

§ 206.32

U.S.C. 3805 note), section 311(b) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4061(b)), section 211(b) of the United States-Jordan Free Trade Area Implementation Act (19 U.S.C. 2112 note), section 311(b) of the United States-Korea Free Trade Agreement Implementation Act (19 U.S.C. 3805 note), section 311(b) of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note), section 302(b) of the NAFTA Implementation Act (19 U.S.C. 3352(b)), section 311(b) of the United States-Oman Free Trade Agreement Implementation Act (19 U.S.C. 3805 note), section 311(b) of the United States-Panama Trade Promotion Agreement Implementation Act (19 U.S.C. 3805 note), section 311(b) of the United States-Peru Trade Promotion Agreement Implementation Act (19 U.S.C. 3805 note), and section 311(b) of the United States-Singapore Free Trade Agreement Implementation Act (19 U.S.C. 3805 note). For other applicable rules, see subpart A of this part and part 201 of this chapter.

[77 FR 3926, Jan. 26, 2012]

§ 206.32 Definitions applicable to subpart D.

For the purposes of this subpart, the following terms have the meanings hereby assigned to them:

(a) The term *substantial cause* has the same meaning as section 202(b)(1)(B) of the Trade Act.

(b) The terms *domestic industry*, *serious injury*, and *threat of serious injury* have the same meanings as in section 202(c)(6) of the Trade Act.

(c) *Critical circumstances* mean such circumstances as are described in section 202(d) of the Trade Act;

(d) *Perishable agricultural product* means any agricultural product or citrus product, including livestock, which is the subject of monitoring pursuant to section 202(d) of the Trade Act.

(e) *Korean motor vehicle article* means a good provided for in heading 8703 or 8704 of the U.S. Harmonized Tariff Schedule that qualifies as an originating good under section 202(b) of the

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United States-Korea Free Trade Agreement Implementation Act.

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§ 206.33 Who may file a petition.

(a) *In general.* A petition under this subpart D may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a domestic industry producing an article that is like or directly competitive with an article that is allegedly, as a result of the reduction or elimination of a duty provided for under a free trade agreement listed in paragraph (b) of this section, being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the article constitute a substantial cause of serious injury, or (except in the case of a Canadian article) threat thereof, to such domestic industry. Unless the implementation statute provides otherwise, a petition may be filed only during the transition period of the particular free trade agreement.

(b) *List of free trade agreements.* The free trade agreements referred to in paragraph (a) of this section include the United States-Australia Free Trade Agreement, the United States-Bahrain Free Trade Agreement, the United States-Chile Free Trade Agreement, the United States-Colombia Trade Promotion Agreement, the Dominican Republic-Central America-United States Free Trade Agreement, the United States-Jordan Free Trade Area Agreement, the United States-Korea Free Trade Agreement, the United States-Morocco Free Trade Agreement, the North American Free Trade Agreement (NAFTA), the United States-Oman Free Trade Agreement, the United States-Panama Trade Promotion Agreement, the United States-Peru Trade Promotion Agreement, and the United States-Singapore Free Trade Agreement, to the extent that such agreements have entered into force.

(c) *Critical circumstances.* An entity of the type described in paragraph (a) of this section that represents a domestic industry may allege that critical circumstances exist and petition for provisional relief with respect to imports

if such product is from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore.

(d) *Perishable agricultural product.* An entity of the type described in paragraph (a) of this section that represents a domestic industry producing a perishable agricultural product may petition for provisional relief with respect to imports of such product from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore, but only if such product has been subject to monitoring by the Commission for not less than 90 days as of the date the allegation of injury is included in the petition.

(e) *Korean motor vehicle article.* An entity of the type described in paragraph (a) of this section that is filing a petition with respect to a product from Korea shall state whether it represents a domestic industry producing an article that is like or directly competitive with a Korean motor vehicle article.

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§ 206.34 Contents of petition.

A petition under this subpart D shall include specific information in support of the claim that, as a result of the reduction or elimination of a duty provided for under a free trade agreement listed in § 206.33(b), an article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the article constitute a substantial cause of serious injury, or (except in the case of a Canadian article) threat thereof, to the domestic industry producing an article that is like or directly competitive with the imported article. If provisional relief is requested in a petition concerning an article from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore, the petition shall state whether provisional relief is sought because *critical circumstances* exist or because the imported article is a *perishable agricultural product*. In addition, a petition filed under this subpart D shall include the following information, to the extent that such information is publicly available from governmental or other sources, or best estimates and the basis

therefor if such information is not available:

(a) *Product description.* The name and description of the imported article concerned, specifying the United States tariff provision under which such article is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic article concerned;

(b) *Representativeness.* (1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic article is produced;

(2) The percentage of domestic production of the like or directly competitive domestic article that such represented firms and/or workers account for and the basis for claiming that such firms and/or workers are representative of an industry; and

(3) The names and locations of all other producers of the domestic article known to the petitioner;

(c) *Import data.* Import data for at least each of the most recent 5 full years that form the basis of the claim that the article concerned is being imported in increased quantities in absolute terms;

(d) *Domestic production data.* Data on total U.S. production of the domestic article for each full year for which data are provided pursuant to paragraph (c) of this section;

(e) *Data showing injury.* Quantitative data for each of the most recent 5 full years indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to serious injury, data indicating:

(i) A significant idling of production facilities in the industry, including data indicating plant closings or the underutilization of production capacity;

(ii) The inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit; and

(iii) Significant unemployment or underemployment within the industry; and/or

(2) With respect to the threat of serious injury, data relating to: