

Questionnaires Issued for Import Investigations and Institution Notices for Five-Year Sunset Reviews

As part of the import injury investigations conducted under a series of statutes (antidumping, countervailing duty, escape clause, NAFTA safeguard, market disruption, and interference-with-programs-of-the USDA), the U.S. International Trade Commission (Commission) issues a series of questionnaires to firms participating in U.S. industrial and agricultural industries.¹ In addition, for certain investigations (namely, the five-year sunset reviews of antidumping and countervailing duty orders and suspended investigations), the Commission publishes institution notices in the *Federal Register* that constitute an information collection as defined by the Paperwork Reduction Act of 1995. This supporting statement is for an extension, or renewal, of the current Commission “generic clearance” from the Office of Management and Budget (OMB)² to issue information collections for import injury investigations.

Sample or “generic” questionnaires (U.S. producers’, U.S. importers’, U.S. purchasers’, foreign producers’, and related instructions) used for original import injury investigations are attached to this submission as are a similar set of questionnaires intended for use in the five-year sunset reviews. The questionnaires are available to the public on the Commission’s website (at: http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/question/index.htm). The sample questionnaires are designed to illustrate the different types of data that the Commission usually seeks in its investigations and are representative of the average burden placed on questionnaire respondents. In most investigations, the data requested will closely resemble that shown in the sample questionnaires. The Commission will continue, in most circumstances, to request only three full years and two partial years of data in antidumping and countervailing duty investigations. Somewhat more data typically is requested in the infrequent escape clause investigations. Also, additional periods of data are frequently requested in five-year sunset reviews of the outstanding orders to ensure that the Commission can consider the full period from the time of the original investigation or previous review to the current period.

Included within this information clearance package is a sample notice for the Commission’s institution of five-year sunset reviews. The notice includes specific requests for information that firms are to provide if their response is to be considered by the Commission in making its determination as to whether to conduct an expedited or full review.

¹It is understood that the Commission’s generic clearance to issue questionnaires will not apply to repetitive questionnaires such as those issued on a quarterly or annual basis. In addition, it will not apply to other investigations and research studies conducted under section 332 of the Trade Act of 1974. These investigations are differentiated from those included under the generic clearance in that they do not require an injury determination.

²OMB No. 3117-0016, expiration date of June 30, 2008. The Commission has issued questionnaires for its import injury investigations under a generic clearance since 1980.

Part A. Justification

(1) Request.--The information requested in the questionnaires and five-year sunset review institution notices is for use by the Commission in connection with the following statutory investigations.³

<u>Investigation name</u>	<u>Statute</u>
Antidumping	Sections 731-739, 751, 752, 761, and 762 of the Tariff Act of 1930, as amended (19 U.S.C. §§ 1673-1673h, 1675, 1675a, 1676, and 1676a)
Countervailing duty	Sections 701-709, 751, 752, 753, 761, and 762 of the Tariff Act of 1930, as amended (19 U.S.C. §§ 1671-1671g, 1675, 1675a, 1675b, 1676, and 1676a)
Escape clause	Sections 201-204 and the Trade Act of 1974, as amended (19 U.S.C. §§ 2251-2254)
NAFTA safeguard	Sections 301-317 of the North American Free Trade Agreement Implementation Act (19 U.S.C. §§ 3351-3358, 3371, 3372, and 3381)
Market disruption	Sections 406 and 421 of the Trade Act of 1974, as amended (19 U.S.C. § 2436 and 19 U.S.C. § 2451)
Interference with programs of the USDA	Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. § 624)

The Commission conducts antidumping and countervailing duty investigations under provisions of Title VII of the Tariff Act of 1930 to determine whether domestic industries are being materially injured or threatened with material injury by reason of imports of products which are sold at less than fair value (antidumping cases) or subsidized (countervailing duty cases). Five-year sunset reviews of antidumping and countervailing duty orders and of suspended investigations are conducted to determine whether revocation of the existing orders would be likely to lead to continuation or recurrence of material injury to the domestic industry. The Commission conducts escape-clause investigations to determine whether increased imports are a substantial cause of serious injury or threat of serious injury to a domestic industry. NAFTA safeguard investigations are conducted under the authority of the North American Free

³A full text copy of the Tariff Act of 1930 and the Trade Act of 1974 was included in the clearance request made on April 16, 1980. A copy of Section 22 of the Agricultural Adjustment Act of 1921 was included with the May 15, 1981 submission. The Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, 102 STAT 1107) amends portions of both the Tariff Act of 1930 and the Trade Act of 1974; a copy was included with the July 31, 1990 submission. A copy of sections 301-317 of the North American Free Trade Agreement Implementation Act was included with the May 3, 1996 clearance request. See also the summary of statutory provisions providing for antidumping and countervailing duty investigations on the Commission's website (at: http://www.usitc.gov/trade_remedy/731_ad_701_cvd/index.htm) and a summary of statutory provisions providing for global and special safeguard investigations (at: http://www.usitc.gov/trade_remedy/safeguards/index.htm).

The Commission's regulations concerning the conduct of import injury investigation are found in 19 CFR, subchapters A and B of Chapter II, which is also posted on the website (at: http://www.usitc.gov/secretary/fed_reg_notices/rules/index.htm).

Trade Agreement and examine whether increased imports from Canada or Mexico are a substantial cause of serious injury or threat of serious injury to a domestic industry. Market disruption investigations under section 406 of the Trade Act of 1974 are conducted to determine whether imports of an article produced in a Communist country are causing material injury to a domestic industry. In China safeguard investigations under section 421 of the Trade Act of 1974, the Commission determines whether a product from China is being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The Commission also conducts investigations to determine whether imports are interfering with programs of the Department of Agriculture for agricultural commodities or products.

The Commission's statutory authority for obtaining data by questionnaire is set forth in section 333(a) of the Tariff Act of 1930.

(2) Purpose.--The information collected through questionnaires issued under the generic clearance for import injury investigations is consolidated by Commission staff and presented to the Commission in the form of a staff report. In addition, in the majority of its investigations, the Commission releases completed questionnaires returned by industry participants to representatives of interested parties to its investigations under the terms of an administrative protective order, the terms of which safeguard the confidentiality of any business proprietary or business confidential information. Representatives of interested parties⁴ also receive a confidential version of the staff report under the administrative protective order. Subsequent party submissions to the Commission for specific proceedings are based, in large part, upon their review of the information collected by the Commission. The information provided by firms in response to the questionnaires further constitutes a major portion of the statistical base used by the Commission in making its determinations.

The submissions made to the Commission in response to the notices of institution of five-year sunset reviews are evaluated to determine if they meet the criteria for adequacy. If the Commission concludes that interested parties' responses to the notice of institution are adequate, or otherwise determines that a full review should proceed, investigative activities pertaining to that review will continue. Alternatively, if the Commission concludes that interested parties' responses to the notice of institution are inadequate, it may decide to conduct an expedited review, which does not require gathering data using questionnaires.⁵

Depending upon the specific type of investigation, the Commission is required to notify either the Department of Commerce or the President, in addition to the petitioner and other parties, of its determination and the relevant facts. Affirmative Commission determinations in antidumping and countervailing duty investigations result in the imposition of additional duties on imports entering the United States. If the Commission makes an affirmative determination in a five-year sunset review, the existing antidumping or countervailing duty order will remain in place. The data developed in escape-clause, market disruption, and interference-with-USDA-program investigations (if the Commission finds affirmatively) are used by the President/U.S. Trade Representative to determine the type of relief, if any,

⁴Interested parties consist of U.S. producers within the industry in question as well as labor unions or representative groups of workers, U.S. importers and foreign exporters, and involved foreign country governments.

⁵The institution notices state that: "{p}ursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review."

to be provided to domestic industries.

The following tabulation provides the number of import injury investigations (where the Commission makes determinations on the basis of questionnaires issued under the current generic clearance) instituted at the Commission during 2005-07:

Type of investigation	2005	2006	2007
Antidumping	10	8	28
Countervailing duty	2	0	9
Title VII changed circumstances review (751b)	2	0	0
Transition title VII five-year review (751c) ¹	82	8	0
Non-transition title VII five-year review (751c): ¹			
First five review	26	35	22
Second review	2	21	1
Global safeguard review (203/204)	1	0	0
China safeguard (421)	1	0	0
<i>Notes on next page.</i>			

Continuation.

¹ Does not include five-year reviews that were revoked by the International Trade Administration (U.S. Department of Commerce) and where the Commission subsequently terminated its reviews. Five-year reviews that were expedited by the Commission did not require that questionnaires be issued. Submissions were, however, provided to the Commission in response to its notices of institution of five-year sunset reviews .

Note.—Data for antidumping and countervailing duty investigations are provided on a fiscal year basis; the remaining data are provided on a calendar year basis. Further, the numbers of cases provided refer to individual filings for each statute and country (and not to the number of grouped filings for statutes and countries combined).

Source: Import Injury Investigations Case Statistics (FY 1980-2006), January 2008.

See the Commission's website (at http://www.usitc.gov/trade_remedy/TR_opinions_reports.htm) for a listing, by title, of the import injury investigations completed since 2004.

(3) Information technology.--The Commission's collection of information under the generic clearance historically has not involved the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Completed questionnaires have typically been returned by recipients to the Commission in paper form or as a FAX. The Commission has, however, recently instituted a number of procedural changes in how it collects information to make it easier for firms to respond electronically, which both simplifies firm recording of data onto forms and minimizes data entry error at the Commission.

Questionnaires in paper form continue to be sent via overnight delivery services to the relevant firms. To assist firms in preparing their questionnaire responses, the Commission now prepares the questionnaires as a “fillable” form in MS Word format. Questionnaires in MS Word (and as a PDF) for specific investigations are made available on the Commission’s website (*see* the entries for each investigation at the Commission’s website at:

http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/active/index.htm); the investigation-specific link is provided in the instruction booklet accompanying the mailed questionnaires. Responding firms may continue to mail or FAX their completed questionnaires to the Commission. Firms may also submit them electronically to the Commission’s Electronic Document Information System (EDIS) or by copying the questionnaire onto and mailing a compact disc. Finally, firms are permitted to e-mail the questionnaire to the Commission.^{6 7} Parties to the investigation must, where service of the questionnaire is required, provide the service in paper form to the other parties under the administrative protective order (*see* 19 CFR § 207.7).⁸

Information provided by firms in response to its notices of institution for the five-year sunset reviews are submitted in document form directly to its Office of the Secretary.

(4) Non-duplication.--The Commission contacts trade associations, government agencies, and other industry participants prior to developing a questionnaire in order to determine the amount and type of data already available and to avoid duplication. Public data that the Commission has been able to utilize on a regular basis consist primarily of the quantity and value of imports into the United States maintained by the U.S. Department of Commerce; some use has also been made of U.S. Department of Agriculture statistics for cases involving agricultural commodities and data maintained by the American Iron and Steel Institute for steel investigations. However, the Commission can rarely rely solely upon existing data sources.

For each investigation it conducts, the Commission generally is restricted to examining a relatively narrow group or range of products in assessing injury, or threat of injury, to a specific domestic industry. In most cases, the product categories of published data are too broad and/or do not correspond to the product(s) under investigation. It is also necessary for the Commission to ensure that for such items as shipments and pricing, the data it considers is collected using the same measurement criteria for producers (both domestic and foreign), importers, and purchasers. Timeliness is also of concern. For example, the Commission usually examines data for the most recent three full years and two partial years in antidumping and countervailing duty investigations, ending with the last quarter for which firms have closed their books. Finally to ensure that its determinations are made using the most accurate data possible, the Commission where possible reviews information on the individual operations of the firms within an industry (data not available on a public basis).

(5) Small businesses.--The Commission generally directs its data collection activities towards those firms that account for a significant percentage of the total trade of the products under investigation. Such firms are the larger businesses in the industry under investigation, but may be classified as “small businesses” under the rules of the Small Business Administration. The burden is minimized for any “smaller” firms

⁶Firms are cautioned in the instruction booklet that the use of e-mail may subject their business proprietary information to transmission over an unsecured environment and to possible disclosure.

⁷Questionnaires submitted to the Commission as a compact disc or through e-mail must contain a scanned PDF of the signed certification by an authorized official of the firm that the data in the questionnaire are complete and accurate.

