

**UNITED STATES TARIFF COMMISSION**  
**WASHINGTON, D. C.**

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**RULES OF PRACTICE AND PROCEDURE**

**An advance print of Chapter II, Title 19, of  
the Code of Federal Regulations**

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**LAWS RELATING TO THE  
UNITED STATES TARIFF COMMISSION**

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**MISCELLANEOUS SERIES**



UNITED STATES TARIFF COMMISS  
WASHINGTON, D. C.

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## **RULES OF PRACTICE AND PROCEDURE**

IN ADMINISTRATION OF  
SECTIONS 332, 336, AND 337  
OF THE TARIFF ACT OF 1930  
AND OF SECTION 22  
OF THE AGRICULTURAL ADJUSTMENT ACT  
AS AMENDED

An advance print of Chapter II, Title 19, of  
the Code of Federal Regulations

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## **LAWS RELATING TO THE UNITED STATES TARIFF COMMISSION**

SPECIAL PROVISIONS OF THE TARIFF ACT OF 1930  
SECTIONS 330 TO 341, TITLE III, PART II, SECTION 350,  
TITLE III, PART III  
SECTION 402 (g), TITLE IV, PART I  
AND SECTION 22  
OF THE AGRICULTURAL ADJUSTMENT ACT  
AS AMENDED

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MISCELLANEOUS SERIES



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# CONTENTS

## RULES OF PRACTICE AND PROCEDURE

	Page
Rules of general application:	
Applicability of general rules.....	1
Principal office.....	2
Suspension of rules.....	2
United States publications as evidence.....	2
Confidential information.....	2
Action upon receipt of application or complaint.....	2
Scope of investigation.....	3
Appearances.....	3
Rehearings, postponements, continuances, and extensions of time.....	4
Conduct of public hearings.....	4
Witnesses and subpoenas.....	4
Witness fees and mileage.....	4
Depositions.....	5
Oral argument.....	5
Commissioners sitting at hearings.....	5
Service.....	5
Rules respecting equalization of costs of production:	
Applicability of rules under section 336.....	6
Applications.....	6
Public notice of investigation.....	7
Public hearing.....	7
Briefs.....	7
Rules respecting unfair practices in import trade:	
Applicability of rules under section 337.....	8
Complaints.....	8
Preliminary inquiry.....	9
Answers to complaints.....	9
Public notice of investigation.....	9
Briefs.....	9
Record.....	9
Findings.....	10
Transmittal to President.....	10
Rules respecting investigation of effects of imports on the agricultural program:	
Tariff Commission directed to make investigation.....	10
Public notice.....	10
Hearings.....	11
Confidential information.....	11
Reports.....	11

## LAWS RELATING TO THE TARIFF COMMISSION

Special provisions of the Tariff Act of 1930, title III, part II:	
Section 330. Organization of the Commission:	
(a) Membership.....	15
(b) Terms of office.....	15
(c) Chairman, vice chairman, and salary.....	15
Section 331. General powers:	
(a) Personnel.....	16
(b) Application of civil service law.....	16
(c) Expenses.....	16
(d) Offices and supplies.....	16
(e) Principal office at Washington.....	16
(f) Office at New York.....	16
(g) Official seal.....	16

Special provisions of Tariff Act of 1930, title III, part II—Continued.		Page
Section 332. Investigations:		
(a) Investigations and reports.....		16
(b) Investigations of tariff relations.....		17
(c) Investigation of Paris Economy Pact.....		17
(d) Information for President and Congress.....		17
(e) Definitions.....		17
(f) Investigation respecting crude petroleum.....		18
(g) Reports to President and Congress.....		18
Section 333. Testimony and production of papers:		
(a) Authority to obtain information.....		18
(b) Witnesses and evidence.....		18
(c) Mandamus.....		18
(d) Depositions.....		19
(e) Fees and mileage of witnesses.....		19
(f) Statements under oath.....		19
Section 334. Cooperation with other agencies.....		19
Section 335. Penalty for disclosure of trade secrets.....		19
Section 336. Equalization of costs of production:		
(a) Change of classification or duties.....		20
(b) Change to American selling price.....		20
(c) Proclamation by the President.....		20
(d) Effective date of rates and changes.....		20
(e) Ascertainment of differences in costs of production.....		21
(f) Modification of changes in duty.....		21
(g) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list.....		21
(h) Definitions.....		21
(i) Rules and regulations of President.....		22
(j) Rules and regulations of Secretary of Treasury.....		22
(k) Investigations prior to enactment of act.....		22
Section 337. Unfair practices in import trade:		
(a) Unfair methods of competition declared unlawful.....		22
(b) Investigations of violations by Commission.....		22
(c) Hearings and review.....		23
(d) Transmission of findings to President.....		23
(e) Exclusion of articles from entry.....		23
(f) Entry under bond.....		23
(g) Continuance of exclusion.....		23
(h) Definition.....		24
Section 338. Discrimination by foreign countries:		
(a) Additional duties.....		24
(b) Exclusion from importation.....		24
(c) Application of proclamation.....		24
(d) Duties to offset commercial disadvantages.....		24
(e) Duties to offset benefits to third country.....		25
(f) Forfeiture of articles.....		25
(g) Ascertainment by Commission of discriminations.....		25
(h) Rules and regulations of Secretary of Treasury.....		25
(i) Definition.....		26
Section 339. Effect of reenactment of existing law.....		26
Section 340. Domestic value—Conversion of rates.....		26
Section 341. Interference with functions of Commission:		
(a) Interfering with or influencing the Commission or its employees.....		26
(b) Penalty.....		26
(c) Definition.....		26
Section 350. Promotion of foreign trade.....		26
Extension of section for 3 years.....		28
Other provisions in act of 1930:		
Section 402 (g), Title IV, Part I. Definition of American selling price.....		28
Import section of Agricultural Adjustment Act.....		29

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**RULES**  
OF  
**PRACTICE AND PROCEDURE**  
IN  
**ADMINISTRATION OF SECTIONS 332, 336, AND 337**  
**OF THE TARIFF ACT OF 1930**  
**AND OF SECTION 22 OF THE AGRICULTURAL**  
**ADJUSTMENT ACT, AS AMENDED**  
**IN FORM TO APPEAR IN CHAPTER II, TITLE 19,**  
**OF THE CODE OF FEDERAL REGULATIONS**

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## CHAPTER II—UNITED STATES TARIFF COMMISSION

Part	Part
201 Rules of general application	204 Rules respecting investigation of effects of imports on the agricultural program
202 Rules respecting equalization of costs of production	
203 Rules respecting unfair practices in import trade	

### CROSS REFERENCES

Bureau of Customs, Department of the Treasury: See Chapter I.  
Committee for Reciprocity Information: See Chapter III.  
Consular regulations concerning American trade and documentation of merchandise: See Foreign Relations, 22 95.589–95.603L, 96.657–96.721.  
Federal Trade Commission: See Commercial Practices, 16 CFR Chapter I.  
Foreign trade statistics: See Commerce, 15 CFR Part 305.  
Foreign Trade Zones Board: See Commerce, 15 CFR Chapter IV.  
Tariff of United States consular fees: See Foreign Relations, 22 CFR 94.533.  
Trade agreements: See Foreign Relations, 22 CFR Part 55.

### SUPPLEMENTAL PUBLICATIONS

Changes in import duties since the passage of the Tariff Act of 1930, United States Tariff Commission. Jan. 1939.

For list of abbreviations used in this chapter, see note to § 201.1.

## PART 201—RULES OF GENERAL APPLICATION

Sec.	Sec.
201.1 Applicability of general rules.	201.9 Rehearings, postponements, continuances, and extensions of time.
201.2 Principal office.	201.10 Conduct of public hearings.
201.3 Suspension of rules.	201.11 Witnesses and subpoenas.
201.4 United States publications as evidence.	201.12 Witness fees and mileage.
201.5 Confidential information.	201.13 Depositions.
201.6 Action upon receipt of application or complaint.	201.14 Oral argument.
201.7 Scope of investigation.	201.15 Commissioners sitting at hearings.
201.8 Appearances.	201.16 Service.

**Section 201.1 Applicability of general rules.** The Tariff Commission's rules of general application apply (except for a few details, which are indicated) to investigations under the provisions of sections 332, 336, and 337 of title III, part II, of the Tariff Act of 1930 (46 Stat. 698, 701, 703; 19 U.S.C. 1332, 1336, 1337). In addition to the rules of general application, rules having specific application to investigations under sections 336 and 337 appear separately in Parts 202 and 203 of this title. It is not feasible to promulgate rules for investigations under section 338 (46 Stat. 704; 19 U.S.C. 1338). Attention is called to the fact that the law does not require hearings in general investigations under section 332; however, when it is

decided to hold hearings in such investigations, notice will be given and the hearings conducted so far as feasible in the same manner as under section 336.\*†

\*§§ 201.1 to 201.16, inclusive, issued under the authority contained in secs. 330-341, 46 Stat. 696 ff.; 19 U.S.C. 1330-1341.

†The source of §§ 201.1 to 201.16, inclusive, is Rules of practice and procedure, United States Tariff Commission, Dec. 10, 1937; 2 F.R. 2762.

ABBREVIATIONS: The following abbreviation is used in this chapter:  
 Rules, USTC Rules of practice and procedure, United States Tariff Commission. Dec. 10, 1937.

**201.2 Principal office.** The principal office of the Commission, at Washington, D. C., is open each business day from 9 a. m. to 4:30 p. m., except on Saturday, when the office hours are 9 a. m. to 1 p. m. The Commission may meet and exercise all its powers at any place and may designate one or more of its members or any duly authorized agent or agents to hold hearings or to prosecute any inquiry necessary to its duties. A majority of the Commissioners in office shall constitute a quorum.\*†

**201.3 Suspension of rules.** In an emergency or when in the judgment of the Commission the public interest requires it, the Commission may modify or suspend any of its rules of practice and procedure except such details of procedure as are expressly required by law. Whenever feasible, public notice of such suspension will be given.\*†

**201.4 United States publications as evidence.** Publications of the United States Government, particularly reports of the Tariff Commission, need not be offered in evidence because the Commission will notice them as public documents. Reference may be made to a document by its title and particular page.\*†

**201.5 Confidential information.** Trade secrets and processes within the meaning of section 335 of the Tariff Act of 1930 (46 Stat. 701; 19 U.S.C. 1335) will not be made public. Furthermore, individual business data which the Commission considers to be of a confidential nature will be withheld from disclosure. All data which persons wish to have considered confidential should be submitted on separate pages, clearly marked "Confidential." The acceptance of any particular information in confidence is within the discretion of the Commission.\*†

**201.6 Action upon receipt of application or complaint.** (a) Receipt of an application for investigation under section 336 or of a complaint under section 337 will be acknowledged by the Secretary of the Commission, and public notice of such receipt will be posted at least 10 days at the principal office of the Commission in Washington, D. C., and at its office in New York City, and published in Treasury Decisions of the Treasury Department, and in Commerce Reports of the Department of Commerce. This public notice will set forth the name or description of the commodity concerned, the date of receipt and the purpose of the application or complaint, and the name of the applicant or complainant. Similar public notice will be given of applications or complaints withdrawn or dismissed. Copies of notices referred to in this paragraph will be mailed to all persons named in the application or complaint concerned.

(b) At the time of posting notice of the receipt of an application or of a complaint, such application or complaint, except for confidential material, will be made available for public inspection at the office of the Commission in Washington, D. C., where it may be read and copied by persons interested.

(c) Applications and complaints may be withdrawn as a matter of course at any time before an investigation pursuant thereto has been ordered by the Commission, but, whether or not an application or complaint shall have been withdrawn, the Commission may order an investigation in any case if in its judgment the public interest so requires. The Commission may also in special cases and for adequate cause allow the withdrawal of an application or complaint after an investigation has been ordered, but the investigation may be continued if deemed by the Commission to be in the public interest. Investigations may be terminated short of formal completion when, in the judgment of the Commission, the public interest so requires.

(d) The Commission will notify the applicant or complainant of its decision to order or not to order the investigation requested. In reaching its decision, the Commission will take into consideration the information furnished by the applicant or complainant, the information assembled by its staff, and the information furnished by other persons either in favor of or opposed to the institution of an investigation.\*†

**201.7 Scope of investigation.** In ordering an investigation the Commission will not be confined to the issues presented in an application or a complaint but may broaden, limit, or modify the scope of the investigation.\*†

**201.8 Appearances.** (a) Any person showing to the satisfaction of the Commission an interest in the subject matter of an investigation may enter an appearance in such investigation, either in person or by representative, at any time before the close of the public hearing relating to the matter involved. Persons participating as witnesses only are not expected to enter appearances.

(b) Requests to enter an appearance shall be filed in writing with the Secretary of the Commission at its office in Washington, D. C., or at any other place where a hearing is held. A written notice of an appearance on behalf of a particular person or persons in a proceeding should be submitted by attorneys or agents desiring to appear for such person or persons.

(c) No register of attorneys or agents who may practice before the Commission is maintained. No application for admission to practice is required. Any person desiring to appear as attorney or agent before the Commission may be required to show to the satisfaction of the Commission his acceptability in that capacity. Any attorney or agent practicing before the Commission, or desiring so to practice, may for good cause shown be suspended or disbarred from practicing before the Commission, but only after he has been accorded an opportunity to be heard in the matter.

(d) No former officer or employee of the Commission who has, as such officer or employee, given personal consideration to an investigation (including preliminary inquiries prior to the institution of an investigation) shall be eligible to appear as attorney or agent before

\*†For statutory and source citations, see note to § 201.1



the Commission in such investigation. No former officer or employee of the Commission shall be eligible to appear as attorney or agent before the Commission within 2 years after the termination of such employment unless he has first obtained written consent from the Commission.\*†

**201.9 Rehearings, postponements, continuances, and extensions of time.** The Commission may in its discretion for good cause shown grant rehearings, postponements, or continuances of hearings, or extend the time for doing any act fixed in or pursuant to these rules. Motions or requests for postponements or extensions of time must be filed at least 10 days in advance of the time previously prescribed. Motions for rehearing must be filed within a reasonable time after the Commission's decision in the particular matter.\*†

**201.10 Conduct of public hearings.** (a) Parties interested may appear at public hearings, either in person or by representative, and produce under oath, evidence relevant and material to the matter or matters with which the investigation is concerned.

(b) After offering evidence, witnesses may be questioned under the direction of the Commission by any member of the Commission, or by any agent designated by the Commission, or by any person who has entered an appearance, for the purpose of assisting the Commission in obtaining the material facts with respect to the subject matter of the investigation.

(c) Evidence, oral or written, submitted at hearings, shall upon the order of the Commission be subject to verification from the books, papers, and records of the parties interested and from any other available sources.

(d) All hearings shall be stenographically reported. The Commission does not have available for distribution transcripts of the records of such hearings. Parties interested may see them at the Commission's office in Washington, D. C., or purchase them from the official reporter.

(e) The Commission may continue any hearing or order such rehearing as it may deem necessary for a full presentation of the facts in any investigation.\*†

**201.11 Witnesses and subpoenas.** (a) Unless otherwise ordered by the Commission, witnesses shall be examined orally.

(b) The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) Any member of the Commission may sign subpoenas, and members and agents of the Commission, when authorized by the Commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.\*†

**201.12 Witness fees and mileage.** (a) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking them, except employees of the Commission, shall severally be entitled to the same fees and mileage as are paid for like service in the courts of the United States.

(b) When witnesses are summoned or depositions are taken at the request of a party interested, such party must bear all expenses involved.\*†

**201.13 Depositions.** (a) The Commission may order testimony to be taken by deposition at any stage of an investigation. Depositions may be taken before any person having power to administer oaths and designated by the Commission. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent and certified in the usual manner by the person taking the deposition. After the deposition has been so certified it shall, together with a copy thereof made by such person or under his direction, be forwarded under seal to the Secretary of the Commission, Washington, D. C., and shall constitute a part of the record in such investigation. A sufficient number of additional copies of depositions must be furnished so that testimony so produced will be available to parties interested.

(b) Briefs of the evidence given by deposition and arguments thereon may be filed in the same manner as briefs of testimony given at a public hearing.

(c) Any person may be compelled to appear and depose and to produce documentary evidence in the same manner that witnesses may be compelled to appear and testify and produce documentary evidence before the Commission.\*†

CROSS REFERENCE: For provision regarding expenses, see § 201.12 (b).

**201.14 Oral argument.** Oral argument may, in the discretion of the Commission, be heard upon the conclusion of the testimony in a hearing. The Commission will determine in each instance the time to be allowed for argument and the allocation thereof to the parties interested.\*†

**201.15 Commissioners sitting at hearings.** Hearings may be conducted by one or more Commissioners or by any duly authorized agent or agents of the Commission, and the record shall be presented for the consideration of the Commission.\*†

**201.16 Service.** (a) Except when service by other methods shall be specifically ordered by the Commission, processes of the Commission, service of which is required by law or by the Commission's rules, shall be served by the Secretary of the Commission by registered mail, by registering and mailing a copy thereof addressed to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served. Complaints and findings under section 337 shall be similarly served.

(b) When service cannot be accomplished by registered mail or whenever the Commission shall so direct, processes of the Commission may be served by anyone duly authorized by a Commissioner (1) by delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office of such person, partnership, or corporation. The return post office

\*†For statutory and source citations, see note to § 201.1.

receipt for such processes, registered and mailed as aforesaid, or the verified return by the person serving such processes, setting forth the manner of said service shall be proof of the service of the document.\*†

**PART 202—RULES RESPECTING EQUALIZATION OF COSTS OF PRODUCTION**

<p>Sec. 202.1 Applicability of rules under section 336. 202.2 Applications.</p>	<p>Sec. 202.3 Public notice of investigation. 202.4 Public hearings. 202.5 Briefs.</p>
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**Section 202.1 Applicability of rules under section 336.** The rules under Part 202 are specifically applicable to investigations for the purposes of section 336 of title III, part II, of the Tariff Act of 1930 (46 Stat. 701; 19 U.S.C. 1336), and apply in addition to the pertinent rules of general application set forth in Part 201. (Sec. 336, 46 Stat. 701; 19 U.S.C. 1336) [Rules, USITC, Dec. 10, 1937; 2 F.R. 2764]

**202.2 Applications.** (a) Applications for an investigation for the purposes of section 336 may be made by any person, partnership, association, or corporation.

(b) Applications for investigation should be typewritten or printed and must be submitted in duplicate but need not be drawn in any particular form and need not be under oath. Applications must be signed by or on behalf of the applicant and should state the name, address, and nature of business of the applicant.

(c) Applications must clearly state that they are requests for investigation and must name or describe the commodity concerning which an investigation is sought. They should also refer to the tariff provision or provisions applicable to such commodity and should state whether an increase or a decrease in the rate of duty is sought.

(d) The applicant must file with his application all supporting information available to him. The filing of such information is required to aid the Commission and does not render unnecessary the investigation which the law requires the Commission to make. As far as practicable information of the character indicated below should be furnished.

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

(2) Trend of domestic production and sales and trend of imports.

(3) Trend of cost of production and prices in recent years.

(4) Evidence of difference between domestic and foreign costs of production of the articles involved. (When considered with reference to section 336, the term "cost of production" includes transportation costs and other costs incident to the delivery of the articles to the principal market or markets of the United States.)

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

(6) 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. (Sec. 336, 46 Stat. 701; 19 U.S.C. 1336) [Rules, USTC, Dec. 10, 1937; 2 F.R. 2764]

CROSS REFERENCE: For rule dealing with confidential information, see § 201.5.

**202.3 Public notice of investigation.** Public notice shall be given of every investigation ordered by the Commission, and subsequent notices relating thereto, by posting, for not less than 30 days, a copy of the order, at the principal office of the Commission in Washington, D. C., and at its office in New York City, and by publishing the text thereof in "Treasury Decisions," and by announcement thereof in "Commerce Reports." (Sec. 336, 46 Stat. 701; 19 U.S.C. 1336) [Rules, USTC, Dec. 10, 1937; 2 F.R. 2764]

**202.4 Public hearings.** (a) Reasonable public notice will be given of the time and place set for all hearings in the same manner that notice is given of an order instituting an investigation. In addition, notice of public hearing will be published in the "Federal Register." Announcement of hearing will ordinarily be made 30 days in advance of the date set.

(b) Without excluding other factors and with a view to assisting parties interested in preparing for the hearing, the Commission will expect attention to be concentrated upon—

Facts which should be considered in appraising the competitive strength in the markets of the United States of the foreign and domestic articles.

Facts bearing upon the degree of likeness or similarity between grades, classes, and price groups of the American product and the imported article.

Facts bearing on costs of production and importation. Statements of average cost of production 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, variable factory expenses, fixed expenses, the portion of general and administrative expense chargeable to manufacture, interest on investment, and transportation to market. For the foreign product the expenses incident to importation will also be of interest. Any information which may be available bearing on the general levels of domestic and foreign costs of production, the differential between specific domestic and foreign costs of production, and the extent to which invoice or wholesale prices are reliable evidence of foreign costs, will be pertinent.

(c) The Commission also seeks information to determine—

Principal competing country.

Principal American market or markets.

Representative period of time for cost inquiry.

Other significant advantages or disadvantages in competition.

(d) Finally, parties interested appearing at public hearings are expected to present definite and affirmative information rather than generalities and conjectures. (Sec. 336, 46 Stat. 701; 19 U.S.C. 1336) [Rules, USTC, Dec. 10, 1937; 2 F.R. 2764]

**202.5 Briefs.** (a) Briefs of the evidence produced at the hearing and arguments thereon may be presented to the Commission by

parties interested who have entered an appearance. Unless otherwise ordered, 10 clear copies typed, mimeographed, multigraphed, or printed shall be filed with the Secretary of the Commission within 10 days after the close of the hearing.

(b) Briefs not filed with the Commission on or before the date fixed therefor will not be accepted. (Sec. 336, 46 Stat. 701; 19 U.S.C. 1336) [Rules, USTC, Dec. 10, 1937; 2 F.R. 2764]

CROSS REFERENCE: For provisions for briefs under "Depositions", see § 201.13 (b).

**PART 203—RULES RESPECTING UNFAIR PRACTICES  
IN IMPORT TRADE**

Sec.	Sec.
203.1 Applicability of rules under section 337.	203.5 Public notice of investigation.
203.2 Complaints.	203.6 Briefs.
203.3 Preliminary inquiry.	203.7 Record.
203.4 Answers to complaints.	203.8 Findings.
	203.9 Transmittal to President.

**Section 203.1 Applicability of rules under section 337.** The rules under Part 203 are specifically applicable to investigations for the purposes of section 337 of title III, part II, of the Tariff Act of 1930 (46 Stat. 703; 19 U.S.C. 1337), and apply in addition to the pertinent rules of general application set forth in Part 201.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

†The source of §§ 203.1 to 203.9, inclusive, is Rules of practice and procedure, United States Tariff Commission, Dec. 10, 1937; 2 F.R. 2762.

**203.2 Complaints.** (a) Complaint and petition for investigation for the purposes of section 337 may be made by any person, partnership, association, or corporation.

(b) Complaints must be made under oath but need not be drawn in any particular form. They must be signed by or on behalf of the complainant and must contain the name, address, and nature of business of the complainant and of the person or persons alleged to violate the law. The location of manufacturing plant or plants should also be stated. Complaints must contain a short and simple statement of the facts constituting the alleged unfair methods of competition or unfair acts. Specific instances of alleged unlawful importations or sales should be given.

(c) To the extent possible, complaints must also contain economic data concerning domestic production and distribution, imports and their distribution, and other pertinent facts such as will indicate: (1) That the domestic industry concerned is efficiently and economically operated and that it is being or is likely to be destroyed or substantially injured by the importations or sales in question; (2) that the alleged unlawful acts are preventing the establishment of an efficiently and economically operated domestic industry; or (3) that the alleged unlawful acts are having the effect or tendency to restrain or monopolize trade and commerce in the United States.

CROSS REFERENCE: For rule dealing with confidential information, see § 201.5.

(d) The complaint may be amended or further evidence submitted, in the discretion of the Commission, for good cause shown.

(e) Complainants must submit a clear copy of any complaint or amendment thereto for each person alleged to have violated the provisions of section 337, and the Commission may require the supplying of additional copies to be served on persons whose alleged violation of section 337 is called to its attention subsequent to the filing of the complaint. In addition, three copies must be submitted for the official use of the Commission.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

**203.3 Preliminary inquiry.** The Commission will make such preliminary inquiry as it shall deem necessary to determine (a) whether the institution of an investigation is warranted and (b) whether the issuance of a temporary order of exclusion from entry (if requested) under section 337(f) is warranted.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

**203.4 Answers to complaints.** After an investigation shall have been ordered, and not before, a copy of the complaint shall be served by the Commission upon any owner, importer, consignee, or agent of either, alleged to violate the provisions of section 337, and such owner, importer, consignee, or agent of either, shall have 30 days, unless otherwise ordered, in which to make written answer under oath and to show cause, if any there be, why the provisions of section 337 should not be applied in respect of the alleged unfair methods of competition and unfair acts set forth in the complaint.

Copies of all answers shall be served by the Commission upon complainants or upon their attorneys.

The Commission reserves the right to determine whether to send copies of complaints to respondents in foreign countries.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

**203.5 Public notice of investigation.** Public notice of the institution of an investigation and of the date set for a hearing shall be given in the same manner as in investigations for the purposes of section 336.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

CROSS REFERENCE: For public notice of investigation, see § 202.3. For public hearings, see § 202.4.

**203.6 Briefs.** (a) The Commission will fix a date on or before which briefs may be submitted, which date will be announced at the close of the hearing. Unless otherwise ordered, 20 clear copies typed, mimeographed, multigraphed, or printed shall be filed with the Secretary of the Commission.

(b) Briefs not filed with the Commission on or before the date fixed therefor will not be accepted.

(c) Application for extension of time for submitting briefs shall be filed in writing with the Secretary of the Commission at least 10 days before the date set for submitting briefs and shall set forth fully the reasons for such application.

(d) Copies of all briefs shall be served by the Commission upon all interested parties who have entered appearances or upon their representatives of record.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

**203.7 Record.** (a) A transcript of the testimony in an investigation, together with the findings and recommendations of the Com-

†For source citation, see note to § 203.1.

mission, shall be the official record of the proceedings and findings in the investigation.

(b) Confidential material accompanying a complaint or an answer and exhibits presented at a hearing, but accepted by the Commission as confidential and so marked, will not be considered a part of the record sent to the court in the case of an appeal.† (Sec. 337, 46 Stat. 703; 19 U. S. C. 1337)

CROSS REFERENCE: For rule dealing with confidential information, see § 201.5.

**203.8 Findings.** (a) Upon the conclusion of an investigation, the Commission shall formulate findings based thereon. When the findings show a violation of the statute, a copy of the findings certified by the Secretary under the seal of the Commission shall be delivered or sent by registered mail promptly to the owner, importer, consignee, or agent of either, found to be guilty of such violation.

(b) Attention is directed to the provision of section 337 (c) authorizing rehearings by the Commission and appeals by the importer or consignee within 60 days to the United States Court of Customs and Patent Appeals upon a question or questions of law only. If no appeal is filed within the time prescribed and no rehearing granted, or if appeal is filed or rehearing granted and the Commission's findings are ultimately affirmed, the findings are then considered final.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

**203.9 Transmittal to President.** The final findings of the Commission shall be transmitted with the record to the President for consideration and for action under the statute.† (Sec. 337, 46 Stat. 703; 19 U.S.C. 1337)

## PART 204—RULES RESPECTING INVESTIGATION OF EFFECTS OF IMPORTS ON THE AGRICULTURAL PROGRAM

Sec.	Sec.
204.1 Tariff Commission directed to make investigations.	204.3 Hearings.
204.2 Public notice.	204.4 Confidential information.
	204.5 Reports.

### CROSS REFERENCE

Complete text of E. O. 7233: See Agriculture, 7 CFR 900.501.

**Section 204.1 Tariff Commission directed to make investigations.** When so directed by the President, the United States Tariff Commission shall make an immediate investigation and shall give precedence thereto. Such investigations shall be governed by the regulations in §§ 204.2 to 204.5. (Sec. 22, as added by sec. 31, 49 Stat. 773, 1152, 50 Stat. 246; 7 U.S.C., Sup., 624) [Par. IV, E. O. 7233, Nov. 23, 1935]

**204.2 Public notice.** Notice of the hearing in every such investigation shall be given by posting a copy of the notice or announcement thereof at the principal office of the Commission in Washington, D. C., and at its office in New York City. A copy of the notice will also be sent to press associations, to trade and similar organizations of producers, and to importers known to the Commission to have an

interest in the subject matter of the investigation. (Sec. 22, as added by sec. 31, 49 Stat. 773, 1152, 50 Stat. 246; 7 U.S.C., Sup., 624) [Par. IV, E. O. 7233, Nov. 23, 1935]

**204.3 Hearings.** (a) Hearings shall be conducted by one or more Commissioners or such member or members of the staff as the Commission shall designate. The Agricultural Adjustment Administrator may have a representative or representatives at each hearing, who shall have the privilege of examining witnesses.

(b) Any interested person may appear at the hearing, either in person or by representative, and produce evidence relevant and material to the matter or matters involved in the investigation.

(c) Witnesses shall be sworn. No documentary evidence, except such as is legally subject to judicial notice, shall be accepted unless verified under oath by the person offering it as a true statement of the facts contained therein.

(d) Evidence, oral or written, submitted in hearings, shall, upon the order of the Commission, be subject to verification from the books, papers, and records of the parties interested and from any other available sources.

(e) All hearings shall be stenographically reported. Copies of the transcript of the minutes of such hearings may be purchased from the official reporter.

(f) The Commission may continue any hearings or order such re-hearing as it may deem necessary for a full presentation of the facts involved in any investigation. (Sec. 22, as added by sec. 31, 49 Stat. 773, 1152, 50 Stat. 246; 7 U.S.C., Sup., 624) [Par. IV, E. O. 7233, Nov. 23, 1935]

**204.4 Confidential information.** (a) If witnesses desire to submit confidential information which the Commission considers to be of that character, the Commission shall accept such submission and respect its confidential character.

