

(1) Domestic production needed for projected national defense requirements including restoration and rehabilitation.

(2) The capacity of domestic industries to meet such projected requirements, including existing and anticipated availabilities of:

(i) Human resources.

(ii) Products.

(iii) Raw materials.

(iv) Production equipment and facilities.

(v) Other supplies and services essential to the national defense.

(3) The requirement of growth of such industries and such supplies and services including the investment, exploration and development necessary to assure capacity to meet projected defense requirements.

(4) The effect which the quantities, availabilities, character and uses of imported goods have or will have on such industries and the capacity of the United States to meet national security requirements.

(5) The economic welfare of the Nation as it is related to our national security, including the impact of foreign competition on the economic welfare of individual domestic industries. In determining whether such impact may impair the national security, any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects shall be considered.

(b) The Secretary shall also consider other relevant factors in determining whether the national security is affected by imports of the article.

[39 FR 10898, Mar. 22, 1974]

#### § 9.5 Applications for investigation.

(a) Applications shall be in writing. Twenty-five copies shall be filed by mail with the Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Department of the Treasury, Washington, DC 20220.

(b) Applications shall describe how the quantities or circumstances of imports of the particular article affect the national security and shall contain the following information:

(1) Identification of the person, partnership, association, corporation, or

other entity on whose behalf the application is filed.

(2) A precise description of the article.

(3) Description of the applicant and the domestic industry concerned, including pertinent information regarding companies and their plants, locations, capacity and current output of the domestic industry concerned with the article in question.

(4) Pertinent statistics showing the quantities and values of both imports and production in the United States.

(5) Nature, sources, and degree of the competition created by imports of the article in question.

(6) The effect, if any, of imports of the article in question upon the restoration of domestic production capacity in an emergency.

(7) Employment and special skills involved in the domestic production of the article.

(8) Extent to which investment and specialized productive capacity is or will be adversely affected.

(9) Revenues of Federal, State, or local Governments which are or may be affected by the volume or circumstances of imports of the article.

(10) Defense or defense supporting uses of the article including data on defense contracts or sub-contracts, both past and current.

(c) Statistical material presented should be on a calendar-year basis for sufficient periods of time to indicate trends and afford the greatest possible assistance to the Assistant Secretary. Monthly or quarterly data for the latest complete years should be included as well as any other breakdowns which may be pertinent to show seasonal or short-term factors.

[39 FR 10898, Mar. 22, 1974, as amended at 40 FR 50717, Oct. 31, 1975]

#### § 9.6 Confidential information.

Information submitted in confidence which the Assistant Secretary determines would disclose trade secrets and commercial or financial information obtained from a person and privileged, within the meaning of 5 U.S.C. 552 and 31 CFR part 1, will be accorded confidential treatment. All information submitted in confidence must be on

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separate pages marked "Business Confidential."

[40 FR 50717, Oct. 31, 1975]

### §9.7 Conduct of investigation.

(a) The investigation by the Assistant Secretary or by such official or agency as he may designate, shall be such as to enable the Secretary to arrive at a fully informed opinion as to the effect on the national security of imports of the article in question.

(b) If the Assistant Secretary determines that it is appropriate to hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to an investigation, he shall issue a public notice which shall be published in the FEDERAL REGISTER. Such notice shall include a statement of the time, place and nature of any public hearing or shall solicit from any interested party written comments, opinions, or data relative to the investigation, to be submitted to the Assistant Secretary within the time period specified in the notice. Rebuttal to material so submitted may be filed with the Assistant Secretary within such time as is specified in the public notice. All data, comments and opinions shall be submitted with 25 copies.

(c) All applications filed and all comments, opinions, and data submitted pursuant to paragraph (b) of this section, except information determined to be confidential as provided in §9.6, will be available for inspection and copying at the Office of the Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Department of the Treasury, in Washington, DC. The Assistant Secretary will maintain a roster of persons who have submitted materials.

(d) The Assistant Secretary or his designee may also request further data from other sources through the use of questionnaires, correspondence, or other means.

(e) The Assistant Secretary or his delegate shall, in the course of the investigation, seek information or advice from, and consult with, the Secretary of Defense, the Secretary of Commerce, or their delegates, and any other appropriate officer of the United States as the Assistant Secretary shall determine.

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(f) In addition, the Assistant Secretary, or his designee, may, when he deems it appropriate, hold public hearings to elicit further information. If a hearing is held:

(1) The time and place thereof will be published in the FEDERAL REGISTER.

(2) It will be conducted by the Assistant Secretary or his designee, and the full record will be considered by the Secretary in arriving at his determination.

(3) Interested parties may appear, either in person or by representation, and produce oral or written evidence relevant and material to the subject matter of the investigation.

(4) After a witness has testified the Assistant Secretary or his designee may question the witness. Questions submitted to the Assistant Secretary or his designee in writing by any interested party may, at the discretion of the Assistant Secretary or his designee, be posed to the witness for reply for the purpose of assisting the Assistant Secretary in obtaining the material facts with respect to the subject matter of the investigation.

(5) The hearing will be stenographically reported. The Assistant Secretary will not cause transcripts of the record of the hearing to be distributed to the interested parties, but a transcript may be inspected at the Office of the Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Department of the Treasury, in Washington, DC, or purchased from the reporter.

[39 FR 10898, Mar. 22, 1974, as amended at 40 FR 50717, Oct. 31, 1975]

### §9.8 Emergency action.

In emergency situations or when in his judgment national security interests require it, the Secretary may vary or dispense with any of the procedures set forth above and may formulate his views without following such procedures.

[39 FR 10898, Mar. 22, 1974]

### §9.9 Report.

A report will be made and published in the FEDERAL REGISTER upon the disposition of each request, application or motion under §9.3. Copies of the report will be available at the Office of the