⁸A signed certificate of service must accompany the documents.

included on a Commission mailing list since, in contrast to the “larger” firms, they will generally only produce, import, or purchase some of the products under investigation and thus, by definition, need only complete part of the questionnaire. In addition, the Commission’s staff generally contacts questionnaire recipients to assist them in completing their response. Firms for which the questionnaire is particularly burdensome may receive additional time to complete the questionnaire and/or be encouraged to use estimates. (The instructions of each questionnaire provide the names and telephone numbers of Commission staff assigned to the investigation; they also state that carefully prepared estimates are acceptable.) Also, a firm (especially if small in size) whose operations upon examination appear to be of lesser relevance to the investigation may be exempted from completing all or a portion of the questionnaire.

(6) Consequence of non-collection.--As discussed above, the Commission would be severely hampered in making its determinations and recommendations if the information collections are not conducted.

The actual questions formulated for use in a specific investigation depend upon such factors as the nature of the industry, the relevant issues, the ability of respondents to supply the data, and the availability of data from secondary sources. However, the issues to be examined are largely determined by statutory mandate. The Tariff Act of 1930 identifies certain economic factors that the Commission is to take into account in arriving at determinations in countervailing duty and antidumping investigations. Section 771(7) of the Act directs the Commission to evaluate, in addition to any other relevant economic factors, the following: import volumes, prices, production, shipments, profitability, productivity, inventories, employment, wages, growth, ability to raise capital, and investment. The Commission is also provided with guidelines concerning the economic factors it is to take into account in making its determinations in escape clause investigations. Section 202(c)(1) of the Trade Act of 1974 directs the Commission to take into account all relevant economic factors, but specifically mentions the following: capacity utilization; profitability; unemployment; underemployment; sales; inventories; production; wages; import levels, both relative to production and absolute; and the proportion of the domestic market supplied by domestic producers. The Commission may also be required to examine injury to both national and regional industries in countervailing duty and antidumping investigations. In some investigations, questionnaires will solicit data pertaining to other economic factors not listed in the statutes (e.g., channels of distribution and lost sales) because such data have been found to be particularly useful in past Commission determinations or are relevant to the case in question.

(7) Special circumstances.--Except as noted below, there are no special circumstances that would cause a questionnaire under the generic clearance to be issued in a manner inconsistent with item 7 of the “Specific Instructions for the Supporting Statement.”

The Commission cannot always allow respondents 30 days to prepare a written response to an information collection. Some of the questionnaires issued under the generic clearance are for the preliminary phases of antidumping and countervailing duty investigations that have statutory deadlines of 45 days. For these investigations it is necessary that the data be returned to the Commission in time for the staff to compile it and prepare a final staff report by about day 39. On day 45, the Commission submits its determination to the Secretary of Commerce. For all other types of investigations, the Commission attempts to provide respondents 30 days or more to respond to its questionnaires. Extensions of the Commission’s questionnaire deadlines frequently are provided upon request.

(8) Consultations.--The Commission's notice soliciting comments on the proposed information collection (for the generic clearance) prior to submitting it to OMB was published in the *Federal Register* on December 6, 2007 (72 FR 68896; copy provided), as required by 5 CFR § 1320.8(d).⁹

Consultations applying to questionnaire content.--The generic questionnaires included with this submission provide, as indicated above, an indication of the types of data collected in import injury investigations. The documents in electronic form also function as clerical aid to prevent having to replicate substantial portions of the questionnaires issued in actual investigations. Questionnaires for newly instituted investigations (including the preliminary phases of antidumping and countervailing duty investigations) are structured, in part, using information provided in the petition submitted by the petitioning firms. For every individual investigation, industry representatives are solicited by Commission staff for their input and comments regarding the specific questionnaires that will be issued. Further, the Commission has formalized the process where interested parties comment on data collection and draft questionnaires in final phase antidumping and countervailing duty investigations (including the five-year sunset reviews). Interested parties are provided approximately 2 weeks to provide comments to the Commission on the draft questionnaires. Requests by parties to expand the data collection or add items to the questionnaire may not be accepted if the Commission believes such requests will increase the response burden while not substantially adding to the investigative record. After the comment period, each individual Commissioner reviews and approves the questionnaires through the Commission's "action jacket" procedure (in final phase original investigations and five-year sunset reviews).

With respect to the institution notices and questionnaires issued for the five-year sunset reviews of antidumping and countervailing duty orders and suspended investigations, the Commission has attempted to minimize the amount of information it collects from the industries involved in the reviews while still meeting its statutory obligations.¹⁰

Consultations applying to questionnaire burden.--The Commission requests in every questionnaire issued under the generic clearance that firms report the actual number of hours required and the cost incurred in preparing the reply to the questionnaire and in completing the form. Responses from firms are tabulated by the Commission and provide the basis for the burden estimates and costs incorporated into this extension request.

Summary of comments received.-- The Commission did not receive any comments from individual firms that have completed questionnaires in import injury investigations but did receive a comment from a counsel that has represented interested parties (that have completed questionnaires).¹¹ The counsel provided comments that fall into five categories: (1) questionnaire formats; (2) calculation of data collection burden; (3) recommendations to reduce questionnaire burden; (4) suggested clarifications; and (5) request for additional information. Counsel's comments are addressed below.

(1) Questionnaire format.--Counsel requested that the Commission make questionnaires available to recipients in MS Word format. As indicated in item 3 of this Supporting Statement, this is now the current Commission practice for all import injury investigations.

⁹In addition, the text of the 30-day *Federal Register* notice that will be published is also incorporated into this submission.

¹⁰For example, to minimize burden the Commission decided not to collect projected data (except for the capacity to produce by foreign manufacturers) in the five-year sunset reviews and placed great emphasis on gathering information from firms in narrative form, rather than collecting quantitative data, in responses to its institution notices.

¹¹A copy of the comments are attached to this submission.

(2) Calculation of data collection burden.—Counsel provides four comments relevant to the burden estimates.

