

# **INTERNATIONAL TRADE COMMISSION**

## **Handbook on Electronic Filing Procedures**

### **I. Introduction**

A. This Handbook provides instructions for persons who wish to file documents electronically with the United States International Trade Commission (Commission) pursuant to section 201.8(f) of the Commission's rules of practice and procedure (19 CFR § 201.8(f)).

B. In any conflict between the Commission's rules of practice and procedure (rules) and this Handbook, the rules shall govern. This Handbook is designed to be read in conjunction with the rules. This Handbook does not alter or waive any provisions in the rules governing the filing of documents with entities and/or persons other than the Commission, including but not limited to the United States Secretary, NAFTA Secretariat.

C. If you choose to file in paper form, you must comply with the relevant provisions of the rules governing such filing. The Commission does not permit filing by means other than paper filing in accordance with the relevant rules or electronic filing in accordance with section 201.8(f) and this Handbook. Thus, for example, filing by facsimile and by electronic mail (i.e., sending a document to a Commission electronic mail address) is not permitted.

### **II. Electronic Filing Procedures (EFP)**

#### A. Definitions and Instructions:

(1) "EFP" means the Commission's Electronic Filing Procedures.

(2) "Secretary" means the Secretary to the Commission (500 E Street, SW, Room 112, Washington, DC 20436, telephone 202-205-2000). The EFP are administered by the Secretary and any questions about EFP should be directed to the Secretary.

(3) "Business hours" or "Business days" refers to the hours and days that the Commission is open (i.e., from 8:45 a.m. to 5:15 p.m., Washington, DC local time, from Monday through Friday, excepting Saturdays, Sundays and Federal legal holidays).

(4) The "Web site" refers to the Commission's World Wide Web site at <http://edis.usitc.gov>.

(5) "EDIS" refers to the Commission's Electronic Document Information System, which will receive electronic transmission of documents through the Commission's Web site.

(6) "Cover sheet" refers to the EDIS cover sheet that all filers must complete pursuant to section 201.8(g) of the Commission's rules and regulations. EDIS cover sheets are generated online at the Web site for electronic filings.

(7) "Document" refers to the cover sheet and attachments that comprise an electronic filing with the Commission.

(8) "Electronic receipt" means that an electronic transmission of a document to EDIS via the Commission's Web site has been successfully completed in its entirety.

(9) "Electronic filing" means the electronic transmission of a document and the Secretary's acceptance of the document for filing. As discussed below, the electronic

transmission and receipt of a document does not necessarily mean that the document has been filed.

(10) "Registered user" means a person that registers to file documents electronically with the Commission.

(11) "E-mail address of record" means the electronic mail address of a registered user which he or she has provided to the Secretary.

(12) "Notice of electronic receipt" will be provided in two forms: (a) An on-screen notice of receipt once the electronic transmission of the document is complete; and (b) an e-mail sent to the registered user's e-mail address of record. The notice of electronic receipt only conveys that the document is physically present at the Commission and does not mean that the document has been accepted by the Secretary for filing in EDIS.

(13) "Notice of electronic filing" will be e-mailed to the registered user's e-mail address of record upon acceptance of the electronic document for filing in EDIS by the Secretary.

#### B. Registration as an EFP user and assignment of passwords:

(1) To file electronically, you must first become a "registered user" of the Web site. To register, a user must fill out the EDIS user registration form online at the Web site. Anonymous user access is no longer supported by EDIS.<sup>1</sup> The online registration process will require identification of the user's name, firm affiliation, address, telephone number and e-mail address of record. The registration process will no longer require an external user to submit a paper registration form with an original signature. Users must have and maintain a working e-mail address to be a registered user.

(a) Existing registered user accounts will not require any additional steps to become a registered user. All current registered user accounts will retain their status as registered users.

(b) Users must select their applicable association in the Firm or Organization drop- down field. If a user's affiliation in the Firm/Organization field is not listed, select 'Not Applicable' and notify the EDIS System Administrator to add a new Firm/Organization. A user cannot edit the Firm/Organization field.

(c) All users must designate a User ID, Password, and Codeword on the registration form. Registered users may access EDIS for electronic filing without any additional approval from the Secretary.

(d) The user's registration information is used when filing documents. The user's registration information will be used to populate the document submission fields of 'Filed By' and 'Firm/Organization'.

(2) A registered user may authorize another person to file a document with the Commission using the user ID and password of the registered user; however, the registered user assumes responsibility for any authorized use of his/her user ID and password. The registered user and all persons who participate in the preparation of or are signatories to a document shall retain responsibility with respect to any duties and obligations pertaining to the document under

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<sup>1</sup> This restriction only applies to the filing of electronic documents. Non-registered user may still access documents using the EDIS search application and obtain copies of public documents.

the rules. A registered user must comply with applicable limitations on disclosure of confidential business information (“CBI”) and business proprietary information (“BPI”) pursuant to 19 CFR § 201.6. As provided in paragraph II (K)(2), a document filed using a registered user's user ID and password will be deemed signed by that registered user.

(3) Upon learning of the potential compromise of the confidentiality of his/her password, the registered user shall immediately change the password. The registered user must also notify the Secretary of the perceived breach and the period of compromise. If the registered user has provided his/her password to an employee of the registered user's firm, such as a paralegal, legal assistant, or secretary who subsequently leaves the firm, the registered user must change the password when that employee's access should be terminated. Unless there is a perceived breach of confidentiality, in such instances, no notification of the Secretary is needed.

(4) Every registered user shall be responsible for keeping his/her registration information current.

(5) You may not electronically file documents with the Commission unless you have registered with the Commission pursuant to the procedures set forth in paragraph II(B)(2) above.

### C. Types of documents:

(1) The following documents cannot be filed electronically and must be filed in paper form in accordance with the rules: A document (i) that contains confidential business information (“CBI”) or business proprietary information (“BPI”) (ii) that exceeds the 10 megabyte size limit set forth in paragraph II(I) of this Handbook or (iii) that contains exhibits of original documents, such as certified copies.

(2) All other documents may be filed electronically. However, for the following six categories of documents, you must also file the document in paper form pursuant to the rules no later than one business day after the electronic filing.

(a) Briefs for which no BPI or CBI version is filed, including those subject to 19 §§ CFR 201.13, 207.15, 207.23, 207.25, 207.65, 207.67, and 210.40, except that briefs filed in proceedings subject to section 332 of the Tariff Act of 1930 for which no CBI version is filed may be filed electronically without corresponding paper copies;

(b) Comments on questionnaires for which no BPI or CBI version is filed, subject to 19 CFR § 207.20 and 207.63;

(c) Final comments for which no BPI version is filed, subject to 19 CFR § 207.68 and 207.30;

(d) Petitions for review for which no CBI version is filed subject to 19 CFR § 210.43 and 210.46;

(e) Petitions, including those subject to 19 CFR §§ 202.2, 206.2, 206.14, 206.33, 206.43, 206.54, 207.10, 210.47; and

(f) Complaints, including those subject to 19 CFR § 210.12.

For these six categories of documents, you must include a printout of a copy of the EDIS cover sheet that accompanied the electronic filing and submit it with the paper version.

If a standard form has been prescribed to be used when filing any document, you must use that standard form when filing such document electronically. You must complete the electronic cover sheet on EDIS at the time that you make your electronic filing. EDIS will consider the cover sheet and one or more attachments to be the complete filing. For example, a cover letter addressed to the Secretary is one attachment. Multiple attachments should be filed as part of the same electronic transmission as long as each attachment does not exceed the size limitation set forth in paragraph II(I) of this Handbook. You may submit any number of attachments per document. However, each individual pleading or submission must be accompanied by a unique cover sheet. For example, each motion filed in connection with an investigation conducted pursuant to section 337 must have a unique cover sheet even if several motions are filed sequentially. In addition, a motion and a memorandum in support thereof must be filed separately (i.e., the memorandum cannot be attached to the motion). Likewise, a notice of appearance and APO application for access to BPI or CBI each must have a separate cover sheet even if filed jointly.

If you are electronically filing 24-hour changes to a document pursuant to sections 206.8 or 207.3 of the Commission's rules of practice and procedure (19 CFR § 206.8 and 207.3), you must file the entire corrected document again, not just portions of the document containing the 24-hour changes. If you are filing both an electronic version and a paper version of a document, you must state in your cover letter to the Secretary that you are making filings of the same document in both electronic and paper form. The cover letter to the Secretary must be included in both the electronic version and the paper version of the document.

Any hyperlinked materials contained in an electronic filing must be reproduced in their entirety as an attachment to the document. Please note that any hyperlinked material contained in the electronic version of a document must be printed in its entirety in the corresponding paper copy, in conformance with all applicable page limits under the Rules.

#### D. Where documents are to be filed electronically:

If you want to file a document electronically, you should visit the Web site and follow the instructions for submitting a document electronically to EDIS, including completion of the cover sheet for each filing. The instructions will include the applicable hardware and software requirements for electronic filing.

#### E. Notice of electronic receipt:

Upon completion of the electronic transmission of your document and upload at the Commission, EDIS will provide you with an on-screen notice of electronic receipt. The on-screen notice of receipt format has changed. The on-screen notice of receipt no longer displays the official date received or the system date received. In addition, users will no longer be able to set the document date. EDIS will generate and send an e-mail notice of electronic receipt to the official e-mail address associated with the user ID. The format of the e-mail notice of receipt has also changed. The notice of receipt now contains the information from the EDIS cover sheet in order to facilitate tracking. Receipt of a notice of electronic receipt does not constitute acknowledgment by the Commission that the document has been properly filed pursuant to the rules or this Handbook. Moreover, such notification does not constitute service of the document on the parties to an investigation.

If you do not receive a notice of electronic receipt following transmission of a document for filing or get an error message, the document will not be deemed transmitted to EDIS and consequently will not be received by the Secretary for filing. You must attempt to (i) re-transmit the document electronically until such a notice is received, (ii) file in paper form, or (iii) contact the Secretary in accordance with the provisions of paragraph II(G) permitting delayed filings.

If the document is electronically received by EDIS on a Saturday, Sunday, or Federal legal holiday, or after business hours on a business day, the effective filing date and time of the document will be the next business day, assuming the document is accepted. If the document is electronically received by EDIS during business hours, then the effective filing date and time of the document is the date and time that the document has been electronically received by EDIS.

Subsequent to the notice of electronic receipt, the Secretary will send you a second notice (notice of electronic filing) notifying you that the document has been accepted by the Secretary for filing in EDIS.

F. Deadline for electronic filing of documents:

When the Commission has imposed a deadline on the filing of a document, the Secretary will consider the document timely filed electronically only if it is received successfully in its entirety by EDIS by 5:15 p.m., Washington, DC local time, on the day that the document is due to be filed. However, prior to that time, you may electronically transmit a document to EDIS at any time of the day (i.e., twenty-four hours/day) and on any day of the week (including weekends and holidays). You should preserve the notice of electronic receipt, which states the time and date that EDIS received the document, for your records. From time to time, EDIS may be unavailable for electronic filing due to periodic maintenance. The Commission will try to schedule EDIS maintenance to those times when EDIS is least likely to be used. Scheduled downtime of EDIS will be posted on the Web site.

G. Technical failures:

(1) The Secretary shall deem the Web site to be subject to a technical failure on a given day if the Web site is unable to accept electronic filings continuously or intermittently over the course of any period of time greater than one hour after 12 noon, Washington, DC local time, on that day. If you are unable to file a document electronically by the deadline imposed by the Commission because the Web site is experiencing a technical failure, you should contact the Office of the Secretary immediately to report the technical failure of the Web site and to seek authorization from the Secretary to file your document after the Commission's deadline governing the filing of your document. If the Secretary grants you such an authorization, the Secretary shall give you an authorization number that you should include on the cover sheet and/or cover letter accompanying your document when you do file your document. When you do file your document subject to the authorization, you should also file an unsworn declaration stating (i) the fact that the Web site's technical failure prevented you from making a timely filing, (ii) the dates and times of the attempted filing, (iii) your contacts with the Office of the Secretary to report the Web site's technical failure, (iv) the Secretary's granting of authorization to file after the deadline to you, and (v) the authorization number.

If you are making a late filing for reasons unrelated to the operating status of the Web

site, you should follow the normal procedures in the rules for late filings.

(2) If you discover that the version of the document available for viewing on EDIS does not conform to the document that you transmitted, you should send or transmit to the Commission a replacement document with an explanatory cover letter. After receipt, the Secretary will review the documents and provide you with notification of acceptance or rejection.

#### H. Requests for late filing:

If you electronically transmit your document prior to 5:15 p.m., but the document is not received in its entirety by EDIS by 5:15 p.m., you may file a "Request for Late Filing" with the Secretary requesting that the late filing be accepted because you began electronically transmitting the document to EDIS prior to 5:15 p.m. In the request for late filing, you should include an unsworn declaration as described in paragraph II(G)(1) by the registered user attesting to the start time of the electronic transmission.

Please be aware that many filers wait until near the end of the business day to file documents. Please be mindful of the heavy volume of filings at the end of the day and try to transmit your document as early in the day as possible.

#### I. Size of electronic transmission:

An electronic transmission as a whole can exceed 10 megabytes so long as no one attachment exceeds 10 megabytes. There is no limit to the number of Adobe Acrobat portable document format (PDF) files submitted as attachments so long as no one attachment exceeds 10 megabytes. A filing with an attachment that exceeds the foregoing size limitation and cannot be broken down into multiple PDF files should only be filed in paper form pursuant to the rules. All page limits set forth in the rules shall remain in effect for purposes of this Handbook.

