S.C. 2213.)

Advice Concerning Trade Negotiations

The Commission advises the President as to the probable economic effect on domestic industries and consumers of modification of duties and other barriers to trade that may be considered for inclusion in any proposed trade

agreement with foreign countries. (For further information, see sec. 131, Trade Act of 1974, 19 U.S.C. 2151.)

Generalized System of Preferences

With respect to articles that may be considered for duty-free treatment when imported from designated developing countries, the Commission advises the President as to the probable economic effect of the removal of duty on the domestic industry and on consumers. (For further information, see secs. 131 and 503, Trade Act of 1974, 19 U.S.C. 2151, 2163.)

East-West Trade-Monitoring System

The Commission monitors imports into the United States from nonmarket economy countries and makes a report not less frequently than once each calendar quarter on the effect of such imports on the production of like or directly competitive articles in the United States and on employment within the industry. (For further information, see sec. 410, Trade Act of 1974, 19 U.S.C. 2440.)

Trade With Communist Countries

The Commission investigates to determine whether imports of an article produced in a Communist country cause market disruption in the United States. In general, if the Commission determination is in the affirmative, the President may take the same action as in a case involving injury to an industry under section 201 of the Trade Act of 1974, except that the action would apply only to imports of the product from the Communist country. (For further information, see sec. 406, Trade Act of 1974, 19 U.S.C. 2436.)

APPENDIX C

REPORTS SUBMITTED TO CONGRESS ON PROPOSED LEGISLATION, FISCAL YEAR 1989

REPORTS SUBMITTED TO THE HOUSE ON PROPOSED LEGISLATION

1. H.R. 653 (Mr. Vander Jagt)—To suspend for a five-year period the duty on Bendiocarb. March 29, 1989.
2. H.R. 698 (Mr. Matsui)—To provide for the temporary suspension of duty on certain magnetic videotape recordings. April 12, 1989.
3. H.R. 731 (Mr. Guarini)—To provide for the temporary suspension of duty on tamoxifen citrate for a three-year period. March 27, 1989.
4. H.R. 732 (Mr. Guarini)—To temporarily suspend the duty on methyl and ethyl parathion. April 26, 1989.
5. H.R. 767 (Mr. Bilbray)—To provide duty-free treatment for three-dimensional cameras. March 24, 1989.
6. H.R. 912 (Mr. Shaw)—For the relief of the State of Florida. April 26, 1989.
7. H.R. 914 (Mr. Smith)—To suspend temporarily the duty on calcium acetylsalicylate (calcium carbaspirin). April 12, 1989.
8. H.R. 943 (Mr. Frenzel)—To reduce temporarily the column 2 rate of duty on impact line printers. April 26, 1989.
9. H.R. 944 (Mr. Frenzel)—To extend until January 1, 1994, the existing suspension of duty on certain wools. April 26, 1989.
10. H.R. 1001 (Mr. Cheney)—To clarify that charges and fees may be collected in connection with foreign trade zones at certain small airports. June 7, 1989.
11. H.R. 1027 (Mr. Jenkins)—To provide temporary duty-free treatment to 2,6-HNA. April 12, 1989.
12. H.R. 1094 (Mr. Frenzel)—To provide for the temporary suspension of the duty on certain two-stroke cycle piston engines. May 22, 1989.
13. H.R. 1126 (Mr. Gradison)—To suspend temporarily the duty on self-folding collapsible umbrellas. April 26, 1989.
14. H.R. 1156 (Mr. Jacobs)—To suspend temporarily the duty on a certain chemical intermediate. May 10, 1989.
15. H.R. 1160 (Mr. Mollohan)—To suspend temporarily the duty on octadecyl isocyanate. May 10, 1989.
16. H.R. 1184 (Mr. Andrews)—To suspend temporarily the duty on furniture, seats, and parts thereof of unspun fibrous vegetable materials. May 25, 1989.
17. H.R. 1196 (Mr. Ford)—To suspend until January 1, 1993, the duty on iohexol. May 12, 1989.
18. H.R. 1220 (Mr. Spratt)—To suspend for a five-year period the duty on certain brown, orange, and violet dyes. May 1, 1989.
19. H.R. 1284 (Mr. McNulty)—For the relief of the City of Albany, New York. May 1, 1989.
20. H.R. 1320 (Mr. Spratt)—To suspend for a five-year period the duty on certain blue and green dyes. May 1, 1989.