First, it believes that the Commission’s estimated average annual burden understates the time required to complete domestic producer questionnaires, noting that its clients spend between 100 hours and 200 hours to complete a questionnaire.¹² The Commission observes that domestic producers (frequently the petitioning entities) that choose to hire counsel can spend between 100 to 200 hours or even more in reviewing data and completing the questionnaire but that burden is not representative of the average burden on firms whose involvement in the investigative process is limited to providing data. There is wide variation in reporting burden among firms responding to any one investigation and also among investigations as a group. Under the current generic clearance, the average hours per questionnaire reported by firms for an investigation as an entity ranged from a low of 20 hours per producer questionnaire to a high of 500 hours per producer questionnaire.¹³ See “Variation in estimated burden” in item 12 of this Supporting Statement.¹⁴ As noted earlier, the Commission bases its burden estimates on the actual hours that firms report are required to complete the questionnaires. The final figures for the current clearance (expiring in June 2008) were not available at the time the initial estimates provided in the *Federal Register* notice soliciting comments were calculated. The figures in this Supporting Statement, however, incorporate the 2008 data with the result that the average burden estimates per questionnaire have been adjusted upward.

Second, counsel states that additional time is incurred by outside consultants to review and check its clients’ figures and responses for accuracy and reconciliation. It should be noted that consultants are typically hired only by interested parties for the purpose of providing legal and economic assistance during the entire investigative process.¹⁵ Further, depending on the nature of the investigation and their individual agreements with their clients, the actual time spent by consultants can vary widely from case to case. The Commission, however, agrees with counsel that, according to the Paperwork Reduction Act of 1995, it is appropriate to include within its burden hour estimates the time spent by outside consultants in reviewing data or otherwise responding to the questionnaire responses. It has done so in generic clearance requests submitted since the implementation of the Act.. (These estimate do not, however, include the use or review of questionnaires by outside parties for the purposes of compiling subsequent submissions, i.e., briefs, to the Commission during the course of the investigative process.)¹⁶ That said, upon review by Commission staff, the figures in the projected average annual burden provided in the *Federal Register* notice soliciting comments were not fully adjusted to account for outside review and

¹²Counsel bases its comments on the experiences of the U.S. producers it has represented but states that estimated burdens for other types of questionnaires may also be understated. It believes, however, that the U.S. producer questionnaires are the most time-consuming.

¹³The high estimate was for an investigation involving only one producing firm.

¹⁴The average burden estimates are not lowered by firms that review the questionnaire, determine that it does not apply to them, and return a negative response. See the definition of “number of respondents per case” in table 1.

¹⁵The Commission estimates that, based upon questionnaires issued under the current generic clearance, about 20 percent of the firms returning questionnaires were represented by law firms and thus were likely to incur any degree of outside review burden. Historically, responding foreign producers typically have had the highest level of representation with importers much less so and purchasers rarely. The share of producers that are represented can vary depending upon the nature of the industries that file petitions with, for example, virtually all producers represented by counsel in a filing organized through an industry association but fewer producers represented in an industry with numerous manufacturers where only a few of the larger producers joined the petition or otherwise engaged counsel.

¹⁶The Commission has also incorporated estimates for the time required for parties to the investigations to serve its questionnaires on the other parties as a “third party” disclosure requirement.

third-party disclosure burden; the figures in this request have accordingly been adjusted upward. See the footnotes to table 1 for the portion, by questionnaire, of total burden that consists of (1) responding firm burden and (2) outside review burden and third-party disclosure burden.

Counsel, next, indicates that additional time is spent responding to follow-up questionnaires from Commission staff and that the follow-up questions require revisions, further clarifications or explanations, or further breakouts of or supplements to the questionnaire. Counsel states that such follow-ups require an additional 50 hours (or 25 to 50 percent of its original estimate to complete a questionnaire). The Commission burden estimates properly do not include the time required to verify or clarify responses and to submit corrections or explanations. See 5 CFR 1320.3(h)(9) addressing information solicited through non-standardized follow-up questions designed to clarify responses to approved collections of information.¹⁷ The Commission recognizes, however, that any standardized follow-ups or supplemental questions directed as a whole to the industry being investigated does constitute an information collection and should properly be included in its average burden estimates. It estimates that it issues supplemental follow-ups in about five percent of its investigations and, accordingly, has revised its burden estimates in this request.¹⁸

Fourth, counsel notes that the provided burden is for an “annual period” and indicates that in any one year a firm may complete a questionnaire both for the preliminary and final phase of the investigation. This is a misunderstanding on the part of counsel. Data are provided for an “annual period” to comply with the format used by OMB to list burden (see item 13 on OMB 83-I). The Commission burden calculation is, as indicated in the definition of “anticipated caseload” provided in table 1 of this Supporting Statement, derived from Commission budget estimates which count preliminary and final phase investigations separately. The burden imposed by both the preliminary and final phase questionnaire are being measured irregardless of the year in which the questionnaires may be issued. As a side note, the Commission also submits separate requests to OMB under the generic clearance for approval to issue the preliminary and final phase questionnaires.

(3) Recommendations to reduce questionnaire burden and (5) Request for additional information.—Counsel indicates that the Commission’s questionnaires place more burden on domestic producers than on foreign producers in the five-year sunset reviews and argues that the primary focus in these reviews should be placed on the foreign producers. Counsel highlighted two areas where it believes burden on the domestic industry could be reduced, namely, soliciting pricing data on an annual and not quarterly basis in the five-year sunset reviews and restricting the use and/or minimizing the level of detail in the asset values chart in both original investigations and five-year sunset reviews. Counsel further argues that the foreign producer questionnaires in five-year-sunset reviews should be expanded to gather pricing information comparable to that requested in producer and importer questionnaires and, further, to include information on the prices at which the subject merchandise is sold into the foreign producers’ home and major exports markets.¹⁹

¹⁷Likewise, the burden imposed by Commission audits or verifications of completed questionnaires are not included since they apply only to a specific party. Verifications are typically conducted in a final phase of the investigation only for one company selected due to its size in the industry with possibly reporting patterns differing from the industry average.

¹⁸These supplemental requests should be distinguished from a request for information directed primarily to one or at most a couple firms whose initial responses raised issues that needed to be explored in order for the Commission to compile an adequate record for its determinations. See CFR 1320.3(c) providing the definition of a collection of information as identical questions directed to ten or more “persons.” (“Persons” are properly defined as the responding firm.)

