

## SUBCHAPTER B—NONADJUDICATIVE INVESTIGATIONS

### PART 202—INVESTIGATIONS OF COSTS OF PRODUCTION

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AUTHORITY: Sec. 335, 72 Stat. 680; 19 U.S.C. 1335.

SOURCE: 27 FR 12120, Dec. 7, 1962, unless otherwise noted.

#### § 202.1 Applicability of part.

This part 202 applies specifically to investigations under section 366 of the Tariff Act (19 U.S.C. 1336).<sup>1</sup> For other applicable rules see part 201 of this chapter.

#### § 202.2 Applications.

(a) *Who may file.* Applications for an investigation to which this part 202 relates may be filed by any firm, association of firms, or corporation engaged in the production of a domestic article, or by any duly authorized representative of the foregoing.

(b) *Requirements for applications.* In addition to conforming with the requirements of § 201.8 of this chapter, applications under this part 202 shall include the following:

(1) A clear statement that they are requests for investigations for the purposes of section 336;

<sup>1</sup>Section 336(a) of the Tariff Act provides in part that “(1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, [the commission] shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article”. (19 U.S.C. 1336.) The provisions of section 336 of the Tariff Act may not be applied to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded under the Trade Agreements Act of 1934, as amended, or the Trade Expansion Act. (19 U.S.C. 1352(a)).

(2) The name or description of the article concerning which an investigation is sought;

(3) A reference to the tariff provision or provisions applicable to such article; and

(4) A statement indicating whether an increase or a decrease in the rate of duty is sought.

(c) *Supporting information.* The applicant must file with his application such supporting information as may be in his possession. As far as practicable, information of the following character should be furnished:

(1) Comparability of the domestic and foreign articles and the degree of competition between them.

(2) Trend in recent years of (i) domestic production, (ii) domestic sales, (iii) imports, (iv) costs of production, and (v) prices.

(3) Evidence of difference between domestic and foreign costs of production of the articles involved.

(4) Areas of greatest competition between the imported and domestic products and the principal market or markets in the United States.

(5) Other relevant factors that constitute, in the opinion of the applicant, an advantage or disadvantage in competition, and any other information which the applicant believes the Commission should consider.

#### § 202.3 Preliminary inquiry.

Upon the receipt of an application 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. If such determination is in the affirmative, a full investigation will be instituted.

#### § 202.4 Public hearing.

A public hearing will be held in connection with each full investigation to which this part 202 relates.

#### § 202.5 Type of information to be developed at hearing.

Without excluding other factors, but with a view to assisting parties interested to present information necessary

for the formulation of findings required by the statute, the Commission will expect attention in the hearing to be concentrated upon facts relating to:

(a) The degree of competition between the foreign and domestic articles in the markets of the United States.

(b) The degree of likeness or similarity between grades, classes, and price groups of the American product and the imported article.

(c) Costs of production and importation. Statements of average cost of production, domestic and, so far as known, foreign, may be submitted subject to verification and review in the Commission's investigation. Such statements should include not only the direct costs for materials and labor, commonly termed prime cost, but also indirect costs such as indirect labor, overhead factory expenses, fixed charges, the portion of general and administrative expense chargeable to manufacture, imputed interest on investment equity, and transportation to markets. For the foreign product the expenses (other than duties) incident to importation are also important. Any information which may be available bearing on the general levels of domestic and foreign costs of production, 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 204—INVESTIGATIONS OF EFFECTS OF IMPORTS ON AGRICULTURAL PROGRAMS**

- Sec.
- 204.1 Applicability of part.
- 204.2 Investigations.
- 204.3 Public hearings.
- 204.4 Supplemental investigations.
- 204.5 Reports.

AUTHORITY: 19 U.S.C. 1335.

SOURCE: 27 FR 12121, Dec. 7, 1962, unless otherwise noted.

**§ 204.1 Applicability of part.**

This part 204 applies specifically to investigations under section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624).<sup>1</sup> For other applicable rules see part 201 of this chapter.

[27 FR 12121, Dec. 7, 1962, as amended at 68 FR 32977, June 3, 2003]

**§ 204.2 Investigations.**

The Commission will make an investigation for the purposes of section 22(a) of the Agricultural Adjustment

<sup>1</sup>Section 22 provides in part as follows:

“(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with \* \* \* any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

\* \* \* \* \*

“(d) After investigation, report, finding and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.” (7 U.S.C. 624.)

Regulations of the President are set forth in Executive Order 7233 of November 23, 1935.