

referred to in § 205.2 which includes such article for the first time.

(d) *Requirements for requests.* Requests under this Subpart B shall conform with the requirements for documents set forth in § 201.8 of this chapter and shall include the following: (1) The names and addresses of the firms known by the parties filing the request to be producing the domestic article concerned, and the location of the separate establishments, if any, of such firms in which such article is produced; (2) data on imports by quantity, for each of the most recent five full years, of the article with respect to which the finding referred to in § 205.8(b) was made; (3) data on production by quantity of the domestic article concerned for each of the most recent five full years; and (4) a statement of the facts forming the basis of the claim that economic conditions in the industry producing the domestic article concerned have not improved substantially since the date of the report of the Commission which contained the finding referred to in § 205.8(b).

§ 205.9 Investigations.

(a) *Institution.* After receipt of a request under this Subpart B, properly filed, an investigation will be instituted to determine whether economic conditions in the industry concerned have improved substantially since the date of the report of the Commission which contained the finding referred to in § 205.8(b).

(b) *Consolidation.* An investigation instituted pursuant to this Subpart B will be consolidated with the then current investigation being conducted pursuant to Subpart A of this part.

§ 205.10 Advice to the President.

The Commission's advice to the President of the results of an investigation pursuant to this Subpart B will be included in the Commission's report to the President referred to in § 205.6.

PART 206—INVESTIGATIONS OF IMPORT INJURY TO INDUSTRIES, FIRMS, OR WORKERS DUE TO TRADE AGREEMENT CONCESSIONS

Sec.

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206.16 Applicability of subpart.

206.17 Who may file petition.

206.18 Contents of petition.

206.19 Release of reports.

AUTHORITY: The provisions of this Part 206 issued under sec. 335, 72 Stat. 680, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802.

SOURCE: The provisions of this Part 206 appear at 27 F.R. 12123, Dec. 7, 1962; 28 F.R. 522, Jan. 19, 1963, unless otherwise noted.

§ 206.1 Applicability of part.

This Part 206 applies specifically to investigations under section 301 of the Trade Expansion Act. For other applicable rules see Part 201 of this chapter. Subpart A of this part sets forth rules generally applicable to petitions filed under this Part 206 and investigations based upon such petitions. Each of Subparts B, C, and D of this part sets forth rules specially applicable to petitions and investigations to which such subparts relate.

Subpart A—General

§ 206.2 Definitions.

As used in this Part 206:

(a) The term "firm" means an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustees in bankruptcy, or receivers under decree of any court, owning or controlling one or more establishments for the conduct of manufacturing, processing, farming, fishing, or mining operations, and includes all

(b) The term "establishment" means a factory, plant, farm, mine, or fishery employed in the production of the domestic article named or described in a petition in accordance with § 206.4, and includes auxiliary facilities operated in conjunction with (whether or not physically separate from) production facilities.

(c) The term "appropriate subdivision", when applied to a firm having more than one establishment, means a single establishment in which is produced the domestic article named or described in a petition in accordance with § 206.4. Where such domestic article is produced in a distinct part or section of an establishment, such part or section may be considered an "appropriate subdivision" of the firm.

§ 206.3 Identification of type of petition.

Each petition under this Part 206 shall state clearly on the first page thereof "This is a petition under section 301(a) of the Trade Expansion Act of 1962 and Subpart (B, C, or D as the case may be) of Part 206 of the Rules of Practice and Procedure of the United States Tariff Commission".

§ 206.4 Identification of articles (products).

Each petition under this Part 206 shall name or describe precisely the imported article concerned; specify the United States tariff provision under which such article is classified and the current tariff treatment thereof; and name or describe the like or directly competitive domestic article concerned.

§ 206.5 Institution of investigations; copies of petitions to Departments.

Promptly after the receipt of a petition under this Part 206, properly filed, an appropriate investigation will be instituted, and a copy of the petition will be transmitted to the Secretary of Commerce. In the case of a petition under Subpart D of this part, a copy thereof will also be transmitted to the Secretary of Labor.

§ 206.6 Public hearings.

A public hearing will be held in connection with each investigation instituted on the basis of a petition filed under Subpart B of this part. A public hearing will be held in connection with an investigation instituted on the basis of a petition under Subpart C or D of this

part only (1) if request for a hearing is included in the petition or (2) if, within ten (10) days after notice of the receipt of a petition under Subpart C or D of this part, a hearing is requested by any other party showing a proper interest in the subject matter of the investigation.

§ 206.7 Reports to the President.

The Commission will send to the President a report on the results of each investigation it conducts under this Part 206 (including in the report any dissenting or separate views), together with a transcript of the hearing (if any) and any briefs which may have been submitted in connection with the investigation.