(b) The Commission shall make such investigation in addition to the hearing as it deems to be necessary for a full disclosure and presentation of the facts. In such investigation the Commission may invoke all the powers granted to it under part II, title III, of the Tariff Act of 1930 (46 Stat. 696 ff.; 19 U.S.C. 1330-1341). (Sec. 22, as added by sec. 31, 49 Stat. 773, 1152, 50 Stat. 246; 7 U.S.C., Sup., 624) [Par. IV, E. O. 7233, Nov. 23, 1935]

**204.5 Reports.** After the completion of its investigation the Tariff Commission shall make findings of fact, which shall include a statement of the steps taken in the investigation, and it shall transmit to the President a report of such findings and its recommendations based thereon, together with a transcript of the evidence submitted at the hearing, and it shall also transmit a copy of such report to the Secretary of Agriculture. (Sec. 22, as added by sec. 31, 49 Stat. 773, 1152, 50 Stat. 246; 7 U.S.C., Sup., 624) [Par. IV, E. O. 7233, Nov. 23, 1935]



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**LAWS RELATING TO THE  
UNITED STATES TARIFF COMMISSION**

**SECTIONS 330 TO 341, TITLE III, PART II, SECTION 350,  
TITLE III, PART III  
AND SECTION 402 (g), TITLE IV, PART I,  
OF THE TARIFF ACT OF 1930  
AND SECTION 22 OF THE AGRICULTURAL  
ADJUSTMENT ACT, AS AMENDED**

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# LAWS RELATING TO THE UNITED STATES TARIFF COMMISSION

## ACT CREATING TARIFF COMMISSION

The Tariff Commission was created by Title VII of the Revenue Act of 1916 and was reorganized under Title III, Part II, of the Tariff Act of 1930.

### SPECIAL PROVISIONS OF THE TARIFF ACT OF 1930

#### TITLE III, PART II, SECTIONS 330 TO 341 AND 350

##### SEC. 330. ORGANIZATION OF THE COMMISSION.

(a) **MEMBERSHIP.**—The United States Tariff Commission (referred to in this title as the “commission”) shall be composed of six commissioners to be hereafter appointed by the President by and with the advice and consent of the Senate, but each member now in office shall continue to serve until his successor (as designated by the President at the time of nomination) takes office, but in no event for longer than ninety days after the effective date of this Act. No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of tariff problems and efficiency in administering the provisions of Part II of this title. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

(b) **TERMS OF OFFICE.**—Terms of office of the commissioners first taking office after the date of the enactment of this Act, shall expire, as designated by the President at the time of nomination, one at the end of each of the first six years after the date of the enactment of this Act. The term of office of a successor to any such commissioner shall expire six years from the date of the expiration of the term for which his predecessor was appointed, except that any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

(c) **CHAIRMAN, VICE CHAIRMAN, AND SALARY.**—The President shall annually designate one of the commissioners as chairman and one as vice chairman of the commission. The vice chairman shall act as chairman in case of the absence or disability of the chairman. A majority of the commissioners in office shall constitute a quorum, but the commission may function notwithstanding vacancies. Each commissioner (including members in office on the date of the enact-

ment of this Act) shall receive a salary of \$11,000 a year. No commissioner shall actively engage in any other business, vocation, or employment than that of serving as a commissioner.

### SEC. 331. GENERAL POWERS.

(a) **PERSONNEL.**—The commission shall appoint a secretary, who shall receive a salary of \$7,500 per year, and the commission shall have authority to employ and fix the compensations of such special experts, examiners, clerks, and other employees as the commission may from time to time find necessary for the proper performance of its duties.

(b) **APPLICATION OF CIVIL SERVICE LAW.**—With the exception of the secretary, a clerk to each commissioner, and such special experts as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil service law.

(c) **EXPENSES.**—All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other places than at their respective headquarters, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

(d) **OFFICES AND SUPPLIES.**—Unless otherwise provided by law, the commission may rent suitable offices for its use, and purchase such furniture, equipment, and supplies as may be necessary.

(e) **PRINCIPAL OFFICE AT WASHINGTON.**—The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such agents as it may designate, prosecute any inquiry necessary to its duties in any part of the United States or in any foreign country.

(f) **OFFICE AT NEW YORK.**—The commission is authorized to establish and maintain an office at the port of New York for the purpose of directing or carrying on any investigation, receiving and compiling statistics, selecting, describing, and filing samples of articles, and performing any of the duties or exercising any of the powers imposed upon it by law.

(g) **OFFICIAL SEAL.**—The commission is authorized to adopt an official seal, which shall be judicially noticed.

### SEC. 332. INVESTIGATIONS.

(a) **INVESTIGATIONS AND REPORTS.**—It shall be the duty of the commission to investigate the administration and fiscal and industrial effects of the customs laws of this country now in force or which may be hereafter enacted, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) **INVESTIGATIONS OF TARIFF RELATIONS.**—The commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) **INVESTIGATION OF PARIS ECONOMY PACT.**—The commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) **INFORMATION FOR PRESIDENT AND CONGRESS.**—In order that the President and the Congress may secure information and assistance, it shall be the duty of the commission to—

(1) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) **DEFINITIONS.**—When used in this subdivision and in subdivision (d)—

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the United States.

(f) **INVESTIGATION RESPECTING CRUDE PETROLEUM.**—[The investigation requested by this subdivision has been completed.]

(g) **REPORTS TO PRESIDENT AND CONGRESS.**—The commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress, and shall report to Congress on the first Monday of December of each year hereafter a statement of the methods adopted and all expenses incurred, and a summary of all reports made during the year.

**SEC. 333. TESTIMONY AND PRODUCTION OF PAPERS.**

(a) **AUTHORITY TO OBTAIN INFORMATION.**—For the purposes of carrying Part II of this title into effect the commission or its duly authorized agent or agents shall have access to and the right to copy any document, paper, or record, pertinent to the subject matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation, and shall have power to summon witnesses, take testimony, administer oaths, and to require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation. Any member of the commission may sign subpoenas, and members and agents of the commission, when authorized by the commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) **WITNESSES AND EVIDENCE.**—Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any district or territorial court of the United States or the Supreme Court of the District of Columbia in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) **MANDAMUS.**—Upon the application of the Attorney General of the United States, at the request of the commission, any such court shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of Part II of this title or any order of the commission made in pursuance thereof.

