

## § 208.6

(b) *Opportunity to appear.* All interested parties will be afforded an opportunity to be present, to present evidence, and to be heard at any such hearing.

### § 208.6 Service, filing, and certification of documents.

(a) *Filing.* Documents to be filed with the Commission must comply with applicable rules, including § 201.8 of this chapter. If the Commission establishes a deadline for the filing of a document, and the submitter includes confidential business information in the document, the submitter is to file the confidential version on or before the deadline date and may file the nonconfidential version no later than one business day after the deadline for filing the document. If the submitter is a party, the submitter is to serve the nonconfidential version of the document on other parties on the service list no later than one business day after the deadline for filing the document. The confidential version filed with the Commission shall enclose all confidential business information in brackets and have the following warning marked on every page: “Bracketing of CBI not final for one business day after date of filing.” The bracketing becomes final one business day after the date of filing of the document, i.e., at the same time as the nonconfidential version of the document is due to be filed. If the submitter discovers it has failed to bracket correctly, the submitter may file a corrected version or portion of the confidential document at the same time as the nonconfidential version is filed. No changes to the document other than bracketing and deletion of confidential business information are permitted after the deadline. Failure to comply with this paragraph may result in the striking of all or a portion of a submitter’s document.

(b) *Service.* Any party submitting a document for the consideration of the Commission in the course of an investigation to which this part pertains shall, in addition to complying with § 201.8 of this chapter, serve a copy of the public version of such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter. If a document is filed before

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the Secretary’s issuance of the service list provided for in § 201.11 of this chapter, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available, upon request, to all parties to the investigation a copy of each document, except transcripts of hearings, confidential business information, privileged information, and information required to be served under this section, placed in the docket file of the investigation by the Commission.

(c) *Certification.* Any person submitting factual information on behalf of the petitioner or any other interested party for the consideration of the Commission in the course of an investigation to which this part pertains, and any person submitting a response to a Commission questionnaire issued in connection with an investigation to which this part pertains, must certify that such information is accurate and complete to the best of the submitter’s knowledge.

### § 208.7 Determinations and reports.

(a) *Determinations.* When relevant information is not available on the record or any party withholds information that has been requested by the Commission, the Commission will make its determination on the basis of the facts available. When the Commission relies on information submitted as facts available, it will, to the extent practicable, corroborate the information from independent sources that are reasonably available to the Commission.

(b) *Time for determinations and reports.* The Commission will make its determinations under section 112(c)(2)(A) and (B)(i) of AGOA and transmit its reports to the President by September 25, 2007, with respect to petitions received

on or before March 28 and accepted on or before April 11, 2007, and will make its determinations by August 1 of subsequent years with respect to petitions received on or before January 15 and accepted on or before February 1 of those years.

(c) *Contents of report.* The Commission will include in its report to the President the following:

(1) The determination made with respect to whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use in lesser developed beneficiary sub-Saharan African countries, and an explanation of the basis for the determination;

(2) If the determination in paragraph (c)(1) of this section is affirmative, a determination with respect to the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period beginning after the determination is made;

(3) Any dissenting or separate views by members of the Commission regarding such determinations.

(d) *Public version of report.* Upon making its report to the President, the Commission will make such report public (with the exception of information which the Commission determines to be confidential), and publish a summary thereof in the FEDERAL REGISTER.

[72 FR 8626, Feb. 27, 2007, as amended at 72 FR 11287, Mar. 13, 2007]

**§ 208.8 Confidential business information; furnishing of nonconfidential summaries thereof.**

(a) *Nonrelease of information.* In the case of an investigation under this

part, the Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6 of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. When appropriate, the Commission will include confidential business information in reports transmitted to the President (and/or the United States Trade Representative); such reports will be marked as containing confidential business information, and a nonconfidential version of such report will be made available to the public.

(b) *Nonconfidential summaries.* Except as the Commission may otherwise provide, a party submitting confidential business information shall also submit to the Commission, at the time it submits such information, a nonconfidential summary of the information. If a party indicates that the confidential business information cannot be summarized, it shall state in writing the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.