

SUPPORTING STATEMENT FOR
UNITED STATES INTERNATIONAL TRADE COMMISSION
INFORMATION COLLECTION
(2010 USITC SURVEY REGARDING OUTSTANDING §337 EXCLUSION ORDERS)

In its Strategic Plan (available on the agency website at <http://www.usitc.gov>) the Commission set itself the goal of obtaining feedback on the effectiveness of its exclusion orders from complainants that obtained such orders under 19 U.S.C. §1337. As the Commission is authorized to issue both general and limited exclusion orders, two survey forms are proposed, one for each type of relief. The proposed survey seeks to gather feedback to allow the Commission to assess the effectiveness of statutory relief offered by the Act. This information will allow the Commission both to assess its remedial efforts and to develop and implement proposals to bolster enforcement.

The proposed survey asks whether and to what extent Commission exclusion orders are effective in preventing the importation of covered goods. If imports have continued, the proposed survey asks for an estimate of the magnitude and effect on the U.S. market of such imports. The proposed survey also requests information regarding the cost, if any, to complainants of policing the Commission's exclusion orders and the level of satisfaction among complainants with the efforts of U.S. Customs and Border Protection in enforcing the Commission's exclusion orders. It will be sent to complainants that obtained an exclusion order, that currently remains in effect, from the Commission following an investigation under Section 337. Responses to the proposed survey are voluntary. The Commission estimates that the proposed survey will impose no burden, and will take less than 1 response hour for each of the approximately 79 firms that may choose to respond.

As the proposed survey constitutes an information collection as defined by the Paperwork Reduction Act of 1995, this supporting statement is for clearance from the Office of Management and Budget (OMB) to issue it. Copies of the survey forms and cover letters with instructions are attached.

A. Justification

1. Request

The U.S. International Trade Commission has the responsibility of investigating unfair methods of competition and unfair acts in the importation of articles into the United States under Section 337 of the Tariff Act of 1930 (19 U.S.C. §1337). Under Sections 337(d)(1) and (d)(2) of the Act, if the Commission determines, as a result of an investigation under this section, that there is a violation of this section, it generally enters either a limited or a general exclusion order directing U.S. Customs and Border Protection to deny entry into the United States to goods covered by the order.

2. Purpose

The proposed survey seeks to gather feedback from prevailing complainants in the above Section 337 investigations to allow the Commission to assess the effectiveness of statutory relief offered by the Act. This information will allow the Commission both to assess its remedial efforts and to develop and implement proposals to bolster enforcement.

3. Information Technology

The proposed survey, which was designed to be as brief as possible, consistent with information requirements, will be posted on the Commission's website but submission of survey responses must be in paper form. While the submission of survey responses in electronic form has been considered, the submission of survey responses in paper form is simple and straightforward and does not appear to present any additional burden on survey recipients. Indeed, survey recipients are complainants in Section 337 investigations that have previously and regularly made submissions in paper form to the Commission in order to obtain the relief at issue.

4. Non-duplication

The requested information is not available elsewhere.

5. Small Businesses

Although some of the firms that will receive a survey are "small businesses," as specified under the Small Business Administration Rules (13 C.F.R. Part 121), this proposed survey will not have a significant economic impact on these entities. All of these small businesses have previously petitioned the Commission in order to obtain the relief at issue and currently have exclusion orders in effect. To minimize the reporting burden, the proposed survey was designed to be as brief as possible, consistent with information requirements. Check-in type questions are used to simplify survey response and no supporting documentation is requested. Also, the proposed survey indicates that estimates are acceptable; this should further reduce the potential burden on smaller firms that may not have the administrative resources or automated record systems of larger firms.

6. Consequence of Non-collection

Missed opportunity to improve remedial efforts and to develop and implement proposals to bolster enforcement.

7. Special Circumstances

There are no special circumstances that would cause the proposed survey to be issued in a manner inconsistent with the items specified in item 7 of the instructions for the Supporting Statement.