[Attention is directed to Rule 81 (b) of the Federal Rules of Civil Procedure, effective September 16, 1938, as follows: “(b) Scire Facias and Mandamus. The writs of scire facias and mandamus are abolished. Relief heretofore available by mandamus or scire facias may be obtained by appropriate action or by appropriate motion under the practice prescribed in these rules.”]

(d) DEPOSITIONS.—The commission may order testimony to be taken by deposition in any proceeding or investigation pending under Part II of this title at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission, as hereinbefore provided.

(e) FEES AND MILEAGE OF WITNESSES.—Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same, except employees of the commission, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States: *Provided*, That no person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence, in obedience to the subpoena of the commission; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, except that no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

(f) STATEMENTS UNDER OATH.—The commission is authorized, in order to ascertain any facts required by subdivision (d) of section 332, to require any importer and any American grower, producer, manufacturer, or seller to file with the commission a statement, under oath, giving his selling prices in the United States of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

#### SEC. 334. COOPERATION WITH OTHER AGENCIES.

The commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the commission and shall detail, from time to time, such officials and employees to said commission as he may direct.

#### SEC. 335. PENALTY FOR DISCLOSURE OF TRADE SECRETS.

It shall be unlawful for any member of the commission, or for any employee, agent, or clerk of the commission, or any other officer or employee of the United States, to divulge, or to make known in any manner whatever not provided for by law, to any person, the trade secrets or processes of any person, firm, copartnership, corporation,

or association embraced in any examination or investigation conducted by the commission, or by order of the commission, or by order of any member thereof. Any offense against the provisions of this section shall be a misdemeanor and be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both, in the discretion of the court, and such offender shall also be dismissed from office or discharged from employment.

**SEC. 336. EQUALIZATION OF COSTS OF PRODUCTION.**

(a) **CHANGE OF CLASSIFICATION OR DUTIES.**—In order to put into force and effect the policy of Congress by this Act intended, the commission (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, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

(b) **CHANGE TO AMERICAN SELLING PRICE.**—If the commission finds upon any such investigation that such differences can not be equalized by proceeding as hereinbefore provided, it shall so state in its report to the President and shall specify therein such ad valorem rates of duty based upon the American selling price (as defined in section 402 (g)) of the domestic article, as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute, and no such rate shall be increased.

(c) **PROCLAMATION BY THE PRESIDENT.**—The President shall by proclamation approve the rates of duty and changes in classification and in basis of value specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) **EFFECTIVE DATE OF RATES AND CHANGES.**—Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classifica-

tion or in basis of value specified in the report of the commission shall take effect.

(e) **ASCERTAINMENT OF DIFFERENCES IN COSTS OF PRODUCTION.**—In ascertaining under this section the differences in costs of production, the commission shall take into consideration, in so far as it finds it practicable:

(1) **IN THE CASE OF A DOMESTIC ARTICLE.**—(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) **IN THE CASE OF A FOREIGN ARTICLE.**—(A) The cost of production as hereinafter in this section defined, or if the commission finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) **MODIFICATION OF CHANGES IN DUTY.**—Any increased or decreased rate of duty or change in classification or in basis of value which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in the section in the case of original increases, decreases, or changes.

(g) **PROHIBITION AGAINST TRANSFERS FROM THE FREE LIST TO THE DUTIABLE LIST OR FROM THE DUTIABLE LIST TO THE FREE LIST.**—Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Title I of this Act, or in any amendatory Act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) **DEFINITIONS.**—For the purpose of this section—

(1) The term “domestic article” means an article wholly or in part the growth or product of the United States; and the term “foreign article” means an article wholly or in part the growth or product of a foreign country.

(2) The term “United States” includes the several States and Territories and the District of Columbia.



(3) The term "foreign country" means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term "cost of production," when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) **RULES AND REGULATIONS OF PRESIDENT.**—The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

(j) **RULES AND REGULATIONS OF SECRETARY OF TREASURY.**—The Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary for the entry and declaration of foreign articles of the class or kind of articles with respect to which a change in basis of value has been made under the provisions of subdivision (b) of this section, and for the form of invoice required at time of entry.

(k) **INVESTIGATIONS PRIOR TO ENACTMENT OF ACT.**—All uncompleted investigations instituted prior to the approval of this Act under the provisions of section 315 of the Tariff Act of 1922, including investigations in which the President has not proclaimed changes in classification or in basis of value or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

#### **SEC. 337. UNFAIR PRACTICES IN IMPORT TRADE.**

(a) **UNFAIR METHODS OF COMPETITION DECLARED UNLAWFUL.**—Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

(b) **INVESTIGATIONS OF VIOLATIONS BY COMMISSION.**—To assist the President in making any decisions under this section the commission is hereby authorized to investigate any alleged violation hereof on complaint under oath or upon its initiative.

(c) **HEARINGS AND REVIEW.**—The commission shall make such investigation under and in accordance with such rules as it may promulgate and give such notice and afford such hearing, and when deemed proper by the commission such rehearing, with opportunity to offer evidence, oral or written, as it may deem sufficient for a full presentation of the facts involved in such investigation. The testimony in every such investigation shall be reduced to writing, and a transcript thereof with the findings and recommendation of the commission shall be the official record of the proceedings and findings in the case, and in any case where the findings in such investigation show a violation of this section, a copy of the findings shall be promptly mailed or delivered to the importer or consignee of such articles. Such findings, if supported by evidence, shall be conclusive, except that a rehearing may be granted by the commission and except that, within such time after said findings are made and in such manner as appeals may be taken from decisions of the United States Customs Court, an appeal may be taken from said findings upon a question or questions of law only to the United States Court of Customs and Patent Appeals by the importer or consignee of such articles. If it shall be shown to the satisfaction of said court that further evidence should be taken, and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commission, said court may order such additional evidence to be taken before the commission in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts or make new findings by reason of additional evidence, which, if supported by evidence, shall be conclusive as to the facts except that within such time and in such manner an appeal may be taken as aforesaid upon a question or questions of law only. The judgment of said court shall be final.