¹⁹Response rates must be considered in assessing the most expedient manner in which to obtain information. Questionnaires sent to firms in the United States are mandatory and any failure to reply as directed can result in a

The generic questionnaires have not been modified to reflect the above changes proposed by counsel. Overall questionnaire format and content are determined by the appointed Commissioners as a body. As part of its preparation for beginning the five-year sunset reviews, the Commission invited public comment on issues pertaining to the reviews, including the questionnaire process, in its *Notice of Proposed Rulemaking* published in the Federal Register (62 FR 55185 (Oct. 23, 1997)). At this time numerous entities, primarily law firms that frequently appear before the Commission, provided extensive comments to the Commission. Further, the information that the Commission collects for any individual case is, as discussed in items (1) and (6) of this Supporting Statement, based in large part on statutory requirements and is subject to judicial review. Also, as indicated above, the draft questionnaires are provided for comment to the counsel for interested parties. It is the Commission's experience that it is common for counsel(s) to propose expanding items in the generic questionnaire in order to ensure that data addressing issues idiosyncratic to a specific investigation are obtained and a full record developed for the Commission's determination. Conversely, other parties may request that items on the "generic" or, more specifically, the draft questionnaire be deleted as not relevant for a specific investigation. The Commission in finalizing a questionnaire for a specific investigation will weigh the merits of the arguments presented by both counsels supporting the petition and/or continuation of an order and those for any opposing parties.

(4) Suggested clarifications.--Counsel requested that the Commission rephrase two questions to avoid either inadvertently biasing the answer or confusing the recipient. These suggestions are primarily editorial in nature and have been incorporated into the "generic" questionnaires.

(9) Payments or gifts to respondents.--There is no provision for any payment or gifts to respondents.

(10) Confidentiality.--The authority for accepting submissions of information as confidential is specified in 19 CFR 201.6. The respondents are informed in the instruction booklet accompanying the mailed questionnaires that:

The commercial and financial data furnished in response to the enclosed questionnaire(s) that reveal the individual operations of your firm will be treated as confidential by the Commission to the extent that such data are not otherwise available to the public and will not be disclosed except as may be required by law (see 19 U.S.C. § 1677f). Such confidential information will not be published in a manner that will reveal the individual operations of your firm; however nonnumerical characterizations of numerical business proprietary information (such as discussions of trends) will be treated as confidential business information only at the request of the submitter for good cause shown.

The following information describing the administrative protective order service requirement and providing certain information to the Department of Commerce is also provided to respondents in the instruction booklet:

The information provided by your firm in response to the questionnaire(s), as well as any other business proprietary information submitted by your firm to the Commission in connection with the investigation, may become subject to, and released under, the administrative protective order

subpoena. The Commission does not have comparable authority to compel the submission of questionnaires from entities located outside the United States. The Commission will, as counsel in its comments describes, request that parties to the investigations (including the foreign producers that frequently comprise a substantial portion of exports of the relevant merchandise to the United States) provide in their posthearing briefs certain information that, at the hearing stage, appears to be relevant for a particular investigation. One source of information is that available by paid subscription to parties but not to the Commission.

provisions of the Tariff Act of 1930 (19 U.S.C. § 1677f) and section 207.7 of the Commission’s Rules of Practice and Procedure (19 CFR § 207.7). This means that certain lawyers and other authorized individuals may temporarily be given access to the information for use in connection with this investigation or other import-injury investigations or reviews conducted by the Commission on the same or similar merchandise; those individuals would be subject to severe penalties if the information were divulged to unauthorized individuals. In addition, if your firm is a U.S. producer, the information you provide on your production and imports and your responses to the questions in Part I of the producer questionnaire will be provided to the U.S. Department of Commerce, upon its request, for use in connection with (and only in connection with) its requirement pursuant to sections 702(c)(4) and/or 732(c)(4) of the Act (19 U.S.C. § 1671a(c)(4) and/or /1673a(c)(4)) to make a determination concerning the extent of industry support for the petition requesting this investigation. Any information provided to Commerce will be transmitted under the confidentiality and release guidelines set forth above. Your response to these questions constitutes your consent that such information be provided to Commerce under the conditions described above.

As indicated above, the administrative protective order service requirement constitutes a third-party disclosure (i.e., a directive for a person to disclose information to other persons) under the Paperwork Reduction Act of 1995. The “authorized applicants,” or those who are eligible to receive business proprietary information under the administrative protective order, are limited to persons (primarily trade attorneys and the economic consultants hired by those attorneys) who represent interested parties in a specific import injury investigation. As described earlier, party briefs and other submissions to the Commission are based in large part upon information released to these authorized applicants under the terms of the administrative protective order.

The administrative protective order service requirement also applies to and is described in the notices of institution for five-year sunset reviews.

(11) Sensitive information.--Information on issues of a sensitive nature involving persons is not sought.

(12) Estimates of burden (July 2008 through June 2011).²⁰--The Commission estimates that information collections issued under the requested generic clearance will impose an average annual burden of 198,000 burden hours on 4,400 respondents (i.e., recipients that provide a response to the Commission’s questionnaires or the notices of institution of five-year sunset reviews). Table 1 lists the projected annual burden for each type of information collection for the period July 2008 through June 2011.

Table 1						
Projected annual burden data, by type of information collection, July 2008-June 2011						
Item	Producer questionnaires¹	Importer questionnaires²	Purchaser questionnaires³	Foreign producer questionnaires⁴	Institution notices for 5-year reviews⁵	Total
Estimated burden hours imposed annually for July 2005-June 2008						
Number of respondents	791	1,345	1,041	1,180	86	4,443
Frequency of response	1	1	1	1	1	1
Total annual responses	791	1,345	1,041	1,180	86	4,443
Hours per response	67.1	41.4	30.2	48.0	14.9	44.6

²⁰A July-June period is used since the current generic clearance expires on June 30, 2005.

Total hours	53,111	55,710	31,412	56,693	1,279	198,205
-------------	--------	--------	--------	--------	-------	---------

¹ Producer questionnaires.--Estimates based upon the following variables: number of respondents (anticipated caseload (x) number of producer respondents per case) and hours per response (responding firm burden adjusted upward for supplemental requests plus outside review burden and third-party disclosure burden for questionnaires submitted by interested parties). *See definitions below.* Responding firm burden accounts for 96 percent of the total producer questionnaire burden (64 hours per response) while outside review and third-party disclosure burden account for the remaining portion. It is estimated that supplemental requests to the entire industry are issued in about five percent of the investigations.