21. H.R. 1321 (Mr. Spratt)—To suspend for a five-year period the duty on vat red 10 dye. May 1, 1989.
22. H.R. 1322 (Mr. Spratt)—To suspend for a five-year period the duty on certain brown, orange, and violet dyes. May 1, 1989.
23. H.R. 1323 (Mr. Spratt)—To suspend for a five-year period the duty on certain dyes. May 1, 1989.
24. H.R. 1428 (Mr. Frenzel)—To suspend temporarily the duty on certain plastic web sheeting. July 17, 1989.
25. H.R. 1442 (Mr. McMillan)—Relating to the tariff treatment of trifluoromethylaniline (also aminobenzotrifluoride). June 19, 1989.
26. H.R. 1443 (Mr. Ravenel)—To suspend temporarily the duty on Resolin Red F3BS Components I and II. June 7, 1989.
27. H.R. 1444 (Mr. Ravenel)—To suspend temporarily the duty on DMSS. September 26, 1989.
28. H.R. 1446 (Mr. Ravenel)—To suspend temporarily the duty on paramine acid. June 5, 1989.
29. H.R. 1447 (Mr. Ravenel)—To suspend temporarily the duty on trimethyl base. June 7, 1989.
30. H.R. 1482 (Mr. Vander Jagt)—To suspend for a three-year period the duty on diphenyldichlorosilane and phenyltrichlorosilane. June 7, 1989.
31. H.R. 1483 (Mr. Vander Jagt)—To repeal the temporary suspension of duty on C-amines. June 7, 1989.
32. H.R. 1537 (Mr. Nagle)—To suspend until the close of December 31, 1990 the duty on sulfachloropyridazine (technical). June 7, 1989.
33. H.R. 1571 (Mr. McEwen)—To amend the Harmonized Tariff Schedule to suspend the duties on certain bicycle parts, and for other purposes. July 17, 1989.
34. H.R. 1596 (Mr. Frenzel)—To provide for duty-free imports of certain polyester filament yarns produced in Caribbean Basin Initiative (CBI) beneficiary countries wholly from United States materials, and for other purposes. July 12, 1989.
35. H.R. 1639 (Mr. Russo)—To provide duty-free treatment for corned beef in airtight containers. August 15, 1989.
36. H.R. 1640 (Mr. Russo)—To correct the tariff rate inversion on certain iron and steel pipe and tube products. June 8, 1989.
37. H.R. 1657 (Mr. Jenkins)—To suspend temporarily the duty on diphenolic acid. June 5, 1989.
38. H.R. 1680 (Mr. Crane)—To suspend temporarily the duty on fluorescent yellow FGPN. June 7, 1989.
39. H.R. 1681 (Mr. Crane)—To suspend temporarily the duty on fluorescent yellow R. June 7, 1989.
40. H.R. 1683 (Mr. Crane)—To extend the temporary suspension of duty on certain parts of indirect process electrostatic copying machines. July 3, 1989.
41. H.R. 1694 (Mr. Green)—To reduce the rate of duty applicable to certain modeling pastes. June 19, 1989.
42. H.R. 1695 (Mr. Guarini)—To suspend for a three-year period the duty on Levodopa. June 5, 1989.
43. H.R. 1696 (Mr. Guarini)—To suspend for a three-year period the duty on Diflunisal. September 15, 1989.
44. H.R. 1697 (Mr. Guarini)—To suspend for a three-year period the duty on ADC-6. September 12, 1989.
45. H.R. 1698 (Mr. Jenkins)—To provide equitable tariff treatment regarding certain electromechanical tools. August 2, 1989.
46. H.R. 1700 (Mr. Murphy)—To amend the Harmonized Tariff Schedule to exclude certain waste and scrap metals from a provision regarding the return of metal to the United States. June 5, 1989.
47. H.R. 1715 (Mr. Vander Jagt)—To suspend temporarily the duty on pigment red 178. June 7, 1989.
48. H.R. 1716 (Mr. Vander Jagt)—To suspend temporarily the duty on DEMAP. September 12, 1989.
49. H.R. 1717 (Mr. Vander Jagt)—To suspend temporarily the duty on isoin-dolenine red pigment. June 7, 1989.
50. H.R. 1718 (Mr. Vander Jagt)—To suspend temporarily the duty on pigment red 149 dry and pigment red 149 presscake. June 15, 1989.
51. H.R. 1719 (Mr. Walgren)—To suspend temporarily the duty on mesalamine. May 12, 1989.
52. H.R. 1724 (Mr. Clinger)—To suspend temporarily the duty on N-methylaniline and m-chloroaniline. June 15, 1989.
53. H.R. 1726 (Mr. Clinger)—To suspend temporarily the duty on naphthalic acid anhydride. September 26, 1989.
54. H.R. 1728 (Mr. Ford)—To suspend temporarily the duty on certain alloyed steel bars. August 2, 1989.
55. H.R. 1738 (Mr. Schulze)—To provide for the temporary suspension of the duty

