

INTERNATIONAL TRADE COMMISSION
AUTHORIZATION, 1978

JULY 21, 1977.—Ordered to be printed

MR. ULLMAN, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 6370]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Subsection (e) of section 330 of the Tariff Act of 1930 (19 U.S.C. 1330(e)) is amended—

(1) by inserting “(1)” immediately before “For”; and

(2) by adding at the end thereof the following new paragraphs:

“(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1978 an amount not to exceed \$11,522,000.

“(3) There are authorized to be appropriated to the Commission for each fiscal year after September 30, 1977, in addition to any other amount authorized to be appropriated for such fiscal year, such sums as may be necessary for increases authorized by law in salary, pay, retirement, and other employee benefits.”

SEC. 2. APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN.

(a) Subsection (c) of section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended to read as follows:

“(c) CHAIRMAN AND VICE CHAIRMAN; QUORUM.—

“(1) *The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph.*

“(2) *After June 16, 1978, the terms of office for the chairman and vice chairman of the Commission shall be as follows:*

“(A) *The first term of office occurring after such date shall begin on June 17, 1978, and end at the close of June 16, 1980.*

“(B) *Each term of office thereafter shall begin on the day after the closing date of the immediately preceding term of office and end at the close of the 2-year period beginning on such day.*

“(3) (A) *The President may not designate as the chairman of the Commission for any term—*

“(i) *either of the two commissioners most recently appointed to the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or*

“(ii) *any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.*

“(B) *The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.*

“(C) *If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of his term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A) (i).*

“(4) *The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.*

“(5) *No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.*

“(6) *A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.”*

(b) EFFECTIVE DATE.—*The amendment made by this section shall apply with respect to the designation of chairmen and vice chairmen of the United States International Trade Commission for terms beginning after June 16, 1978.*

SEC. 3. ADMINISTRATION OF COMMISSION.

(a) Subsection (a) of section §31 of the Tariff Act of 1930 (19 U.S.C. 1331) is amended to read as follows:

"(a) ADMINISTRATION.—

"(1) Except as provided in paragraph (2), the chairman of the Commission shall—

"(A) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

"(B) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and

"(C) exercise and be responsible for all other administrative functions of the Commission.

Any decision by the chairman under this paragraph shall be subject to disapproval by a majority vote of all the commissioners in office.

"(2) Subject to approval by a majority vote of all the commissioners in office, the chairman may—

"(A) terminate the employment of any supervisory employee of the Commission whose duties involve substantial personal responsibility for Commission matters and who is compensated at a rate equal to, or in excess of, the rate for grade GS-15 of the General Schedule in section 5332 of title 5, United States Code, and

"(B) formulate the annual budget of the Commission.

"(3) No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matter except to the extent that the Commission has adopted the policy being expressed."

(b) Section 331 of such Act (19 U.S.C. 1331) is amended—

(1) by striking out "approved by the Commission" in subsection (c) and inserting in lieu thereof the following: "approved by the chairman (except that in the case of a commissioner, or the personal staff of any commissioner, such vouchers may be approved by that commissioner)", and

(2) by striking out subsection (d) and redesignating subsections (e), (f), and (g) as (d), (e), and (f), respectively.

(c) The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4. HARMONIZATION OF TRADE STATISTICS.

Section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) is amended by striking out "production," and inserting in lieu thereof the following: "production and programs for achieving international harmonization of trade statistics,".

SEC. 5. CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS.

The International Trade Commission is hereby directed to make, for each calendar year ending before January 1, 1981, reports with respect to synthetic organic chemicals similar in scope to the reports made with respect to such chemicals for the calendar year 1976.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

AL ULLMAN,
 CHARLES A. VANIK,
 SAM GIBBONS,
 DAN ROSTENKOWSKI,
 JAMES R. JONES,
 BARBER B. CONABLE, Jr.,
 WILLIAM STEIGER,

Managers on the Part of the House.

RUSSELL B. LONG,
 HERMAN TALMADGE,
 ABE RIBICOFF,
 W. V. ROTH, Jr.,
 BOB PACKWOOD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

AUTHORIZATION OF APPROPRIATIONS TO THE U.S. INTERNATIONAL TRADE COMMISSION FOR FISCAL YEAR 1978

House bill.—The House bill authorizes appropriation of \$11,522,000 to the U.S. International Trade Commission for fiscal year 1978.

Senate amendment.—The Senate amendment authorizes appropriation of \$12,187,000 to the U.S. International Trade Commission for fiscal year 1978.

Conference Agreement.—The conference agreement follows the House bill. The conferees noted that the conference report on H.R. 7556, House Report No. 95-476, provides for appropriation of \$11,500,000 to the Commission for fiscal year 1978.

LIMITATION ON USE OF APPROPRIATIONS FOR COMMISSIONERS' PERSONAL STAFF

House bill.—The House bill limits each Commissioner's personal staff to four persons of all categories (professional and support), except that the Chairman of the Commission may have six persons.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement omits this provision of the House bill. The Conferees expect the Commissioners to keep the number of individuals on their personal staffs at approximately the current levels.