² Importer questionnaires.--Estimates based upon the following variables: number of respondents (anticipated caseload (x) number of importer respondents per case) and hours per response (responding firm burden adjusted upward for supplemental requests plus outside review burden and third-party disclosure burden for questionnaires submitted by interested parties). *See definitions below.* Responding firm burden accounts for 99 percent of the total importer questionnaire burden (41 hours per response) while outside review and third-party disclosure burden account for the remaining portion. It is estimated that supplemental requests to the entire industry are issued in about five percent of the investigations.

³ Purchaser questionnaires.--Estimates based upon the following variables: number of respondents (anticipated caseload (x) number of purchaser respondents per case) and hours per response (responding firm burden adjusted upward for supplemental requests). *See definitions below.* Purchasers are not interested parties to investigations by statute and typically do not engage outside counsel. Therefore, there is virtually no outside review burden nor third-party disclosure burden for purchasers. It is estimated that supplemental requests to the entire industry are issued in about five percent of the investigations.

⁴ Foreign producer questionnaires.--Estimates based upon the following variables: number of respondents (anticipated caseload (x) number of foreign producer respondents per case) and hours per response (responding firm burden adjusted upward for supplemental requests plus outside review burden and third-party disclosure burden for questionnaires submitted by interested parties). *See definitions below.* Responding firm burden accounts for 94 percent of the total foreign producer questionnaire burden (45 hours per response) while outside review burden and third-party disclosure burden account for the remaining portion. It is estimated that supplemental requests to the entire industry are issued in about five percent of the investigations.

⁵ Institution notices for 5-year reviews.--Estimates based upon the following variables: anticipated five-year review caseload, number of respondents to each notice, and responding firm burden.

Note.--Above estimates include questionnaires for specific investigations where the mailing list consists of fewer than 10 firms. In such instances the majority or all firms within the industry under investigation may be said to receive questionnaires. According to the Paperwork Reduction Act of 1995, "(a)ny collection of information addressed to all or a substantial majority of an industry is presumed to involved ten or more persons."

Definitions on the next page.

DEFINITIONS

Anticipated caseload.--Derived from current Commission budget estimates.

Number of respondents per case.--Defined as the number of firms which return completed questionnaires to the Commission. Current estimates of "number of respondents per case" for the questionnaires were derived from the number of respondents to Commission questionnaires that were issued under the current generic clearance except for the estimated number of producers which was calculated from data from the current and previous generic clearance. As shown in note 1 to table 2, the number of responding producers per investigation were fewer during the current clearance period than the number responding for the previous period. To minimize the impact of random variation, the numbers for the two clearance periods were averaged.

Responding firm burden.--Defined as the time required by the firm that received the questionnaire to review instructions, search data sources, and complete and review its response. Commission questionnaires do not impose the burden of developing, acquiring, installing and utilizing technology and systems, nor require adjusting existing methodology or training personnel. Current estimates of "responding firm burden" for the questionnaires were derived from the actual burden reported by firms that responded to Commission questionnaires issued under the current and previous generic clearance periods.

Outside review burden.--Time devoted by outside legal and economic advisors to reviewing questionnaires completed by the responding firms who are their clients prior to submitting them to the Commission. The number of questionnaires to be reviewed is based on the share of total responding firms during the period covered by the current generic clearance that were interested parties (22 percent). The time per questionnaire is estimated based upon the review experience of Commission staff, which ranges from 2 to 4 hours per questionnaire but not, as discussed earlier, including time required by Commission staff to prepare and review follow-up requests.

Third-party disclosure burden.--Time required for outside legal advisors to serve their clients' questionnaires on other parties to the investigation or review under an administrative protective order. The number of questionnaires to be served is based on the share of total responding firms during the period covered by the current generic clearance that were interested parties.

Variation in estimated burden.--The hourly burden estimates presented above can be expected to vary widely among individual respondents from one hour to several times the reported average burden. The reasons for the variation are as follows: (1) depending on the time of year a petition is filed or order is to be reviewed the Commission may or may not examine partial year data; (2) questionnaires for the original investigations generally examine three years of data (plus partial periods if applicable) while questionnaires for the five year sunset reviews typically examine data from the time of the original investigation or last review to the present; (3) a respondent may only produce, import, or purchase the products during a short time period or handle only one of the products reviewed; (4) the time required to extract the data from existing records will vary depending both on the product subject to investigation (and the likelihood that certain data are already aggregated for that product) as well as on variations in firm-specific record systems; (5) whether the firm's operations are centralized or spread among various locations; and (6) the questionnaires include the maximum number of reporting categories to ensure that meaningful data will be obtained from firms with complex business operations meaning that some sections of the questionnaires will not apply to smaller-sized firms.

Table 2 presents the range in reported variance (aggregated for an entire investigation and by individual respondents) for various types of Commission questionnaires issued under the current generic clearance:

Table 2 Reported variance in reported burden hours, by type of information collection, July 2005-June 2008				
Type of investi- gation	Type of questionnaire			
	Domestic producer	Importer	Purchaser	Foreign producer
	Average reported burden hours			
Preliminary	43 to 175 ¹	17 to 73	(²)	16 to 58
Final (including 421s)	34 to 183 ³	6 ⁴ to 165 ⁵	10 to 68	24 to 177 ⁶
Review	20 to 500 ⁷	9 ⁸ to 114 ⁹	9 to 69	20 to 131 ¹⁰
¹ Two reporting firms (both petitioners). ² Not applicable; purchaser questionnaires are not issued in preliminary investigations. ³ Two reporting firms, one reported 40 burden hours and the other reported 325 burden hours. ⁴ Three reporting firms, each reported minimal burden. ⁵ Two reporting firms, one reported 40 burden hours and the other reported 313 burden hours. ⁶ Five reporting firms with reported burden ranging from 55 hours to 280 hours. ⁷ One reporting firm. ⁸ Six reporting firms, each reported minimal burden. ⁹ Three reporting firms with reported burden ranging from 3 hours to 300 hours. ¹⁰ Five reporting firms with reported burden ranging from 30 hours to 350 hours.				
Source: Compiled from data reported in response to Commission questionnaires for the current generic clearance that were available as of February 2008.				