- on molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment. June 19, 1989.
56. H.R. 1739 (Mr. Schulze)—To extend the existing suspensions of duty on certain benzenoid dye intermediates. July 17, 1989.
 57. H.R. 1740 (Mr. Schulze)—To extend the temporary suspension of duty on certain textile machines. July 31, 1989.
 58. H.R. 1749 (Mr. Crane)—To suspend temporarily the duty on certain glass bulbs until January 1, 1993. September 5, 1989.
 59. H.R. 1760 (Mr. Schuette)—To correct the tariff classification of certain chipper knife steel products. July 10, 1989.
 60. H.R. 1766 (Mr. Miller)—To suspend temporarily the duty on certain luggage frames of aluminum. August 24, 1989.
 61. H.R. 1768 (Mr. Blaz)—To extend the existing suspension of duty on certain knitwear fabricated in Guam. July 12, 1989.
 62. H.R. 1770 (Mr. Brown)—To suspend temporarily the duty on carfentanil citrate. June 15, 1989.
 63. H.R. 1779 (Mr. Jenkins)—To extend the existing suspension of duty on crude feathers and down. August 10, 1989.
 64. H.R. 1783 (Mr. McGrath)—To amend the Harmonized Tariff Schedule with respect to low-fuming brazing rods. June 15, 1989.
 65. H.R. 1785 (Mr. Perkins)—To amend the Foreign Trade Zones Act to renew the existing customs exemption applicable to bicycle parts not reexported in foreign trade zones. August 15, 1989.
 66. H.R. 1790 (Ms. Schneider)—To suspend temporarily the duty on anis base. September 12, 1989.
 67. H.R. 1791 (Ms. Schneider)—To suspend temporarily the duty on naphthol AS types. September 15, 1989.
 68. H.R. 1792 (Ms. Schneider)—To temporarily suspend the duty on theobromine. September 25, 1989.
 69. H.R. 1793 (Ms. Schneider)—To temporarily suspend the duty on chlorhexanone. September 25, 1989.
 70. H.R. 1795 (Ms. Schneider)—To suspend temporarily the duty on Neville and Winter acid. September 26, 1989.
 71. H.R. 1814 (Mr. Gradison)—To suspend temporarily the duty on Teicoplanin. September 15, 1989.
 72. H.R. 1815 (Mr. Gradison)—To suspend temporarily the duty on ornithine. September 25, 1989.
 73. H.R. 1817 (Mr. McMillan)—To suspend temporarily the duty on chemical light activator blend. July 12, 1989.
 74. H.R. 1821 (Mr. Ravenel)—To provide duty-free treatment for certain menthol feedstocks. September 15, 1989.
 75. H.R. 1822 (Mr. Ravenel)—To suspend temporarily the duty on anthraquinone (AQ). September 25, 1989.
 76. H.R. 1824 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on dinocap and on mixtures of dinocap with application adjuvants. July 31, 1989.
 77. H.R. 1825 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on triethyleneglycol dichloride. July 12, 1989.
 78. H.R. 1826 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on mixtures of maneb, zineb, mancozeb, and metiram. July 12, 1989.
 79. H.R. 1827 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on methylene blue. July 12, 1989.
 80. H.R. 1828 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on 2-n-octyl-4-isothiazolin-3-one, and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants. July 17, 1989.
 81. H.R. 1829 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on 3-amino-3-methyl-1-butyne. July 17, 1989.
 82. H.R. 1830 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on m-hydroxybenzoic acid. June 15, 1989.
 83. H.R. 1831 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol), and on mixtures of dicofol and application adjuvant. July 31, 1989.
 84. H.R. 1832 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants. July 18, 1989.

85. H.R. 1833 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on crosslinked polyvinylbenzyl-trimethylammonium chloride (Cholestyramine resin USP). July 31, 1989.
86. H.R. 1834 (Mr. Schulze)—To extend until December 31, 1994, the existing temporary suspension of the duty on mixtures of mancozeb and dinocap. July 31, 1989.
87. H.R. 1838 (Mr. Skaggs)—To extend the temporary suspension of duty on d-6-methoxy-a-methyl-2-naphthaleneacetic acid and its sodium salt. June 19, 1989.
88. H.R. 1842 (Mrs. Boggs)—To provide permanent duty-free entry for certain mixtures of hot red peppers and salt. August 21, 1989.
89. H.R. 1844 (Mr. Coyne)—To suspend temporarily the duty on 1,5-naphthalene diisocyanate. May 12, 1989.
90. H.R. 1848 (Mr. Downey)—To provide duty-free treatment for operatic sets, scenery, and properties imported by certain nonprofit, cultural organizations. July 12, 1989.
91. H.R. 1850 (Mr. Frenzel)—To provide for the temporary suspension of the duty on certain Christmas ornaments. August 15, 1989.
92. H.R. 1851 (Mr. Frenzel)—To suspend temporarily the duty on ceramic mugs not in sets. August 21, 1989.
93. H.R. 1855 (Mr. McEwen)—To amend the Harmonized Tariff Schedule to suspend the duties on certain bicycle parts, and for other purposes. July 31, 1989.
94. H.R. 1858 (Mr. Patterson)—To suspend temporarily the duty on MDBS and HPBA. September 25, 1989.
95. H.R. 1859 (Mr. Rose)—To suspend temporarily the duty on thiothiamine hydrochloride. September 25, 1989.
96. H.R. 1872 (Mr. Archer)—To temporarily reduce and to suspend the duty for 1,6-hexamethylene diisocyanate. September 25, 1989.
97. H.R. 1885 (Mr. Carper)—To suspend temporarily the duty on tefluthrin. September 25, 1989.
98. H.R. 1886 (Mr. Carper)—Relating to the tariff reclassification of agglomerate marble floor tiles. July 18, 1989.
99. H.R. 1888 (Mr. Courter)—To suspend temporarily the duty on mono- and dibenzyl toluenes. August 24, 1989.
100. H.R. 1889 (Mr. Courter)—To suspend temporarily the duty on hexachlorobutadiene. September 25, 1989.
101. H.R. 1890 (Mr. Courter)—To suspend temporarily the duty on 2,2,6,6-tetramethyl-4-piperidinone and amino hydroxy- and imido derivatives. September 25, 1989.
102. H.R. 1891 (Mr. Courter)—To suspend temporarily the duty on p-toluic acid. September 15, 1989.
103. H.R. 1892 (Mr. Courter)—To suspend temporarily the duty on tertiary-Butylchloride. September 25, 1989.
104. H.R. 1896 (Mr. Danne-meyer)—To provide separate subheadings in the Harmonized Tariff Schedule for certain gloves, mittens and mitts, specially designed for use in sports. July 18, 1989.
105. H.R. 1897 (Mr. DeLa-Garza)—To extend the temporary suspension of duty on fresh cantaloupes imported between January 1 and May 15 of each year. August 2, 1989.
106. H.R. 1898 (Mr. DeFazio)—To suspend temporarily the duty on garments specially designed for handicapped persons who are not ambulatory. July 18, 1989.
107. H.R. 1905 (Mr. Dwyer)—To suspend for a three-year period the duty on D-carboxamide. September 25, 1989.
108. H.R. 1907 (Mr. Dwyer)—To suspend temporarily the duty on Iopamidol. September 28, 1989.
109. H.R. 1911 (Mr. Gilman)—To suspend temporarily the duty on 7-acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene. September 25, 1989.
110. H.R. 1920 (Mr. Guarini)—To extend for five years the existing suspension of duty on stuffed dolls, certain toy figures, and the skins thereof. August 21, 1989.
111. H.R. 1924 (Mr. Hunter)—To provide for a temporary reduction in duty on imported fresh, chilled, or frozen brussels sprouts. July 10, 1989.
112. H.R. 1925 (Mr. Jenkins)—To restore previous exemption for edible molasses containing more than six percent non-sugar solids. August 15, 1989.
113. H.R. 1933 (Mr. Levin)—To restore duty-free treatment to certain motor vehicle parts entered under the Automotive Products Trade Act. August 10, 1989.
114. H.R. 1934 (Mr. Levine)—To suspend temporarily the duty on certain machined electronic connector contact parts. July 12, 1989.
115. H.R. 1940 (Mr. Manton)—To extend the existing suspension of duty on certain knitting machines designed for sweater strip or garment length knitting. August 2, 1989.