Subpart B—Investigations Upon Petition for Tariff Adjustment (Industry)

§ 206.8 Applicability of subpart.

This Subpart B applies specifically to investigations under section 301(b) of the Trade Expansion Act.¹¹ For other applicable rules see Subpart A of this part and Part 201 of this chapter.

¹¹ Section 301(b) of the Trade Expansion Act provides in pertinent part as follows:

"(1) Upon the request of the President, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Tariff Commission shall promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry producing an article which is like or directly competitive with the imported article.

"(2) In making its determination under paragraph (1), the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

"(3) For purposes of paragraph (1), increased imports shall be considered to cause, or threaten to cause, serious injury to the domestic industry concerned when the Tariff Commission finds that such increased imports have been the major factor in causing, or threatening to cause, such injury." (19 U.S.C. 1901).

§ 206.9 Who may file petition.

A petition under this Subpart B may be filed by a trade association, firm, certified or recognized union, or other representative of an industry producing an article like or directly competitive with a foreign article which it is claimed is, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such industry. The names and locations of the firms represented in the petition and of their establishments in which the named or described domestic article is produced, as well as the names and locations of all other producers of such article known to the petitioner, shall be listed in the petition.

§ 206.10 Contents of petition.

A petition under this Subpart B shall include concrete information in support of petitioner's claim that as a result in major part of concessions granted under trade agreements the named or described foreign article is being imported in such increased quantities as to cause or threaten to cause serious injury to the domestic industry producing the named or described domestic article. Such supporting information shall be of the following character: (a) Import data (including data on imports for each of the most recent five full years) forming the basis of the claim that the named or described foreign article is being imported in increased quantities; (b) a statement of the basis of the claim that the increased imports have resulted in major part from trade agreement concessions; (c) data on total U.S. production by quantity of the named or described domestic article for each of the most recent five full years; (d) quantitative data indicating the nature and extent of the injury or threat thereof to the domestic industry concerned, with particular reference to the extent of idling of productive facilities, impairment of profitability of operations, and unemployment and underemployment; (e) enumeration and description of the factors believed to be causing or threatening to cause the injury described under (d); and (f) a statement regarding the extent to which increased imports of the named or described foreign article are believed to be such a factor.

§ 206.11 Release of reports.

Upon making a report to the President of the results of an investigation to which this Subpart B relates, the Commission will make such report public (except confidential business data) and cause a summary of the report to be published in the FEDERAL REGISTER.

Subpart C—Investigations Upon Petition for Determination of Eligibility of Firms To Apply for Adjustment Assistance**§ 206.12 Applicability of subpart.**

This Subpart C sets forth the special rules applicable to investigations under section 301(c)(1) of the Trade Expansion Act²² upon petition for a determination of eligibility to apply for adjustment assistance under chapter 2 of title III of such Act. For other applicable rules see Subpart A of this part and Part 201 of this chapter.

§ 206.13 Who may file petition.

A petition under this Subpart C may be filed by an individual firm, or a representative of such a firm, producing an article like or directly competitive with a foreign article which it is claimed is, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

§ 206.14 Contents of petition.

As a part of each petition under this Subpart C, there shall be attached a

²²Section 301(c)(1) of the Trade Expansion Act provides as follows: "In the case of a petition by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2, the Tariff Commission shall promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by the firm is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm. In making its determination under this paragraph, the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities of the firm, inability of the firm to operate at a level of reasonable profit, and unemployment or underemployment in the firm." (19 U.S.C. 1901).

completed Tariff Commission Form 301-F. (Copies of this form may be obtained by prospective petitioners from the Secretary of the Commission.) In addition, each petition under this Subpart C shall include the following: (a) A statement of the basis of the claim that the increased imports of the named or described foreign article have resulted in major part from trade agreement concessions; (b) enumeration and description of the factors believed to be causing or threatening to cause serious injury to the petitioning firm; and (c) a statement regarding the extent to which increased imports of the named or described foreign article are believed to be such a factor.

§ 206.15 Release of reports.

Commission reports to the President concerning investigations to which this Subpart C relates will not be released to the public, but the Commission will make public its conclusion in each investigation.

Subpart D—Investigations Upon Petition for Determination of Eligibility of Workers to Apply for Adjustment Assistance

§ 206.16 Applicability of subpart.

This Subpart D sets forth the special rules applicable to investigations under section 301(c)(2) of the Trade Expansion Act¹³ upon petition for determination of eligibility to apply for adjustment assistance under chapter 3 of title III of such Act. For other applicable rules see Subpart A of this part and Part 201 of this chapter.

§ 206.17 Who may file petition.