As shown, the range of burden varies more among reporting firms for a specific investigation than it does among various types of questionnaires (and investigations). That said, the minimum and maximum reported burdens were highest for domestic producer questionnaires regardless of the type of investigation.²¹

Annualized cost to respondents.--The estimated total cost, on an annual basis, to respondents of the proposed information collections for July 2008 through June 2011 is \$15.8 million (table 3). This cost was obtained by multiplying the number of burden hours estimated to be imposed by questionnaires cleared under the requested generic clearance by the average cost per hour to respond. The average cost per hour to respond is based on actual cost data reported by respondents to Commission questionnaires issued under the current generic clearance.

²¹See comments in item 8 on variations in outside reporting burden.

Table 3 Projected annual cost data, by type of information collection, July 2008-June 2011						
Item	Producer questionnaires	Importer questionnaires	Purchaser questionnaires	Foreign producer questionnaires	Institution notices for 5-year reviews	Total
Estimated cost imposed annually in July 2008-June 2011 on responding firms						
Total burden hours ¹	51,136	55,227	31,382	53,153	639	191,537
Cost per burden hour ²	\$84.18	\$87.44	\$80.24	\$67.93	\$83.95	(³)
Total cost (\$1,000) ⁴	4,305	4,829	2,518	3,611	53	15,316
¹ The component of total response burden from table 1 that is attributable to burden on responding firms (but excludes outside review and third-party review burden). ² Actual cost per hour incurred by firms except for the institution notices which are an average of data reported by domestic firms. Data are calculated from the total cost to complete the questionnaires reported by firms in their responses to questionnaires issued under the current generic clearance. Firms were not requested to separate their costs into wage or other categories. ³ Not calculated. ⁴ Data were not adjusted upward to account for inflation over the three-year period covered by a generic clearance.						
Source: Compiled from data reported in response to Commission questionnaires for the current generic clearance that were available as of February 2008.						

(13) Total annual cost burden.--The total annual cost burden to responding firms is shown above in table 3. There are no known capital and start-up cost components. However, the estimated cost of the outside review (i.e., the services of outside legal and financial advisors to review the questionnaires prior to their submission to the Commission) and third party disclosure burden (i.e., service of the questionnaires on other parties to an investigation under the administrative protective order) is provided as a maintenance and purchase of services component cost in table 4.

Table 4 Estimated purchase of services component cost¹						
Item	Producer questionnaires	Importer questionnaires	Purchaser questionnaires	Foreign producer questionnaires	Institution notices for 5-year reviews	Total
Estimated cost imposed annually in July 2008-June 2011						
Total cost (\$1,000) ²	564.9	138.1	8.6	1,012.4	123.6	1,847.6
¹ Does not include the estimated cost imposed on responding firms provided in table 3. ² Data were not adjusted upward to account for inflation over the three-year period covered by a generic clearance.						
Source: Calculated from estimated cost data applied to outside review and third-party disclosure burden estimated per the definitions provided in table 1.						

(14) Annualized cost to the Federal Government.--The total project cost for the Commission's import injury investigations was \$18.7 million for FY 2007. In addition to staff time, this figure includes travel, data processing, and printing costs plus the cost of personnel benefits and overhead. The total project cost is provided here since the questionnaires (and institution notices for the five-year sunset reviews) issued by the Commission are an integral part of its investigations.

(15) Program changes and/or adjustments.--The current generic clearance authority for 173,148 hours of average annual burden expires on June 30, 2008. As shown in table 1, this request for an extension projects a total respondent burden of 198,205 hours for an increase of 14.5 percent.

Generally, the most significant factor in determining the total annual response burden (and cost) imposed by the Commission on questionnaire respondents is the Commission's workload and thus the number of questionnaires issued. That workload results from the number of petitions for investigations filed annually, supplemented by the number of review or sunset investigations for which data must be collected. The previous generic clearance request was based on questionnaires being issued for 55 cases on an annual basis; this clearance request is based on questionnaires being issued for 59 cases. This does not represent a substantial difference. Another relevant variable is the average burden per questionnaire (along with the number of responding firms per questionnaire). Historical data for the average respondent burden are provided in table 5. As shown, average burden hours per questionnaire have fluctuated from period to period although the reported burden is at a period high for domestic producer, purchaser, and foreign producer questionnaires but not for importer questionnaires. The average burden estimates in this clearance request reflect, in part, the higher reported average burden in 2008.²² Finally, the increased burden estimates for this clearance request reflects the additional burden of 5 percent per questionnaire required by any industry-wide supplemental follow-ups.

²²As indicated in the notes to table 2, there can be considerable variation in the time required for individual firms to respond to a common questionnaire. Further, the average burden per questionnaire can vary from period to period (table 5) due, in part, to variation in the types of investigations filed (and resulting complexity of the questionnaires). To minimize random variation, the average burden hours in this request are based on the actual burden reported for the average of 2005 and 2008. The Commission further notes that the methodology used to calculate reported burden biases the average burden upward. Not all firms completing a questionnaire provide the actual hours of time and costs incurred for their firm to complete a response (which are requested by the Commission on the second page of each questionnaire). Generally, the firms providing that information are those that, based upon the completeness and breadth of their response, appear to have expended the most hours. For each investigation, the Commission assigns the average burden hours of the firms providing response data to the firms completing a questionnaire but not providing response data to derive the total burden imposed (which is then used to calculate the average burden for all responding firms).

Table 5
Reported average burden for questionnaires issued under generic clearance for the periods ending in the specified years, by questionnaire type

Questionnaire type	1993	1996	1999	2002	2005	2008
	<i>(Burden hours per questionnaire)</i>					
Domestic producers	48.1	36.4	52.6	57.5	48.0	75.1 ¹
Importers	56.4	37.2	41.1	44.0	37.7	40.5 ²
Purchasers	21.2	22.0	23.2	28.0	26.3	31.0 ³
Foreign producers	(4)	(4)	28.0	28.0	31.4	54.4 ⁵

¹ The number of responding producers per investigation in 2008 (9.5 firms) was much less than the number responding in 2005 (17.3 firms).