116. H.R. 1942 (Mr. Mineta)—To extend to protective sports articles the same rate of duty that applied to such goods before January 1, 1989. July 31, 1989.
117. H.R. 1950 (Mr. Pickle)—To treat tobacco grown in the United States and processed in a designated Caribbean Basin country as eligible for duty-free entry. July 12, 1989.
118. H.R. 1952 (Mr. Price)—To restore the tariff treatment accorded to hand-cast string-drawn fishing nets before implementation of the Harmonized Tariff Schedule. July 17, 1989.
119. H.R. 1959 (Mr. Schulze)—To suspend temporarily the duty on 4-amino-acetanilide. September 15, 1989.
120. H.R. 1960 (Mr. Schulze)—To suspend temporarily the duty on 6-amino-2-naphthalene sulfonic acid. September 26, 1989.
121. H.R. 1961 (Mr. Schulze)—To suspend temporarily the duty on 8-amino-2-naphthalene sulfonic acid. September 15, 1989.
122. H.R. 1962 (Mr. Schulze)—To suspend temporarily the duty on 5- (and 8-) amino-2-naphthalenesulfonic acid. September 15, 1989.
123. H.R. 1981 (Mr. Sensenbrenner)—To amend the Harmonized Tariff Schedule to correct the classification of 26-inch bicycles. July 17, 1989.
124. H.R. 1982 (Mr. Sensenbrenner)—To correct the tariff classification of timing apparatus with optoelectronic display only. August 24, 1989.
125. H.R. 1984 (Mr. Skaggs)—Relating to the tariff classification of protective ski racing apparel. July 17, 1989.

126. H.R. 1985 (Mr. Skaggs)—Relating to the tariff treatment of sporting gloves not of leather. August 21, 1989.
127. H.R. 1997 (Mr. Whitten)—To amend the Harmonized Tariff Schedule to make permanent the existing temporary tariff treatment of certain disposable surgical gowns and drapes. August 21, 1989.
128. H.R. 2007 (Mr. McGrath)—To provide for the suspension of duty on castor oil and its fractions. June 19, 1989.
129. H.R. 2036 (Mr. Gradison)—To correct the tariff classification of linear motion guides. July 31, 1989.

REPORTS SUBMITTED TO THE SENATE ON PROPOSED LEGISLATION

1. S. 24 (Mr. Wallop)—To clarify that charges and fees may be collected in connection with foreign trade zones at certain small airports. June 7, 1989.
2. S. 294 (Mr. Heinz)—To amend the Harmonized Tariff Schedule of the United States to include certain waste and scrap metals from a provision regarding the return of metal to the United States. June 5, 1989.
3. S. 295 (Mr. Heinz)—To temporarily suspend the duty on 1,5-naphthalene diisocyanate. May 12, 1989.
4. S. 296 (Mr. Heinz)—To amend the Harmonized Tariff Schedule to correct the tariff rate inversion on certain iron and steel pipe and tube products. June 12, 1989.
5. S. 504 (Mr. Graham)—To improve the operation of the Caribbean Basin Economic Recovery Act, and

for other purposes. August 4, 1989.