A petition under this Subpart D may be filed by a group (three or more) of

workers in an individual firm or by their certified or recognized union or other duly authorized representative. The workers by whom or on whose behalf the petition is filed must be persons who are, or who have been within one year prior to the date of the petition, employed regularly in the production of the named or described domestic article by the firm whose workers are claimed to be unemployed, underemployed, or threatened with unemployment or underemployment, by reason of the increase in imports of the named or described foreign article, which increase resulted in major part from concessions granted under trade agreements.

§ 206.18 Contents of petition.

A petition under this Subpart D shall include concrete information in support of petitioning workers' claim that, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by the petitioning workers' firm, or an appropriate subdivision thereof, is being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision. In particular, supporting information of the following character shall be included: (a) The name and location of the workers' firm; (b) the total number of establishments (all articles) operated by the workers' firm and their locations, identifying the separate establishment(s), if any, in which the named or described domestic article is produced; (c) import data forming the basis of the claim that the named or described foreign article is being imported in increased quantities; (d) a statement of the basis of the claim that the increased imports resulted from trade agreement concessions; (e) data on production and sales by the workers' firm as a whole of the named or described domestic article, by quantity and value, during each of the five most recent full years; (f) data for each of the five most recent full years showing (1) the value of total sales of all articles produced (i) by the firm as a whole, and (ii) by each separate establishment, if any, in which the named or described domestic article is produced; (2) the average number of production workers employed (i) by the firm as a

¹³Section 301(c)(2) of the Trade Expansion Act provides as follows: "In the case of a petition by a group of workers for a determination of eligibility to apply for adjustment assistance under chapter 3, the Tariff Commission shall promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by such workers' firm, or an appropriate subdivision thereof, is being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision." (19 U.S.C. 1901.)

whole, (ii) by each of the separate establishments, if any, in which the named or described domestic article is produced, and (iii) in the production of the named or described domestic article only; and (3) the total number of man-hours employed in the production of (i) all articles produced by the firm as a whole, (ii) all articles produced in each of the separate establishments, if any, in which the named or described domestic article is produced, and (iii) the named or described domestic article only; (g) enumeration and description of the factors believed to be causing or threatening unemployment or underemployment in the workers' firm or subdivision thereof, and (h) a statement regarding the extent to which increased imports of the named or described foreign article are believed to be such a factor.

§ 206.19 Release of reports.

Commission reports to the President concerning investigations to which this Subpart D relates will not be released to the public, but the Commission will make public its conclusion in each investigation.

PART 207—REVIEW OF ACTIONS PROVIDING ADDITIONAL TARIFF PROTECTION TO INDUSTRIES TO PREVENT OR REMEDY SERIOUS INJURY FROM IMPORTS

- Sec.
- 207.1 Applicability of part.
- 207.2 Continuing review maintained.
- 207.3 Investigations to determine probable effect of reduction or elimination of increased or additional import restrictions.
- 207.4 Investigations to determine probable effect of automatic termination of increased or additional import restrictions.
- 207.5 Public hearings.
- 207.6 Reports.

AUTHORITY: The provisions of this Part 207 issued under sec. 335, 72 Stat. 680, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802.

SOURCE: The provisions of this Part 207 appear at 27 F.R. 12125, Dec. 7, 1962.

§ 207.1 Applicability of part.

This Part 207 applies specifically to the functions and duties of the Commission under the provisions of section 351(d) of the Trade Expansion Act that deal with Commission review of increased or additional import restrictions imposed by

the President to prevent or remedy serious injury to domestic industries.¹⁴ For other applicable rules see Part 201 of this chapter.

§ 207.2 Continuing review maintained.

As long as any increase in, or imposition of, any duty or other import restriction made by the President pursuant to section 7 of the Trade Agreements Extension Act of 1951 or section 351 of the Trade Expansion Act remains in effect, the Commission will keep under review developments with respect to the industry concerned, and report annually to the President concerning such developments. Unless otherwise ordered, no

¹⁴ The pertinent provisions of section 351 (d) of the Trade Expansion Act are as follows:

"(1) So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, and shall make annual reports to the President concerning such developments.

"(2) Upon request of the President or upon its own motion, the Tariff Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the increase in, or imposition of, any duty or other import restriction pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951.

"(3) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any increase or imposition referred to in paragraph (1) or (2) of subsection (c) is to terminate by reason of the expiration of the applicable period prescribed in paragraph (1) or an extension thereof under paragraph (2), the Tariff Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

"(4) In advising the President under this subsection as to the probable economic effect on the industry concerned, the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

"(5) Advice by the Tariff Commission under this subsection shall be given on the basis of an investigation during the course of which the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard." (19 U.S.C. 1981).