

by the President, the Secretary, the Under Secretary, the Counselor of the Department, the legislative and Appropriations Committees of the Congress charged with considering legislation and appropriations for the Service or representatives duly authorized by such committees, the members of the Board of the Foreign Service, the Director General, and such officers and employees of the Government as may be assigned by the Secretary to work on such records. Under such regulations as the Secretary may prescribe and in the interest of efficient personnel administration, the whole or any portion of an efficiency record shall, upon written request, be divulged to the officer or employee to whom such record relates.

REPLY FROM U.S. TARIFF COMMISSION

U.S. TARIFF COMMISSION,
Washington, D.C., March 16, 1965.

Hon. JOHN E. MOSS,
*Chairman, Foreign Operations and Government Information Subcommittee,
Committee on Government Operations, House of Representatives.*

DEAR MR. CHAIRMAN: The following paragraphs contain the answers of the U.S. Tariff Commission to the questions concerning the effect of section 3 of the Administrative Procedure Act of 1946 (5 U.S.C. 1002) submitted in your letter of February 12, 1965. The numbering of the answering paragraphs corresponds to that of the questions.

1. It is the opinion of the Commission that those requirements of the public information section of the Administrative Procedure Act which are directed to an "agency" of the Government of the United States apply to the U.S. Tariff Commission, but that those requirements concerned with publicity to be given "substantive rules" or "final opinions or orders" are not so applicable. These latter requirements do not apply to the Commission, because it generates neither substantive rules nor final opinions or orders in the adjudication of cases. The primary duty of the Commission is to investigate and report upon tariff and foreign trade matters, as required by statute. It makes such investigations and reports at the request of the President, either branch of the Congress, the House Committee on Ways and Means, or the Senate Committee on Finance. Investigations into the effects on domestic industries of increased imports resulting from trade agreement concessions may be initiated by an industry, firm, group of workers, or other interested parties. The Commission also makes studies, surveys, or investigations on its own initiative. The facts found by the Commission in the course of these investigations may serve as the basis for a rule or order issued by some other arm of the Government. In some cases a determination of a certain nature by the Commission is a prerequisite to affirmative action by the Executive. In all of these cases, however, the affirmative action is by others, and the factfinding by the Commission is in no sense an order or rule.

The Tariff Commission has no divisions, bureaus, branches, or other constituent units to which the public information section does not apply to the degree stated above.

2. The Tariff Commission publishes in official and unofficial publications materials at the intervals described below:

(a) A description of the central and field organization of the Tariff Commission was published in 14 F.R. 7300 (1949). A description of the organization of the Commission and its functions also appears annually in the U.S. Government Organization Manual.

(b) Statements of "the general course and method" by which the "functions" of the Tariff Commission are "channeled and determined" appear in the Commission's Rules of Practice and Procedure. These rules are published in chapter II, parts 201-208, of title 19 of the Code of Federal Regulations. The rules were published in the Federal Register when promulgated, and all amendments and revisions of them have also been published in the Federal Register. Copies of the rules are available at both the Commission's Washington office and its New York City office.

(c) The Tariff Commission has adopted no "substantive" rules. The Commission has at times adopted certain procedural rules, but, as noted in *Ranger v. F.C.C.*, 294 F. 2d 240, 244 (D.C. Cir. 1961), while "procedural requirements may and do occasionally affect substantive rights, * * * this possibility