6. S. 510 (Mr. Rockefeller)—To suspend for a three-year period the duty on octadecyl isocyanate. May 10, 1989.
7. S. 531 (Mr. Heinz)—To temporarily suspend the duty on mesalamine. May 12, 1989.
8. S. 549 (Mr. Glenn)—To temporarily suspend the duty on self-folding telescopic shaft, collapsible umbrellas. April 26, 1989.
9. S. 690 (Mr. Heinz)—To extend the suspension of duties on certain benzenoid dye intermediates. July 17, 1989.
10. S. 697 (Mr. Heinz)—To extend until January 1, 1994, the existing suspension of duty on certain wools. June 5, 1989.
11. S. 698 (Mr. Heinz)—To extend the suspension of duty on certain circular knitting machines and parts. August 2, 1989.
12. S. 717 (Mr. Heinz)—To amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for ice and field hockey gloves and pants. September 6, 1989.
13. S. 786 (Mr. Heinz)—To continue the temporary suspension of the duty on 3-amino-3-methyl-1-butyne. July 17, 1989.
14. S. 787 (Mr. Heinz)—To continue the temporary suspension of the duty on triethyleneglycol dichloride. July 12, 1989.
15. S. 790 (Mr. Heinz)—To continue the temporary suspension of the duty on dicofol and on mixtures of dicofol and application adjuvants. July 31, 1989.

16. S. 791 (Mr. Heinz)—To continue the temporary suspension of the duty on 2-n-octyl-4-isothiazolin-3-one and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants. July 17, 1989.
17. S. 792 (Mr. Heinz)—To continue the temporary suspension of the duty on methylene blue. July 18, 1989.
18. S. 793 (Mr. Heinz)—To continue the temporary suspension of the duty on mixtures of mancozeb and dinocap. July 31, 1989.
19. S. 794 (Mr. Heinz)—To continue the temporary suspension of the duty on mixtures of maneb, zineb, mancozeb, and metiram. July 17, 1989.
20. S. 795 (Mr. Heinz)—To continue the temporary suspension of the duty on crosslinked polyvinylbenzyltrimethylammonium chloride. July 31, 1989.
21. S. 796 (Mr. Heinz)—To continue the temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and stabilizers. July 18, 1989.
22. S. 806 (Mr. Bentsen)—To treat tobacco grown in the United States and processed in a designated Caribbean Basin country as eligible for duty-free entry. August 15, 1989.
23. S. 886 (Mr. Thurmond)—To temporarily suspend the duty on dimethyl succinyl succinate. August 15, 1989.
24. S. 1015 (Mr. Durenberger)—To suspend temporarily the duty on certain plastic web sheeting. September 25, 1989.
25. S. 1033 (Mr. Moynihan)—To provide duty-free treatment for operatic sets, scenery, and properties imported by certain nonprofit, cultural organizations. August 21, 1989.
26. S. 1134 (Mr. Moynihan)—To provide for the suspension of duty on castor oil and its fractions. July 12, 1989.
27. S. 1166 (Mr. Levin)—To correct the tariff classification of certain chipper knife steel products. August 15, 1989.
28. S. 1295 (Mr. Kennedy)—To provide duty-free treatment for the entry of scenery and costumes imported by the Boston Ballet for a special performance. September 6, 1989.
29. S. 1418 (Mr. Lautenberg)—To suspend temporarily the duty on chemical light activator blend. September 25, 1989.
30. S. 1433 (Mr. Moynihan)—To extend the temporary suspension of duty on certain parts of indirect process electrostatic copying machines and to include accessories in the suspension. September 26, 1989.

APPENDIX D

LITIGATION IN FISCAL YEAR 1989

COMPLETED LITIGATION

Appeals arising from antidumping and countervailing duty investigations.—

Algoma Steel Corp., Ltd. v. United States, Appeal No. 88-1491 (Court of Appeals for the Federal Circuit)

The Federal Circuit affirmed the Commission practice, reflected in its affirmative determination in *Oil Country Tubular Goods from Canada* (731-TA-276 and 277), of declining to exclude from its final determination in antidumping cases any imports of the class or kind of merchandise subject to investigation from companies subject to the U.S. Department of Commerce affirmative determination.

The Asociación Colombiana de Exportadores de Flores, Appeal No. 88-1491 (Court of International Trade)

The court affirmed the Commission's final negative determination, based on views of the Commissioners amended following remand, concerning Costa Rica, Ecuador, Israel, and Peru in *Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, Kenya, Mexico, the Netherlands, and Peru* (303-TA-18, 701-TA-725 through 728 and 731-TA-327 through 333). A remand required redetermination by some Commissioners of their like-product definitions and by another of the basis for a negative determination as to threat of material injury. The court held, *inter alia*, that no Commissioner improperly used a blanket rule against cumulation of imports in finding that cumulation of the volume and price effects of imports

from several countries was not appropriate for purposes of determining whether imports posed a threat of material injury. The disparity was significant in the patterns of volume increases and decreases and in the patterns of underselling.

BMT Commodity Corp. v. U.S. International Trade Commission, Appeal No. 88-853 (Court of Appeals for the Federal Circuit)

The Court of Appeals adopted the decision of the Court of International Trade affirming the Commission's affirmative determination in *Certain Dried Codfish from Canada* (731-TA-199). This case posed as a matter of first impression the Commission's analysis of the initial viability of an incipient domestic industry when considering whether such an industry has been materially retarded. The courts upheld the determination as supported by substantial evidence and in accordance with law.

Citrosuco Paulista, S.A. v. United States, Court No. 87-06-00703 (Court of International Trade)

The court remanded the Commission's determination in *Frozen Concentrated Orange Juice from Brazil* (731-TA-326), to clarify the determination of the Commission concerning inventories of frozen concentrated orange juice from Brazil. The Commission plurality on remand found that the domestic industry was threatened with material injury notwithstanding the fact that United States inventories of the subject merchandise had declined. The Court of International Trade affirmed the Commission's determination as supported by substantial evidence and in accordance with law.