QUALIFICATIONS FOR APPOINTMENT AS A COMMISSIONER

House bill.—The House bill requires that any person appointed as a Commissioner be a United States citizen and be knowledgeable about United States international trade problems. It also requires that persons be appointed as Commissioners on the basis of their maturity, experience, integrity, impartiality, good judgment and objectivity.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement omits this provision of the House bill. This agreement retains present law which requires that an appointee possess qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission. (19 U.S.C. 1330 (a)).

REMOVAL FROM OFFICE OF COMMISSIONERS

House bill.—The House bill provides that the President may remove a Commissioner from office for inefficiency, neglect of duty, or malfeasance.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement omits this provision of the House bill as unnecessary because the Commission is an independent agency with quasi-legislative and quasi-judicial responsibilities and removal of the Commissioners is subject to the standards set down by the Supreme Court (e.g., *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), *Wiener v. United States*, 357 U.S. 349 (1958)).

DESIGNATION OF CHAIRMAN AND VICE-CHAIRMAN

House bill.—The House bill provides for the appointment of the Chairman and Vice-Chairman of the Commission by the President, by and with the advice and consent of the Senate. The Chairman and Vice-Chairman could not be members of the same political party. When there is no Chairman or Vice-Chairman, the senior Commissioner in terms of continuous service acts as Chairman.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—Under the conference agreement, the President will designate one Commissioner as the Chairman and one Commissioner as the Vice-Chairman of the Commission. The President may not designate an individual to be Chairman who has the same party affiliation as the individual whom he succeeds as Chairman. The conferees intend that the first Chairman designated after June 16, 1978, not have the same party affiliation as his predecessor as Chairman. Nor may the President designate as Chairman either of the two Commissioners who were most recently appointed to the Commission, including an individual whom the President appoints to the Commission at the time he designates the Chairman. This requirement does not apply when the President designates an individual to fill the unexpired term of a Chairman. The Vice-Chairman of the Commission may not have the same party affiliation as the Chairman of the Commission. The President must notify the Congress of any designation of a person to be Chairman or Vice-Chairman. Designation as Chairman or Vice-Chairman by the President is not an appointment requiring the advice and consent of the Senate. This provision of the conference agreement will apply with respect to the designation of the Chairman and Vice-Chairman for terms beginning after June 16, 1978.

TERM OF OFFICE OF CHAIRMAN AND VICE-CHAIRMAN

House bill.—The House bill provides for three-year terms for the Chairman and Vice-Chairman. No Commissioner may be appointed Chairman if he has served two full terms in such position nor may he be appointed Vice-Chairman if he has served two terms in such position.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—Under the conference agreement the terms of office of the Chairman and Vice-Chairman will be two years, respectively.

ADMINISTRATIVE AUTHORITY OF THE CHAIRMAN

House bill.—The House bill provides that the Chairman is responsible for all administrative matters of the Commission except that actions he initiates relating to the employment and discharge of key personnel, external relations, and the budget of the Commission are subject to the approval by a majority vote of the Commission.

Senate amendment.—The Senate amendment provides that the Chairman is responsible for all administrative matters of the Commission subject to disapproval by a majority vote of the full Commission.

Conference agreement.—Under the conference agreement, the Chairman shall exercise and be responsible for all administrative functions of the Commission, subject to disapproval by a majority vote of the Commission. However, two kinds of actions by the Chairman are subject to approval, by a majority vote, of the Commission: (1) Termination of employment with the Commission of an employee (A) with responsibility for supervising personnel, (B) whose duties involve substantial personal responsibility for Commission matters, and (C) who is a G.S. 15 or above, and (2) formulation of the annual budget of the Commission. In addition, no member of the Commission, including the Chairman, may speak for the Commission on policy matters unless the Commission has adopted the policy in question.

The conferees expect the entire Commission to retain responsibility for administrative matters in the area of external relations involving liaison and relations with the Congress, with the President, and with the Executive Branch agencies. In the field of public relations, the entire Commission must also be in the position to protect the reputation of the Commission as an objective, nonpartisan, fact-finding body. In this respect, it is necessary that the Commission as a body be in a position to discipline individual members who may undertake action which would tend to discredit the Commission.

It is the intention of the conferees in agreeing to this provision to enable the Commission to devote all its energies to substantive matters within the jurisdiction of the Commission, leaving responsibility for administration of the Commission to the Chairman and his delegates. The conferees believe that ending full Commission debate of administrative matters should result in more definitive majority decisions on matters of substance.

By repealing section 331(d) of the Tariff Act of 1930, the conferees do not intend that the Commission may not rent office space or purchase furniture, equipment, and necessary supplies. The conferees intend these administration functions to be carried out by the Chairman.

HARMONIZATION OF TRADE STATISTICS

House bill.—The House bill provides that the Secretaries of the Treasury and of Commerce and the U.S. International Trade Commission, in establishing a program for the comparability of statistics for imports and exports, should also seek to establish the comparability of import and export statistical programs with programs for achieving international harmonization of trade statistics, for example, the program now under discussion in the Customs Cooperation Council.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement follows the House bill.

SYNTHETIC ORGANIC CHEMICAL REPORTS

House bill.—No provision.

Senate amendment.—The Senate amendment provides for continuation of the present reports by the U.S. International Trade Commission covering the period until January 1, 1981, on synthetic organic chemicals.

Conference agreement.—The conference agreement follows the Senate amendment.

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