

§ 357.101 Definitions.

(a) *Arrangement* means an arrangement between the United States Government and a foreign government whereby the foreign government agrees to restrain voluntarily certain steel exports to, or destined for consumption in, the United States for the period of October 1, 1989, through March 31, 1992.

(b) *Aberration* means a domestic price which is out of the ordinary and present course of normal pricing trends.

(c) *Interested party* means (1) A U.S. producer or consumer of the product; (2) a U.S. importer/distributor of the product; or (3) a foreign producer of the product (through its government, if such government is a party to the arrangement under which a short supply allowance is requested).

(d) *Prevailing domestic market prices* means current prices in the United States market for domestically produced and imported product, as reflected in actual purchases and sales (but does not include import prices which the Secretary decides are likely to be significantly affected by dumping or subsidy practices).

(e) *The product* means the steel product for which a short supply allowance is requested or material that possesses the same physical and mechanical characteristics, and which can be used for the same applications without imposing any significant retooling costs on the consumer.

(f) *The Secretary* means the Secretary of Commerce and the person to whom the authority to make the short supply determination has been delegated (the Assistant Secretary for Import Administration) or the person making a final recommendation for decision to that person (the Deputy Assistant Secretary for Compliance.)

(g) *Short supply* exists for a product when there is not a sufficient supply of that product available to meet market demand in the United States. In determining whether short supply exists, the Secretary will not consider one factor alone to be dispositive, but will consider all relevant factors, including:

(1) To the extent information is available, the recent levels of capacity utilization for domestic facilities producing the product or product sector;

(2) The quantity of additional imports of the product requested by the petitioner and the ability of domestic producers to supply the product in such quantity;

(3) The willingness of the producers of the product to supply the product at a price that is not an aberration from prevailing domestic market prices;

(4) Reasonable specifications requested by the purchaser or any end user, such as metallurgical, dimensional, quality, service requirements, and supply only by a *qualified supplier* if such qualification is required by the purchaser's customers, and

(5) Delivery times to the purchaser and to end users of the product.

(h) *A short supply allowance* means an authorization to import into the United States a quantity of the product in excess of the aggregate quantitative import limitation under an arrangement.

§ 357.102 Short supply allowances.

(a) The Secretary will authorize a short supply allowance if:

(1) The product is covered by an arrangement that provides for the authorization of a short supply allowance;

(2) An adequate petition is filed with the Secretary requesting a short supply allowance with respect to the product; and

(3) The Secretary determines that short supply exists with respect to the product.

The Secretary's short supply determination will be based only on information included in the official record. Any determination by the Secretary that is found to be based on inaccurate information will be reconsidered immediately.

(b) Address and submit petitions and all other documents concerning a short supply review (accompanied by four copies) to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted must reference the name or number of the particular short supply review.

(c) The Secretary generally will consider petitions for short supply allowances for up to one calendar year. For annual requests for products that are produced domestically, but for which the domestic industry has minimal available production capacity, the Secretary may grant a short supply allowance for less than a full year, if the Secretary believes that the situation may be significantly altered prior to the end of one year.

(d) If the Secretary grants only a portion of the short supply request, or grants a short supply allowance for less than a full year, the petitioner must file a new petition to receive an allowance for any subsequent period in the same year. The petitioner must file a new petition if it subsequently modifies its request to the extent that the modification represents a substantial change in its request.

§ 357.103 Petitions for short supply allowances.

An interested party may file a petition with the Secretary requesting a short supply allowance.

(a) All short supply petitions shall contain, at a minimum, the following information:

(1) The exact specifications of the product for which the request is made, including dimensions, metallurgical specifications, and unique characteristics;

(2) A detailed explanation of how the product will be used;

(3) An explanation of why the petitioner believes the product is in short supply;

(4) The exact quantity of the short supply allowance requested and justification for the tonnage level. If the request is for more than one type and size of a product, specific quantity information for each type and size. If petitioner's request would represent an increase over previous consumption levels, a full explanation for the increase;

(5) The period of time for which a short supply allowance is requested; and

(6) A certification that the factual information contained in the petition is accurate and complete to the best of the petitioner's knowledge.

(b) If the petitioner is a U.S. company that processes the product in some manner, the petition shall contain, in addition to the information required under paragraph (a), the following information:

(1) A list of all U.S. and foreign producers of the product that have refused to sell the product to the petitioner during the past three years, indicating when they were contacted and the reason for their refusal;

(2) A list of all offers to sell the product to the petitioner by U.S. and foreign producers in the past three years that have been rejected by the petitioner, indicating the reasons for the rejection;

(3) A list of all domestic and foreign suppliers from whom the petitioner has purchased the product during the past three years, including the quantity purchased from each mill during this period;

(4) A list of potential foreign suppliers of the product; and

(5) Documentation indicating that petitioner has made efforts to purchase the product domestically.

(c) If the petitioner is a U.S. importer/distributor, the petition shall contain, in addition to the information required under paragraph (a), the following information:

(1) A list of all U.S. customers which have purchased the product from the petitioner during the past three years, along with documentation from these customers demonstrating that they support the request and have been unable to buy the product domestically;

(2) A list of all of petitioner's sales (by quantity) to U.S. customers of the product in each of the last three years;

(3) A list of all domestic and foreign firms that have supplied the product to the petitioner during the past three years, with the total quantity purchased from each supplier annually.

(4) A list of potential foreign suppliers of the product;

(d) If the petitioner is a foreign producer of the product applying through its government, the petition shall contain, in addition to the information required under paragraph (a), the following information:

(1) A list of all U.S. customers that have purchased the product from the