Flores, et al. v. United States, Court No. 87-05-00686 (Court of International Trade)

The court affirmed the final determinations of both the U.S. Department of Commerce and the Commission involving imports of *Certain Fresh Cut Flowers from Mexico* (731-TA-333). The court

held that the Commission was entitled to ask the U.S. Department of Agriculture to mail questionnaires to a set of flower growers selected from Agriculture's confidential mailing lists in accordance with criteria established by the Commission. It held that the Commission's selection of the time periods for seeking pricing information was adequate for the nature of the determination the Commission would make concerning underselling. It held that the determination to cumulate the Mexican imports of each flower type with other imports of the same flower type in reaching its determinations was proper in view of the extent of overlap among import markets.

Fundicao Tupy S.A. v. United States, Appeal No. 88-1233 (Court of Appeals for the Federal Circuit)

The U.S. Court of Appeals for the Federal Circuit affirmed and adopted the decision of a three-judge panel of the U.S. Court of International Trade upholding the affirmative determination of the Commission in *Certain Cast-Iron Pipe Fittings from Brazil* (731-TA-278). The decisions sustained the Commission's interpretation of the cumulation provision in the antidumping and countervailing duty statutes as precluding any determination, in cases where cumulation is appropriate, that sales from an individual country, considered alone, were a cause of material injury. The courts also sustained the Commission's approach to determining whether there was a reasonable overlap in competition among imports subject to cumulation.

Granges Metallverken AB v. United States, Court No. 87-03-00583 (Court of International Trade)

The court sustained the Commission's final affirmative determination in *Certain Brass Sheet and Strip from Sweden* (731-TA-316), holding that the Commission's finding of a reasonable overlap in competition sufficient to require

cumulation of Swedish with other imports was supported by substantial evidence. The court rejected the argument that the legislative history to the cumulation provision precludes cumulation of imports from countries with large and small import volumes. The court also held that the Commission's investigation provided sufficient data so that its determination was supported by substantial evidence and that the Commission's reliance on lost sales data was reasonable.

Keyes Fiber Company v. United States, Court No. 85-08-01100 (Court of International Trade)

The Court of International Trade affirmed the Commission's negative determination in *Molded Pulp Egg Filler Flats from Canada* (731-TA-201) after two remand determinations. By the remands, the Court directed the Commission to calculate the freight costs that would have been incurred in transportation of the imported egg filler flats if they had been delivered to distributors of the domestically produced merchandise rather than, as actually occurs, to the end users who purchase imported egg filler flats from cooperatives. After making the recalculation, the Commission majority again concluded that there was an absence of significant underselling by the imports. In conjunction with other factors relied on in the challenged determination, this indicated an absence of material injury by reason of the imports; the Court affirmed this determination.

LMI-LaMetalli Industriale S.p.A. v. United States, Court No. 87-03-00560 (Court of International Trade).

The court upheld the Commission's affirmative material injury determination as to Italy in *Certain Brass Sheet and Strip From France, Italy, Sweden, and West Germany* (701-TA-270 and 701-TA-313-7), further clarifying that the cumulation provision requires cumulation of low-volume and high-volume imports so long as the imports compete with each and with the domestic like product. The decision also sustained as supported

by substantial evidence the Commission's conclusion that material injury was by reason of the cumulated imports.

Neger Phosphates, Inc. v. U.S. International Trade Commission Court No. 87-09-00974 (Court of International Trade)

This decision upheld the Commission's affirmative material injury determination in *Industrial Phosphoric Acid from Belgium and Israel* (731-TA-366). The court held that substantial evidence supported the Commission's conclusion that the relatively small volume of imports of this fungible commodity could lead to material injury, and supported the Commission's analysis of price undercutting, notwithstanding the absence of a price-range analysis. The decision also rejected plaintiff's claim that under the cumulation provision of the Trade and Tariff Act of 1984 the Commission is required to compare weighted average domestic prices against a "unitary" weighted-average price for all imports. The court also held that the Commission acted reasonably in relying upon testimony by spokesmen for the domestic industry concerning price depression, as well as upon anecdotal lost sales evidence, in reaching its material injury determination.

Sony Corporation of America v. United States, Court No. 88-02-00120 (Court of International Trade)

The decision in this case upheld the Commission's determination in *Certain Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore* (731-TA-367-370). The court upheld the Commission's determination that certain picture tubes are like other domestically produced picture tubes, and thus are part of the domestic color picture tube industry. It concluded that much evidence supported the Commission's determination that the similarities between those and other picture tubes outweighed the differences.

The court also sustained the Commission's view that there is no statutory basis for the Commission to exclude imports from an affirmative determination.

USX Corp. v. United States,
Court No. 85-03-00325 (Court of International Trade)

The court twice remanded the Commission's negative determination in *Cold-Rolled Carbon Steel Plates from Argentina* (731-TA-175), in the first instance holding, *inter alia*, that the Commission had failed adequately to explain the significance of volumes of imports in relation to other statutory factors. In the second instance, it held that the views of one Commissioner placed improper weight on barriers to entry of imports and that the views of another improperly relied on price elasticity estimates not specific to the industry under investigation. The court sustained the Commission's second remand determination, holding that the Commission acted within its discretion under pre-1984 law in not cumulating imports from two countries in view of differing import-volume trends and pricing patterns, and little geographic overlap between U.S. markets served by the imports. The court also found that the Commission's decisions to focus on the fact that relative import volume during the period of investigation was stable and to give relatively little weight to evidence of underselling were reasonable, based on the record as a whole.