8. Consultations

The Commission's notice soliciting comments on the proposed information collection (the proposed survey) prior to submitting it to OMB was published in the *Federal Register* on February 24, 2010, pages 8398-99 (copy attached), as required by 5 C.F.R. §1320.8(d). Further, a draft of the proposed survey was placed on the Commission's website, which is regularly accessed by the trade law firms that appear before the Commission in Section 337 proceedings.

The sole public comment regarding the proposed survey was submitted, on March 26, 2010, by counsel for Pass & Seymour, Inc. ("P&S"), which received a limited exclusion order as the complainant in *Certain Ground Fault Circuit Interrupters and Products Containing Same*, Inv. No. 337-TA-615. P&S proposed an additional question, following Question No. 11 of the proposed survey, asking whether U.S. Customs has issued any ruling regarding whether goods are covered by the exclusion order since the exclusion order went into effect. The Commission has considered P&S's comments and has determined to adopt P&S's proposal.

Additionally, the proposed survey closely parallels a similar survey conducted during FY 2005.

9. Payments or Gifts

There is no provision for any payments or gifts to respondents.

10. Confidentiality

The Commission does not intend to publish the identities of survey respondents. Additionally, the transmittal letter for each proposed survey form states: "Any commercial or financial data furnished in response to this survey that reveals the individual operations of your firm will be treated as confidential by the Commission to the extent that such data is not otherwise available to the public and will not be disclosed except as may be required by law." The authority for accepting submissions of information as confidential is codified under 19 C.F.R. §§201.6, 210.7, and 210.72.

11. Sensitive Information

Information on issues of a sensitive nature involving persons is not being sought.

12. Estimates of Burden

The Commission estimates that responding to this proposed information collection will take less than 1 response hour for each of the approximately 79 firms that may choose to respond. This estimate is based on the Commission's prior experience in conducting a similar survey during FY 2005 and the absence of comments regarding the Commission's estimate of the burden of the proposed information collection. The estimated total cost to respondents of the proposed information collection is \$5530.00 (79 hours x \$70.00/hour). The hourly rate estimate is the same as that used in item 14 below.

13. Total Annual Cost Burden to Respondents

Not applicable. This is a one-time data collection with no capital and start-up costs component.

14. Annualized Cost to Federal Government

The estimated total project cost to the Federal Government for distributing the survey and compiling responses is estimated to be \$2800.00 (40 hours x \$70.00/hour). The hourly rate estimate was approximated by dividing the annual salary for an investigative attorney at Grade 15, Step 6 of the General Schedule Pay Scale for Washington, DC, by the number of work hours per year.

15. Program Changes and/or Adjustments

The Commission seeks to gather, through the proposed survey, feedback on the effectiveness of its exclusion orders from complainants that obtained such orders under 19 U.S.C. §1337. The proposed survey asks whether and to what extent Commission exclusion orders are effective in preventing the importation of covered goods. If imports have continued, the proposed survey asks for an estimate of the magnitude and effect on the U.S. market of such imports. The proposed survey also requests information regarding the cost, if any, to complainants of policing the Commission's exclusion orders and the level of satisfaction among complainants with the efforts of U.S. Customs and Border Protection in enforcing the Commission's exclusion orders. Such data is not publicly available. This is a one-time data collection.

16. Plans for Tabulation and Publication

After the survey responses are compiled, reviewed, and analyzed by the Commission staff, the survey results will be presented to the Commission for follow-up as appropriate, such as inclusion in performance reports under the Government Performance and Results Act. The survey responses will be kept confidential. Commission staff reports regarding the survey responses, *e.g.*, reports prepared by the Office of Unfair Import Investigations within the Commission, will be kept confidential. Commission performance reports regarding the survey results, *e.g.*, the Commission's Annual Performance Accountability Report, may be made available to the public. The survey forms are scheduled to be mailed on or about August 13, 2010, and responses requested within 10 days after receipt of the survey. The survey is scheduled to be conducted within the 2010 fiscal year.

17. Non-display of Expiration Date

Not applicable. The proposed survey will display the expiration date for OMB approval of the information collection.

18. Exceptions to Certification Statement to OMB Form 83-I

There are no known exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I for this proposed information collection.