

§ 206.44

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relating to the effect of imports of the subject merchandise on prices in the United States for like or directly competitive articles; evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns; and a statement regarding the extent to which increased imports, either actual or relative to domestic production, of the imported article are believed to be such a cause, supported by pertinent data;

(g) *Relief sought and purpose thereof.* A statement describing the import relief sought.

[59 FR 5091, Feb. 3, 1994, as amended at 67 FR 8191, Feb. 22, 2002]

§ 206.44 Contents of a petition under section 421(b) or (o) of the Trade Act.

(a) *Petitions under section 421(b).* A petition for relief under section 421(b) of the Trade Act shall provide specific information in support of the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. In addition, such petition shall include the information described in paragraphs (b) through (i) of this section. The petition shall provide the information required by this paragraph and paragraphs (b) through (i) of this section to the extent that such information is reasonably available to the petitioner with due diligence.

(b) *Product description.* Each petition shall include the name and description of the imported product concerned, specifying the United States tariff provision under which such product is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic product concerned.

(c) *Representativeness.* Each petition shall include:

(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 product is produced;

(2) The percentage of domestic production of the like or directly competitive domestic product that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and

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

(d) *Import data.* Each petition shall include import data for at least each of the most recent 5 full years which form the basis of the claim that imports from the People's Republic of China of a product like or directly competitive with the product produced by the domestic industry concerned are increasing rapidly, either absolutely or relatively.

(e) *Domestic production data.* Each petition shall include data on total U.S. production of the domestic product for each full year for which data are provided pursuant to paragraph (d) of this section.

(f) *Data showing injury and/or threat of injury.* Each petition shall include the following quantitative data indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to material injury, information, including data on production, capacity, capacity utilization, shipments, net sales, profits, employment, productivity, inventories, and expenditures on capital and research and development, indicating:

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

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

(iii) Unemployment or underemployment within the industry; and/or

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

(i) Declines in sales or market share, increases in inventory (whether maintained by domestic producers, importers, wholesalers, retailers, or producers or exporters in the People's Republic of China), and/or a downward trend in production, profits, wages, or employment (or increasing underemployment);

(ii) The extent to which firms in the industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development;

(iii) The extent to which the U.S. market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(iv) Data regarding productive capacity in the People's Republic of China, any unused productive capacity, and any potential for product shifting in the People's Republic of China.

(g) *Cause of injury.* Each petition shall enumerate and describe the causes believed to be resulting in the material injury, or threat thereof, described in paragraph (f) of this section. The petition shall provide information relating to the effect of imports of the subject merchandise on prices in the United States for like or directly competitive articles. The petition shall also include a statement regarding the extent to which increased imports, either actual or relative, of the imported product are believed to be such a cause, supported by pertinent data.

(h) *Critical circumstances.* If the petition alleges that critical circumstances exist within the meaning of section 421(i)(1) of the Trade Act, the petition shall provide detailed information supporting that claim as well as detailed information demonstrating that delay in taking action under section 421 of the Act would cause damage to the relevant domestic industry that would be difficult to repair.

(i) *Relief sought and purpose thereof.* The petition shall include a statement describing the import relief sought under section 421(i)(4) and/or section 421(a) of the Trade Act and the purpose thereof.

(j) *Petitions under section 421(o).* A petition under section 421(o) of the Trade Act shall include evidence of representativeness, as described in paragraph (b) of this section, as well as specific information in support of the claim that action under section 421 of the Act continues to be necessary to prevent or

remedy market disruption. The information provided in support of that claim should take into account factors such as those specified in paragraphs (c) through (g) of this section. To comply with this paragraph, the petition should contain all relevant information that is reasonably available to the petitioner with due diligence.

[67 FR 8191, Feb. 22, 2002]

§ 206.45 Time for reporting.

(a) In an investigation under section 406(a) of the Trade Act, the Commission will make its report to the President at the earliest practical time, but not later than 3 months after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

(b) In an investigation under section 421(b) of the Trade Act, the Commission will transmit to the President and the United States Trade Representative its determination at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting provisional relief under section 421(i) of the Act) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted. The Commission will transmit its report to the President and the Trade Representative no later than 20 days after the transmittal of the determination.

(c) In an investigation under section 421(b) of the Trade Act in which the petition requests provisional relief under section 421(i) of the Act, the Commission will transmit to the President and the Trade Representative its determination and report with respect to section 421(i) of the Act no later than 45 days after the petition is filed.

(d) In an investigation under section 421(o) of the Trade Act, the Commission shall transmit to the President a report on its investigation and determination not later than 60 days before the action under section 421(m) of the Trade Act is to terminate.

[67 FR 8192, Feb. 22, 2002]

§ 206.46 Public report.

Upon making a report to the President of the results of an investigation to which this subpart E relates, the