Wieland Werke AG v. United States, Court No. 87-03-00575 (Court of International Trade)

The Court dismissed the challenge to the Commission's final affirmative determination in *Certain Brass Sheet and Strip from West Germany* (731-TA-317), holding, *inter alia*, that there was sufficient evidence of a reasonable overlap in competition between West German and other subject imports, based on sales of similar products to similar purchasers at similar prices, to justify the Commission's decision to cumulate, and that the

Commission's data-gathering and price comparison methodologies were reasonable.

Yuasa-General Battery Corp. v. United States, Court No. 85-04-00483 (Court of International Trade)

The Court reversed the Commission's preliminary negative determination in *12-Volt Motorcycle Batteries from Taiwan* (731-TA-238). In an initial decision, the Court's first decision upheld the Commission's negative preliminary determination with respect to material injury but remanded the negative preliminary determination for reconsideration of threat by the Commission. Upon reconsideration, the Commission majority retained its negative view. In reversing the remand determination, the Court held, *inter alia*, that the Commission plurality improperly considered evidence of the affirmative rather than the negative.

Appeals arising from investigations under section 337 of the Tariff Act of 1930.—

Allied Corporation v. U.S. International Trade Commission, Appeal No. 88-747 (Court of Appeals for the Federal Circuit)

The Court of Appeals affirmed the Commission's modification of the general exclusion order issued in *Certain Amorphous Metal Alloys and Amorphous Metal Articles* (337-TA-143), and dismissed for lack of jurisdiction a challenge to an advisory opinion concerning that order. The Supreme Court denied that a petition for writ of certiorari challenged the court of appeals' holding that Allied could not raise in its appeal of the Commission's 1987 modified order issues decided in the Commission's 1984 *Amorphous Metals* investigation. The reason indicated was that Allied had failed to raise those same issues in its petition for review of the administrative law judges' 1984 initial determination.

In re Atmel Corporation, Appeal No. 89-1382 (Court of Appeals for the Federal Circuit)

The court denied in part and granted in part a petition for mandamus with respect to the exclusion and cease and desist orders issued in *Certain Erasable Programmable Read-Only Memories, Components Thereof, Products Containing Such Memories, And Processes for Making Such Memories* (337-TA-276). Holding that the cease and desist order improperly prohibited the petitioner from importing the subject products under bond during the Presidential review period, the court vacated that order, permitting modification to accord with 19 U.S.C. 337(j)(3). No relief was granted as to the Commission exclusion order.

In re Atmel Corporation, Misc. Docket No. 259 (Court of Appeals for the Federal Circuit)

The Court of Appeals for the Federal Circuit declined to consider a petition for writ of mandamus seeking to compel the Commission to vacate its limited exclusion order issued in *Certain Erasable Programmable Read-Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories* (337-TA-276), and to issue a new modified order to limit the exclusion to certain products. The court held that the petitioner had not exhausted the administrative remedies available under Commission interim rules 211.57 and 211.54.

Dennison Manufacturing Co. v. United States, Appeal No. 88-1250 (Court of Appeals for the Federal Circuit)

The court affirmed the Commission's determination of no violation of section 337 in *Certain Plastic Fasteners and Processes for the Manufacture Thereof* (337-TA-248), upholding the Commission's determination that the complainant's patent was invalid by virtue of anticipation of the subject patent by a Japanese publication, and holding that the complainant failed to corroborate a claimed reduction to practice prior to the Japanese publication date.

In re Kalipharma. Misc. Doc. 250 (Court of Appeals for the Federal Circuit)

The court denied a petition for mandamus in *Certain Crystalline Cefadroxil Monohydrate Products* (337-TA-293), which sought to require dismissal of a motion for temporary relief on the ground that a district court's prior denial of a preliminary injunction in litigation between the same parties was *res judicata* concerning the issues in the temporary relief proceeding before the Commission. The court held that arguments relating to the expenses that would be incurred in the Commission hearing did not warrant the extraordinary remedy of mandamus.

LaBounty Manufacturing, Inc. v. United States International Trade Commission. Appeal Nos. 87-1258, -1525 (Court of Appeal for the Federal Circuit)

By a *per curiam* decision, the Federal Circuit affirmed-in-part, vacated-in-part and remanded the Commission's negative determination in *Certain Heavy-Duty Mobile Scrap Shears* (337-TA-252). The court upheld the Commission's claim construction and finding of no literal infringement but vacated the determination of no infringement under the doctrine of equivalents. It held that it was error to decide without consideration of the prior art that an amendment of a claim placed the accused shears beyond the range of equivalents as a matter of prosecution history estoppel.