(d) **TRANSMISSION OF FINDINGS TO PRESIDENT.**—The final findings of the commission shall be transmitted with the record to the President.

(e) **EXCLUSION OF ARTICLES FROM ENTRY.**—Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive.

(f) **ENTRY UNDER BOND.**—Whenever the President has reason to believe that any article is offered or sought to be offered for entry into the United States in violation of this section but has not information sufficient to satisfy him thereof, the Secretary of the Treasury shall, upon his request in writing, forbid entry thereof until such investigation as the President may deem necessary shall be completed; except that such articles shall be entitled to entry under bond prescribed by the Secretary of the Treasury.

(g) **CONTINUANCE OF EXCLUSION.**—Any refusal of entry under this section shall continue in effect until the President shall find and instruct the Secretary of the Treasury that the conditions which led to such refusal of entry no longer exist.

(h) **DEFINITION.**—When used in this section and in sections 338 and 340, the term “United States” includes the several States and Territories, the District of Columbia, and all possessions of the United States except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

**SEC. 338. DISCRIMINATION BY FOREIGN COUNTRIES.**

(a) **ADDITIONAL DUTIES.**—The President when he finds that the public interest will be served thereby shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country—

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

(b) **EXCLUSION FROM IMPORTATION.**—If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision (a) of this section, maintained or increased its said discriminations against the commerce of the United States, the President is hereby authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

(c) **APPLICATION OF PROCLAMATION.**—Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

(d) **DUTIES TO OFFSET COMMERCIAL DISADVANTAGES.**—Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such for-

foreign country; and thirty days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new or additional rate or rates of duty; or, in case of articles declared subject to exclusion from importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

(e) DUTIES TO OFFSET BENEFITS TO THIRD COUNTRY.—Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on and after thirty days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

(f) FORFEITURE OF ARTICLES.—All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this Act shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

(g) ASCERTAINMENT BY COMMISSION OF DISCRIMINATIONS.—It shall be the duty of the commission to ascertain and at all times to be informed whether any of the discriminations against the commerce of the United States enumerated in subdivisions (a), (b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the commission to bring the matter to the attention of the President, together with recommendations.

(h) RULES AND REGULATIONS OF SECRETARY OF TREASURY.—The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

(i) **DEFINITION.**—When used in this section the term “foreign country” means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

**SEC. 339. EFFECT OF REENACTMENT OF EXISTING LAW.**

Notwithstanding the repeal by section 651 of the laws relating to the United States Tariff Commission and their reenactment in sections 330 to 338, inclusive, with modifications, the unexpended balances of appropriations available for the commission at the time this section takes effect shall remain available for the commission in the administration of its functions under this Act; and such repeal and reenactment shall not operate to change the status of the officers and employees under the jurisdiction of the commission at the time this section takes effect. No investigation or other proceeding pending before the commission at such time (other than proceedings under section 315 of the Tariff Act of 1922) shall abate by reason of such repeal and reenactment, but shall continue under the provisions of this Act.

**SEC. 340. DOMESTIC VALUE—CONVERSION OF RATES.**

[The investigation required by this section has been completed.]

**SEC. 341. INTERFERENCE WITH FUNCTIONS OF COMMISSION.**

(a) **INTERFERING WITH OR INFLUENCING THE COMMISSION OR ITS EMPLOYEES.**—It shall be unlawful for any person (1) to prevent or attempt to prevent, by force, intimidation, threat, or in any other manner, any member or employee of the commission from exercising the functions imposed upon the commission by this title, or (2) to induce or attempt to induce, by like means any such member or employee to make any decision or order, or to take any action, with respect to any matter within the authority of the commission.

(b) **PENALTY.**—Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisonment for not more than one year, or both.

(c) **DEFINITION.**—As used in this section the term “person” includes an individual, corporation, association, partnership, or any other organization or group of individuals.

**SEC. 350. PROMOTION OF FOREIGN TRADE.**

**NOTE.**—Those who wish to present information with respect to reciprocal trade agreements provided for in this section should address their communications to the Committee for Reciprocity Information, Old Land Office Building, Washington, D. C. Information concerning the Committee's regulations may be obtained upon request.

**SEC. 350. (a)** For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are

capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(1) To enter into foreign-trade agreements with foreign Governments or instrumentalities thereof; and

(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign-trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: *Provided*, That the duties payable on such an article shall in no case be increased or decreased by more than 50 per centum of the duties now payable thereon.

(c) As used in this section, the term "duties and other import restrictions" includes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

SEC. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (1) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this Act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act to the extent only that such agreement assures to the United States a rate of duty on wheat

flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Every foreign-trade agreement concluded pursuant to this Act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

(c) The authority of the President to enter into foreign-trade agreements under section 1 of this Act shall terminate on the expiration of three years from the date of the enactment of this Act.

SEC. 3. Nothing in this Act shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

SEC. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce and from such other sources as he may deem appropriate.

Approved, June 12, 1934, 9:15 p. m.

#### EXTENSION OF SECTION 350 FOR 3 YEARS FROM JUNE 12, 1937

#### Joint Resolution

To extend the authority of the President under section 350 of the Tariff Act of 1930, as amended

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the act (Public, No. 316, 73d Cong.) approved June 12, 1934, is hereby extended for a further period of 3 years from June 12, 1937.

Approved, March 1, 1937.

#### SECTION 402 (g)—TITLE IV. DEFINITION OF AMERICAN SELLING PRICE

##### SEC. 402.

(g) The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in con-

dition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article. (As amended by section 8 of the Customs Administrative Act of 1938.)

IMPORT SECTION OF AGRICULTURAL ADJUSTMENT ACT (49 STAT. 750, 773, SEC. 31; 49 STAT. 1148, 1152, SEC. 5. SEE ALSO SECTION 1 OF THE AGRICULTURAL MARKETING AGREEMENTS ACT OF 1937.)

#### IMPORTS

SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which any program is in operation, under this title or the Soil Conservation and Domestic Allotment Act, as amended, he 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.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which any program is in operation, under this title or the Soil Conservation and Domestic Allotment Act, as amended: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

(d) Any decision of the President as to facts under this section shall be final.



(e) 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 by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.