

enough in "taking care of" adjustment cases, the answer would be twofold: first, perhaps so, but it is a speculative matter, particularly since whatever impact the Kennedy Round tariff concessions will have will be visible only in the future; second, how far the country should travel in the future in the direction of liberalization of the causation criteria in adjustment assistance cases is a legislative pooling question for the Congress to decide upon, amending existing law accordingly, if it decides upon change, and establishing standards which administrative agencies would then apply. Until then, an administrative agency must apply the existing law, not the law as it might be or might have been.

Tariff Commissioner Clubb retorts:

The position of the majority, which is concededly consistent with earlier majority opinion of the Commission, if adhered to in the future cases, will make it virtually impossible for any petitioner to qualify for tariff or trade adjustment relief under the Trade Expansion Act. I believe this position to be both unwise and unnecessary: unwise because it frustrates the clear intention of Congress; unnecessary because of the words of the statute do not require it.

Clubb continues:

It appears that the majority has adopted the most restrictive possible meaning of the words of the statute and has thereby virtually insured that no petitioner can be successful.

Thus, where several interpretations of the term "major" are available, the majority has chosen the most restrictive. By considering as "causes" of increased imports, those very conditions for which Congress intended to provide a remedy, it has insured that in every case there will be a great number of "competing causes" to outweigh the effects of concessions. Finally, by in effect restricting the consideration of concessions to the most recent concession, it has so minimized the effects of duty reductions that they must always appear small in relation to the other multitudinous "causes" involved. With all deference to my colleagues in the majority, therefore, I submit that there is enough flexibility in the words of the statute so that the majority is not here compelled to adopt such a restrictive interpretation and the results it produces cannot be laid at the feet of Congress. The choice of words is made by Congress, but the choice of interpretations is made by the Commission.

I quote further from Commissioner Clubb:

Considering all these factors, it is clear that, but for the concessions, the imports would not have reached substantially their present level, and, therefore, the imports were a result in major part of the concessions.

On page 47 he continues:

To ask whether injury would have occurred but for the increased imports. We need not dwell long on this. The injury to the domestic interests took the form of reduced income resulting from declining sales. The reduced sales were a direct result of imports which rose from almost zero in 1955 to * * * of the United States consumption in 1966. Accordingly, it seems entirely clear that, but for the import competition, the domestic concerns and the industry would not be suffering injury.

In the case of Paidar, it seems clear that the injury has been of a crippling nature, and, therefore, it is "serious" within the meaning of the statute. In this connection, it should be noticed that Paidar has a substantial investment in plant and equipment which it recently increased in a modernization effort. This gives it a very substantial overhead which requires that sales be kept at a relatively high level in order to break even. Sales have not been at the break-even point for some time, and the losses, now aggravated by the increased investment, are growing more ominous. At present it is operating at a loss, and there is no relief in sight. It seems clear that this does constitute the crippling, perhaps even mortal, injury required by the act.

Gentlemen, you are being besieged with a great deal of information regarding foreign imports and allegations related to it. However, gentlemen, I daresay that very few, if any, of the people appearing here have gone through the official U.S. Tariff Investigation and, as a result, finished the Tariff Commission arguing among themselves and, the majority blaming you—Congress.