#### J. Format of documents:

(1) Documents filed electronically pursuant to this Handbook must be submitted in Adobe Acrobat portable document format (PDF). Please be aware that some special characters used in certain word-processing applications may not convert easily to PDF. The conversion process to PDF may affect pagination as well as the conversion of special characters. Filers are responsible for the accuracy of the documents submitted.

The Commission encourages the submission, when practicable, of documents converted to PDF from word-processed text over that of documents converted to PDF from images because the former normally are significantly smaller in terms of megabytes than the latter, and because the former are more easily searchable within EDIS. EDIS will create a searchable text version of an image-based document through an optical character recognition process, but that text version is likely to contain some conversion errors.

The Commission will post on the Web site information that will assist users with document conversion to PDF.

(2) Each page of an electronically filed document must be in letter-sized format (i.e., 8.5 inches by 11 inches when printed by the Secretary).

(3) Documents filed electronically cannot exceed the smaller of the page limits set forth in the rules or the size limit set forth herein.

(4) Text-based PDF files may permit others to retrieve “masked” or “whited-out” BPI or CBI. Please remove all “masked” or “whited-out” BPI or CBI before filing any electronic document with the Commission.

(5) PDF submission requirements: When preparing PDF documents for filing, you must comply with the following requirements. PDF documents that do not comply with these requirements will be rejected by EDIS. (Note: When installing Adobe Acrobat 5.0, the format settings must meet all the requirements set forth below)

(a) PDF version must be Version 1.3 or greater. (Note: Use of Acrobat is not required, but if it is used, it must be Acrobat 4 or greater. This is because only Acrobat 4 or later produces PDF version 1.3.)

(b) Documents must not have Type 3 fonts. Use of Type 1 fonts is recommended.

(c) Only the Roman and Cyrillic alphabets shall be used in PDF format.

Other foreign language documents must be scanned. Special characters must be checked on conversion to ensure that they were not changed during the distilling process.

(d) Do not attach any embedded files to your PDF document for electronic filing. This includes all comments (note tool, pencil tool, highlights tool, digital signature tool, embedded files, embedded sounds or other multimedia); forms actions; JavaScript actions; external cross references, and image alternates.

(e) Document security setting must have a PDF file security setting of “none.”

(6) PDF submission recommendations: When preparing PDF documents for submission, the following are recommendations that will enhance the usability of the document.

(a) PDF creation should be via distiller.

(b) Font embedding should be default distiller setting.

(c) Resolution standard for scanning to PDF must be at least 200 dpi (dots per inch) and not more than 300 dpi; 300 dpi is recommended. This will allow readable images without causing undue file size.

(d) Linearization: You should select optimize for web view as distiller setting.

(e) Scanning vs. conversion from native format: Whenever possible, you should create PDF from native format.

(f) Selecting printer/distiller: You should select distiller as printer before creating document.

(g) Document properties/associated index: You must not use this field in your PDF document for electronic filing.

(h) Recommended template for PDF files: A sample “usitc.joboptions” file is located on the Web site as a template for your PDF documents. Persons interested in using this template should go directly to the Web site.

(7) Document attachment requirements: You must not include attachments or embedded objects within the PDF file. Examples of embedded objects include all comments (note tool, pencil tool, highlights tool, digital signature tool, embedded files, embedded sounds or other multimedia); forms actions; JavaScript actions; external cross references, web links, and image alternates.

(8) Document attachment guidelines:

- (a) Attachments must be created in the proper sequence. If both electronic and paper versions of a document are filed, the two versions shall be created in the same sequence.
- (b) Attachments must conform to the following naming convention:
  - (i) All attachments relating to a single filing must have the same root name, which would be the "document name" given by the filer.
  - (ii) Each attachment shall constitute a separate PDF file and must be numbered sequentially in the order that they appear within the document, followed by the total number of attachments (e.g., "Post-hearing Brief Part 1 of 13"). The filer shall also add descriptive language identifying the PDF file attachments (e.g. Post-hearing Brief Part 1 – Ex. 1-10).
- (c) Use logical break points in creating attachments. Avoid breaking attachments in the middle of a section (e.g., main textual document, exhibit, or appendix) of the filing. An entire attachment(s) shall be contained in a single PDF file if possible.
- (d) A single document of less than 10 megabytes should not be broken into multiple attachments.
- (e) The main textual document (e.g., brief, petition, motion) should be contained in a separate attachment from material appended to the filing (e.g., exhibits), unless the entire document is less than 10 megabytes. Cover letters shall not be filed separately from the main textual document.
- (f) Material appended to the main textual document (e.g., exhibits, appendices) shall be combined into a single attachment, as long as the entire attachment does not exceed 10 megabytes in size.