² The number of responding importers per investigation in 2008 (22.8 firms) was about the same as in 2005 (24.9 firms).

³ The number of responding purchasers per investigation in 2008 (25.4 firms) was about the same as in 2005 (27.8 firms).

⁴ Not available.

⁵ The number of responding foreign producers per investigation in 2008 (13.4 firms) was about the same as in 2005 (14.8 firms). The Commission, however, anticipates increased responses to foreign producer questionnaires during the next clearance period due to wider reporting requirements for its Bratsk analysis and estimates 20 responding firms per foreign producer questionnaire.

Note.—The dates provided for the clearance periods refer to the burden actually imposed by Commission questionnaires during the previous three years.

Source: Compiled from data submitted in response to Commission questionnaires.

(16) Plans for tabulation and publication.--After a questionnaire is mailed for a specific investigation, firms are contacted by Commission staff to ensure that they received the questionnaire and are able to supply the data. There is a telephone or e-mail follow-up to firms that do not respond by the due date. After the questionnaires are returned, Commission staff reviews each response for accuracy, resolves any questions with the respondent, and compiles responses using various forms of information technology. Data from questionnaires issued under the current generic clearance largely were processed using LOTUS 1-2-3. The tabulation process is basically one of compilation; no particularly complex analytical techniques as such are used. However, the process itself is somewhat complex in that it is designed to perform numerous edits and other checks needed to identify respondent and data-entry error. The computer programs also permit the compiled data to be displayed in a variety of formats that highlight the pertinent issues and questions so as to aid the Commission in its analysis and subsequent determination.²³

Compiled data from the questionnaires are transmitted to the Commission in the form of a staff report. (Questionnaire data are also scanned into the Commission's Electronic Document Information System (EDIS) and made available electronically to authorized persons within the Commission.)²⁴ A version of the Commission's report for each investigation with all confidential material deleted is published shortly after the end of a specific investigation in a document that also contains the Commission's determination

²³As indicated in item 2, the Commission releases completed questionnaires to authorized representatives of interested parties under the terms of an administrative protective order. The Commission now provides the releases on a compact disc, which permits the representatives to access the data electronically and assists in the representatives' preparation of subsequent submissions to the Commission.

²⁴The Commission is exploring whether access to EDIS can be made available to outside parties under an the administrative protective order without compromising the security of the confidential information.

for that investigation and the Commissioners' opinions. Copies of the published report are disseminated to individuals on the Commission's mailing list (which consists largely of trade law firms, embassies, and congressional staff) and made available on the Commission's website (*see* <http://www.usitc.gov/publications/index.htm>). Prior to the publication of the report, and immediately after the Commission's vote in a specific investigation, a press release is issued that provides the outcome of the vote and lists factual highlights of the investigation. In addition, the Commission's determination for each investigation is published in the *Federal Register*.

The time schedule depends upon the type and length of the specific investigation. For antidumping and countervailing duty investigations, escape-clause investigations, and market disruption investigations, the Commission has statutory deadlines for reporting its determination, which range from 45 days to six months from the date of receipt of a petition, request from the President, or Congressional resolution. The deadlines for escape-clause review, changed circumstances, antidumping and countervailing duty review investigations, and investigations on interference with programs of the USDA generally range from three to six months. The actual time schedule for an investigation is determined when the case is instituted.

(17) Approval to not display the expiration date for OMB approval.--Not applicable. The questionnaires and notices of institution of five-year sunset reviews issued under the generic clearance will display the expiration date for OMB approval of the information collection.

(18) Consistency with CFR 1320.9 guidelines.--There are no known exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1 for this proposed information collection.

Part B. Collections of Information Employing Statistical Methods

The Commission does not use statistical sampling methodology for information collections conducted under the generic clearance but instead typically sends questionnaire to the entire population or to a substantial portion of the population of firms producing, importing, and/or purchasing the product in question. Initially, a petitioning domestic producer is required to identify all domestic producers and importers of the relevant product known to it as well as the foreign producers in the subject country(ies). The Commission supplements this information with publicly available sources (for domestic and foreign producers) and accesses confidential information from Customs (for importers and foreign producers) to compile the lists of firms to receive questionnaires. Purchaser names are provided to the Commission by the domestic producers and importers. *See* item 16 above for information on how the Commission maximizes response rates.

For a specific investigation, the Commission usually sends producer questionnaires to all U.S. firms manufacturing the product(s) in question. In most investigations there are no more than a total of 20 to 30 firms in the United States, and often far fewer, producing the relevant product(s).²⁵ Commission experience has shown that a universe size of 20 to 30 firms generally is too small to use sampling procedures and obtain precise estimates of population parameters. Also, some of the information contained in the producers' questionnaire (e.g., questions as to the impact of imports on firms' operations) is relevant for the Commission's determinations regardless of the size of the respondent. Similarly, the Commission attempts to obtain data from all foreign manufacturers of the subject product, especially if they are exporting to the United States. Typically, there are fewer than 10 foreign manufacturers per

²⁵For the current generic clearance, 9.5 producers returned questionnaires for each producer questionnaire issued.

country involved in any Commission investigation.²⁶

In contrast to domestic and foreign manufacturers, the Commission often does not attempt to obtain data from every U.S. importer and purchaser of the relevant product(s). Importer and purchaser questionnaires are, however, mailed to the most substantial firms that import or purchase from the countries where the subject merchandise is produced.²⁷ Concentrating staff effort on a smaller group of firms permits the Commission to fully edit and review returned questionnaires and minimize the burden on smaller respondents. Where possible, the Commission uses official Commerce statistics to determine import levels, in some cases adjusting those statistics on the basis of importer questionnaire responses. Further, a key purpose of the purchasers' questionnaire is not to estimate population totals but to obtain an objective assessment of the factors of competition between domestically produced and imported products. Commission reports indicate when the entire universe of firms was not surveyed.

Notices of the institution of five-year sunset reviews are not mailed to firms, but published in the *Federal Register*. Responses are solicited and are voluntary.

²⁶The Commission compiles separate data for each country considered. For the current generic clearance, a total of 13.4 firms for all countries combined returned questionnaires per investigation.

²⁷For the current generic clearance, 22.8 importers and 25.4 purchasers returned questionnaires per investigation.