

§ 207.63

has filed an adequate response to the notice of institution; and

(ii) Any party, other than an interested party, that is a party to the five-year review.

(3) Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review within the time specified for the filing of written comments.

(4) The Director shall prepare and place in the record, prior to the date on which the comments described in paragraph (d)(1) of this section must be filed, a staff report containing information concerning the subject matter of the review. A version of the staff report containing business proprietary information shall be placed in the nonpublic record and made available to persons authorized to receive business proprietary information under § 207.7, and a nonbusiness proprietary version of the staff report shall be placed in the public record.

(e) *Use of facts available.* The Commission's determination in an expedited review will be based on the facts available, in accordance with section 776 of the Act.

§ 207.63 Circulation of draft questionnaires.

(a) The Director shall circulate draft questionnaires to the parties for comment in each full review.

(b) Any party desiring to comment on the draft questionnaires shall submit such comments in writing to the Commission within a time specified by the Director. All requests for collecting new information should be presented at this time. The Commission will disregard subsequent requests for collection of new information absent a showing that there is a compelling need for the information and that the information could not have been requested in the comments on the draft questionnaires.

§ 207.64 Staff reports.

(a) *Prehearing staff report.* The Director shall prepare and place in the record, prior to the hearing, a prehearing staff report containing information concerning the subject matter

19 CFR Ch. II (4-1-02 Edition)

of the five-year review. A version of the staff report containing business proprietary information shall be placed in the nonpublic record and made available to persons authorized to receive business proprietary information under § 207.7, and a nonbusiness proprietary version of the staff report shall be placed in the public record.

(b) *Final staff report.* After the hearing, the Director shall revise the prehearing staff report and submit to the Commission, prior to the Commission's determination, a final version of the staff report. The final staff report is intended to supplement and correct the information contained in the prehearing staff report. A public version of the final staff report shall be made available to the public and a business proprietary version shall also be made available to persons authorized to receive business proprietary information under § 207.7.

§ 207.65 Prehearing briefs.

Each party to a five-year review may submit a prehearing brief to the Commission on the date specified in the scheduling notice. A prehearing brief shall be signed and shall include a table of contents. The prehearing brief should present a party's case concisely and shall, to the extent possible, refer to the record and include information and arguments which the party believes relevant to the subject matter of the Commission's determination.

§ 207.66 Hearing.

(a) *In general.* The Commission shall hold a hearing in each full review. The date of the hearing shall be specified in the scheduling notice.

(b) *Procedures.* Hearing procedures in five-year reviews will conform to those for final phase antidumping and countervailing duty investigations set forth in § 207.24.

§ 207.67 Posthearing briefs and statements.

(a) *Briefs from parties.* Any party to a five-year review may file with the Secretary a posthearing brief concerning the information adduced at or after the hearing within a time specified in the scheduling notice or by the presiding official at the hearing. No such

posthearing brief shall exceed fifteen (15) pages of textual material, double spaced and single sided, on stationery measuring 8½ x 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

(b) *Statements from nonparties.* Any person other than a party may submit a brief written statement of information pertinent to the review within the time specified for the filing of posthearing briefs.

§ 207.68 Final comments on information.

(a) The Commission shall specify a date after the filing of posthearing briefs on which it will disclose to all parties to the five-year review all information it has obtained on which the parties have not previously had an opportunity to comment. Any such information that is business proprietary information will be released to persons authorized to obtain such information pursuant to § 207.7.

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to § 207.67. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double spaced and single-sided, on stationery measuring 8½ x 11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to changes in bracketing of business proprietary information in the comments permitted by § 207.3(c).

§ 207.69 Publication of determinations.

Whenever the Commission makes a determination concluding a five-year review, the Secretary shall serve copies of the determination and, when applicable, the nonbusiness proprietary version of the final staff report on all parties to the review, and on the administering authority. The Secretary shall publish notice of such determination in the FEDERAL REGISTER.

Subpart G—Implementing Regulations for the North American Free Trade Agreement

AUTHORITY: Sec. 777(d) of the Tariff Act of 1930 (19 U.S.C. 1677f (d)); secs. 402(g), 405 of the North American Free Trade Agreement Implementation Act (107 Stat. 2057, Pub. L. 103-182, Dec. 8, 1993).

SOURCE: 59 FR 5097, Feb. 3, 1994, unless otherwise noted.

§ 207.90 Scope.

This subpart sets forth the procedures and regulations for implementation of Article 1904 of the North American Free Trade Agreement under the Tariff Act of 1930, as amended by title IV of the North American Free Trade Agreement Implementation Act (19 U.S.C. 1516a and 1677f). These regulations are authorized by section 402(g) of the North American Free Trade Agreement Implementation Act and 19 U.S.C. 1335.

§ 207.91 Definitions.

As used in this subpart—

Administrative Law Judge means the United States Government employee appointed under section 310(f) of title 5 of the United States Code to conduct proceedings under this part in accordance with section 554 of title 5 of the United States Code;

Agreement means the North American Free Trade Agreement entered into among Canada, the United States of America and the United Mexican States (“Mexico”); or, with respect to binational panel proceedings between Canada and the United States under way as of the date of enactment of the Agreement, or any binational panel proceedings that may proceed between