(9) When redacting BPI or CBI from a document, you should use redaction methodology that does not change the pagination of the public version, when compared with the BPI or CBI version.

K. Signatures:

(1) A document filed with the Commission electronically shall be deemed to be signed by the registered user when the document identifies the user as a signatory and the filing complies with subparagraphs (2) and (3) below. When the document is filed with the Commission in accordance with any of these methods, the filing shall bind the signatory as if the document were physically signed and filed, and shall function as the registered user's signature whether for the purpose of complying with the Commission's rules, to attest to the truthfulness of an affidavit or declaration, or for any other purpose.

(2) In the case of a signatory who is a registered user as described in paragraph II (B)(1), such document shall be deemed signed provided that such document is filed using the user ID and password of the signatory and contains the physical signature of the registered user using an optical scan format or a typed "electronic signature", e.g., "/s/ Jane Doe".

(3) In the case of a document to be signed by two or more persons, the following

procedure shall be used:

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- (a) The filing person shall initially confirm that the content of the document is acceptable to all persons required to sign the document. The filing person then shall attest that original signatures have been obtained from each of the other signatories on a paper copy of the document. If the filing person complies with foregoing requirements, the Commission shall presume that the filing person has the authority to file the document on behalf of all other persons required to sign such document.
  - (b) The filing person shall then file the document electronically, indicating the original signatures that have been obtained, e.g., “/s/ Jane Doe,” “/s/John Doe,” etc., or by providing a signature page of the actual physical signatures using an optical scan format.
  - (c) The filing person must retain the hard copy of the document containing the original signatures until the earlier of (i) the Commission deadline for the destruction of APO materials, if applicable; or (ii) one year after the conclusion of the investigation and resulting appeals.
  - (d) For a document that requires a signature in the presence of a notary public (e.g., affidavits), the document instead should contain an unsworn declaration clause to be signed by the signatory under penalty of perjury. The language for unsworn declarations under penalty of perjury is provided in 28 U.S.C. § 1746.

#### L. Limitation on Service of Electronic Documents:

Documents filed electronically in all pending matters before the Commission, except for proceedings under section 337 of the Tariff Act of 1930, are not to be served electronically on other parties without the prior agreement of the Secretary. In the case of proceedings before an administrative law judge under section 337 of the Tariff Act of 1930, the presiding administrative law judge shall determine whether electronic service of documents by parties will be permitted in that proceeding. Parties may only effect electronic service on recipients who have provided written consent thereto to the Secretary or the presiding administrative law judge. Persons who have filed documents electronically with the Commission must comply with the rules in effecting service of the electronically filed document on parties in accordance with 19 CFR § 201.16. All electronically filed documents must be accompanied by a certificate of service.

#### M. Copyright and Other Proprietary Rights:

(1) The Web site shall bear a prominent notice as follows: “The contents of each filing in EDIS may be subject to copyright and other proprietary rights (with the exception of the notices, orders, and opinions of the ITC). It is the user's obligation to determine and satisfy copyright or other use restrictions when publishing or otherwise distributing material found in EDIS. Transmission or reproduction of protected items beyond that allowed by fair use requires the written permission of the copyright owners. Users must make their own assessments of rights in light of their intended use.”

(2) By filing any material with the Commission electronically, a person shall be deemed to consent to all uses of such materials by all parties to the action solely in connection with and

for the purposes of the action, including the electronic filing in the action (by a party who did not originally file or produce such materials) of portions, excerpts, quotations, or selected exhibits from such filed materials as part of motion papers, pleadings or other filings with the Commission.

(3) Any dispute that arises among persons regarding the use of materials subject to copyright and other proprietary rights must be resolved among the persons themselves, without the Commission's involvement.

N. Official record of Commission proceedings:

The electronic version of any document filed by a party in a Commission proceeding will be considered the "official version" for purposes of compiling the record in a Commission proceeding. Materials referenced by hyperlink in an electronic document will not be considered part of the document or of the record in a Commission proceeding unless they are reproduced in their entirety in an attachment to the document. The filer, however, must take into consideration paragraph II(M) when reproducing such materials.

### **III. Duration**

A. This Handbook is effective as of the date specified in a notice published in the Federal Register. These electronic filing procedures shall remain in effect until superseded or rescinded.

B. The Secretary shall, from time to time, amend this Handbook as necessary.

(Authority: 19 CFR § 201.8(f))

By Order of the Commission.

Issued: March 24, 2006

Marilyn R. Abbott,  
Secretary to the Commission  
United States International Trade Commission