Mag Instrument Co. v. U.S. International Trade Commission. Appeal No. 88-1313 (Court of Appeals for the Federal Circuit)

Reviewing the Commission's final determination of no violation of section 337 in *Certain Small Aluminum Flashlights and Components Thereof* (337-TA-254), the Federal Circuit affirmed the Commission's determination with respect to patent infringement but reversed the determination that inequitable conduct rendered the patent unenforceable in view of the intervening *in banc* decision in

Kingsdown Medical Consultants, Ltd. v. Hollister, Inc., 863 F.2d 867 (Fed. Cir. 1988), which resolved its own conflicting precedent as to whether gross negligence could in itself justify an inference of intent to deceive.

Samsonite Corp. v. U.S. International Trade Commission. Appeal No. 88-1249 (Court of Appeals for the Federal Circuit)

The court affirmed the Commission's negative determination in *Certain Hard-Sided Molded Luggage Cases* (337-TA-262), upholding the Commission's determination that there was no tendency to injure or injury to the domestic industry.

Texas Instruments, Inc. v. U.S. International Trade Commission. Appeal No. 85-2776 (Court of Appeals for the Federal Circuit)

Reviewing the Commission's negative determination with respect to one of the patents at issue in *Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same* (337-TA-242), the court held that the ALJs erred in finding the claims of that patent invalid for inoperativeness and obviousness on the ground that the determination was based on an improper claim construction. The decision ordered a reconsideration of the issue of infringement based upon the corrected claim construction.

Texas Instruments, Inc. v. U.S. International Trade Commission. Appeal No. 87-1627 (Court of Appeals for the Federal Circuit)

The Federal Circuit dismissed this appeal, vacating as moot the part of the Commission's final determination relating to U.S. Letters Patent No. 3,541,543 (the '543 patent) in *In re Certain Dynamic Random Access Memories and Products Containing Same* (337-TA-242). The court expressly agreed with the Commission's argument that the appeal was moot. Even if plaintiff were to prevail on the merits in the appeal, the law pro-

vides no remedy because the '543 patent expired on November 17, 1987. The appellant also waived its right to appeal from the invalidity and noninfringement determination of the Commission because it appealed to this court only the unenforceability issue.

Texas Instruments, Inc. v. U.S. International Trade Commission, et al., Appeal No. 88-1090, and *Samsung Company, Limited et al. v. U.S. International Trade Commission et al.*, Appeal No. 88-1177 (Court of Appeals for the Federal Circuit)

In a consolidated published opinion concerning two appeals from the Commission's determinations with respect to four patents in *Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same* (DRAMs) (337-TA-242), the Federal Circuit affirmed the Commission's determination that two of the patents were valid and infringed by the accused devices. It found it unnecessary to reach the Commission's infringement determination with respect to two other patents covering the same devices.

LITIGATION TERMINATED

In addition to the cases discussed above, a number of cases were terminated during fiscal year 1989 without final decisions on the merits, by court dismissal, voluntary dismissal by the plaintiff, or failure by the plaintiff to file a complaint after the service of a summons. Those cases are listed below.

A. Hirsch, Inc. v. United States. Court No. 86-03-00331 (Court of International Trade).

Bearings Importers Group of the Aerospace Industries Association of America v. United States. Court Nos. 89-06-00361 through 364 (Court of International Trade).

Far East Machinery Co. Ltd. v. United States. Court No. 86-07-00852 (Court of International Trade).

Fuji Photo Film Co. v. United States, Court No. 89-05-00221 (Court of International Trade).

Hannibal Industries v. United States, Court No. 87-08-00848 (Court of International Trade).

I.R. Industries v. United States, Court No. 82-08-01091 (Court of International Trade).

Middle East Tube Co. v. United States, Court No. 87-04-00587 (Court of International Trade).

Mudge Rose Guthrie Alexander & Ferdon v. United States, Civil Action No. 86-1650 (District Court for the District of Columbia).

Nashua Corp. v. United States, Court No. 89-05-00247 (Court of International Trade).

Newell Co. v. U.S. International Trade Commission, Appeal No. 86-1435 (Court of Appeals for the Federal Circuit).

Nippon Co. v. United States, Court No. 88-09-00713 (Court of International Trade).

Polaris Industries L.P. v. United States, Court No. 89-04-00209 (Court of International Trade).

Ray v. United States, Civil Action No. 89-0150 (District Court for the District of Columbia).

Siam Fittings Co., Ltd. v. U.S. International Trade Commission, Court No. 87-09-00958 (Court of International Trade).

Tandy Corp. v. United States, Court No. 89-05-00230 (Court of International Trade).

TDK Corp. v. United States, Court No. 89-05-00249 (Court of International Trade).

U.S. International Trade Commission v. ADJ Corp., Misc. No. 89-0066 (District Court for the District of Columbia).

U.S. International Trade Commission v. Jerome Steven Pharmaceuticals, Inc., Misc. No. 89-134 (District Court for the District of Columbia).

USX Corp. v. United States, Court No. 85-03-00384 (Court of International Trade).

LITIGATION PENDING AT THE END OF FISCAL YEAR 1989

Cases arising from antidumping and countervailing duty investigations ¹	45
Cases arising from section 337 determinations	12
Other litigation	4
Total	61

¹ All cases filed by different parties that challenge the same ITC determination or that have been consolidated by the court are counted only as a single piece of litigation. Thus, the actual number of complaints filed is greater than the number given above.

By comparison, at the end of fiscal year 1987, there were 51 pending cases arising from antidumping and countervailing duty investigations, 12 arising from section 337 determinations, and 1 arising from other subjects, for a total of 64.

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