

the differentials between particular elements of domestic and foreign costs, and the extent to which invoice or wholesale prices are reliable evidence of foreign costs, will be pertinent.

(d) Other significant advantages or disadvantages in competition.

#### § 202.6 Reports.

After the completion of its investigation, the Commission will incorporate its findings in a report, and the report will be transmitted to the President.

### PART 203—INVESTIGATIONS OF ALLEGED UNFAIR PRACTICES IN IMPORT TRADE

Sec.	
203.1	Applicability of part.
203.2	Preparation and submittal of complaints.
203.3	Preliminary inquiry.
203.4	Action upon conclusion of preliminary inquiry.
203.5	Public hearing.
203.6	Service of complaints; answers to complaints.
203.7	Service of briefs.
203.8	Record.
203.9	Findings.
203.10	Rehearings; appeals.
203.11	Transmittal to President.

**AUTHORITY:** The provisions of this Part 203 issued under sec. 335, 72 Stat. 630; 19 U.S.C. 1335.

**SOURCE:** The provisions of this Part 203 appear at 27 F.R. 12120, Dec. 7, 1962, unless otherwise noted.

#### § 203.1 Applicability of part.

This Part 203 applies specifically to investigations under section 337 of the Tariff Act (19 U.S.C. 1337).<sup>3</sup> For other applicable rules see Part 201 of this chapter.

<sup>3</sup> Section 337(a) of the Tariff Act provides for Commission investigations, upon complaint under oath or upon its own initiative, of alleged violations of that section. That section declares unlawful: "Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States". (19 U.S.C. 1337(a)).

#### § 203.2 Preparation and submittal of complaints.

(a) *Who may file.* Complaint alleging violation of section 337 of the Tariff Act may be made by any interested person, partnership, association, or corporation.

(b) *Requirements for complaints.* In addition to conforming with the requirements of § 201.8 of this chapter, complaints shall—(1) be under oath; (2) state the nature of business of complainant; (3) state the name, address, and nature of business of the person or persons alleged to violate section 337; (4) include a description of the domestic industry affected; (5) include a statement of the facts constituting the alleged unfair methods of competition or unfair acts; (6) state specific instances of alleged unlawful importations or sales; and (7) include economic data concerning domestic production and distribution, imports and their distribution, and other pertinent facts upon which complainant bases his claim (i) that the domestic industry concerned is efficiently and economically operated and that it is being or is likely to be destroyed or substantially injured by the importations or sales in question; (ii) that the alleged unlawful acts are preventing the establishment of an efficiently and economically operated domestic industry; or (iii) that the alleged unlawful acts are having the effect or tendency of restraining or monopolizing trade and commerce in the United States.

(c) *Amendment of complaints.* Complaints may be amended, for good cause shown, at any time prior to the institution of a formal investigation.

(d) *Copies of complaints.* In addition to the number of copies prescribed in § 201.8 of this chapter, a clear copy of any complaint or amendment thereto shall be submitted for each person alleged in the complaint or amendment to have violated the provisions of section 337 of the Tariff Act.

#### § 203.3 Preliminary inquiry.

Upon the receipt of a complaint, properly filed, the Commission will make a preliminary inquiry for the purpose of determining whether there is good and sufficient reason for a full investigation and, if so, whether the Commission should recommend to the President the issuance of a temporary order of exclu-

sion from entry (if requested by complainant) under section 337(f) of the Tariff Act.<sup>3</sup>

#### § 203.4 Action upon conclusion of preliminary inquiry.

Upon the conclusion of a preliminary inquiry the Commission will determine whether a full investigation is warranted. If this determination is in the affirmative, the investigation will be ordered. If a temporary exclusion order was requested, the Commission will also determine whether the issuance of such an order by the President should be recommended. If the Commission determines that a full investigation is not warranted, the complaint will be dismissed.

#### § 203.5 Public hearing.

A public hearing will be held in connection with each full investigation to which this Part 203 relates.

#### § 203.6 Service of complaints; answers to complaints.

After a full investigation shall have been ordered, but not before, a copy of the complaint will be served by the Commission upon any owner, importer, or consignee, or the agent of any of them, alleged to violate the provisions of section 337 of the Tariff Act, and such owner, importer, consignee, or agent shall have 30 days, unless otherwise ordered, in which to make written answer under oath. Copies of all answers will be served by the Commission upon complainants or upon their attorneys.

#### § 203.7 Service of briefs.

Copies of all briefs will be served by the Commission upon all interested parties who have entered appearances or upon their representatives of record.

<sup>3</sup> Section 337(f) of the Tariff Act provides: "Whenever the President has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section but has not information sufficient to satisfy him[self] thereof, the Secretary of the Treasury shall, upon his request in writing, forbid entry thereof until such investigation as the President may deem necessary shall be completed; except that such articles shall be entitled to entry under bond prescribed by the Secretary of the Treasury". (19 U.S.C. 1337(f)).

#### § 203.3 Record.

A transcript of the testimony in an investigation, together with the findings and recommendations of the Commission, shall be the official record of the proceedings and findings in the investigation. Business material accepted by the Commission as confidential and so marked will not be considered a part of the record and therefore will not be sent to the court in the event of an appeal.

#### § 203.9 Findings.

Upon the conclusion of an investigation, the Commission will formulate findings based thereon. When the findings show a violation of the statute, a copy of the findings certified by the Secretary under the seal of the Commission will be served upon the owner, importer, or consignee, or the agent, of any of them, found to be violating the statute.

#### § 203.10 Rehearings; appeals.

Section 337(c) of the Tariff Act authorizes rehearings by the Commission on questions of either fact or law and appeals by the importer or consignee within 60 days to the United States Court of Customs and Patent Appeals upon a question or questions of law only. If no appeal is filed within the time prescribed and no rehearing granted, or if appeal is filed or rehearing granted and the Commission's findings are ultimately affirmed, the findings are then considered final.

#### § 203.11 Transmittal to President.

The final findings of the Commission will be transmitted with the record to the President for his consideration.<sup>4</sup>

<sup>4</sup> Section 337(e) of the Tariff Act provides: "Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive". (19 U.S.C. 1337(e)).