

1SUPPORTING STATEMENT
UNITED STATES INTERNATIONAL TRADE COMMISSION QUESTIONNAIRE
Trade, Investment, and Industrial Policies in India: Effects on the U.S. Economy

Part A—Justification

1. Request for regular action

The U.S. International Trade Commission (USITC or Commission) is seeking approval for use of a questionnaire in connection with a report it is preparing for the U.S. House Ways and Means Committee and the U.S. Senate Committee on Finance (Committees). The Commission's report, *Trade, Investment, and Industrial Policies in India: Effects on the U.S. Economy* (Inv. no. 332-543), was requested by the Committees on August 2, 2013. The Committees requested that the Commission transmit its report by November 31, 2014 (subsequently tolled to December 15, 2014 as a result of the government shutdown). Questionnaires are one method by which the Commission will collect information for this request.

On November 14, 2013 the Commission posted its draft questionnaire on its website (http://pubapps2.usitc.gov/comments_332_543/), and published a request for public comments in the Federal Register on the draft. Public comments will be accepted through January 14, 2014.

Pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) and the authority delegated by the President of the United States to the U.S. Senate Committee on Finance under Executive Order 12661, the Commission, whenever requested, "shall put at the disposal of the President "[...] all information at its command, and shall make such investigations and reports as may be requested by the President [...]." Section 333(a) of the Tariff Act of 1930 authorizes the Commission, in carrying out its functions and duties in connection with any investigation authorized by law, to obtain information, including by subpoena or other order to furnish information. Copies of section 332(g) and section 333(a) of the Tariff Act of 1930 are attached as supplementary documents.

As indicated above, the report is due to the Committees by December 15, 2015. This deadline necessitates prompt issuance of questionnaires. The questionnaires are tentatively scheduled to be mailed to respondents on or before February 11, 2014 in order to allow sufficient time for each recipient to complete the questionnaire, which is due back to the Commission by March 18, 2014.

2. Purpose

The information collected from questionnaires will be aggregated by the Commission and presented in a public report to the Committees that will examine the effects of Indian industrial policies that discriminate against U.S. imports and investment. The information to be collected is critical to the Commission's task in addressing the elements of the Committees' request, since such data are not publicly available.

In the letter requesting the study, the Committees directed the USITC to (1) provide an overview of trends and policies in India affecting trade and foreign direct investment; (2) identify the significant policies currently maintained by India; (3) present case studies examining the effect of measures on large and small companies; (4) quantify the economic effects of Indian measures on the U.S. economy; and (5) survey U.S. companies about their perceptions of recent changes in Indian policies and the effect these changes have had on company strategies towards India.

The Committees specified that the Commission's report be based on a review of available data, including a survey of U.S. firms in selected industries particularly affected by Indian industrial policies. The use of

a questionnaire to collect relevant information is thus an integral part of the Committees' request and will aid the Commission in fulfilling its statutory duty to provide the requested information.

As drafted, the questionnaire mandates a response from recipients. Pursuant to section 333(a) of the Tariff Act of 1930, the Commission is authorized to compel persons, firms, a partnership, a corporation, or an association to furnish in writing, in such detail and in such form as the Commission may prescribe, information in their possession pertaining to such investigation. Failure to require mandatory responses would likely significantly depress response rates. Without a robust response, the Commission will be unable to furnish the information requested by the Committees and will be unable to satisfactorily discharge its responsibility under section 332(g) of the Tariff Act of 1930.

3. Use of technology

All available information technology has been incorporated into the questionnaire design, including the use of Adobe Form Fillable software that will allow respondents to complete the questionnaire electronically. This interactive Adobe Form, which incorporates quality control functions, submission buttons, and summation functions, will be available for download from the USITC website at <http://www.usitc.gov/indiasurvey>. While recipients will not be required to submit their questionnaire responses electronically, they will be able to provide their responses via electronic submission of the questionnaire through a secure upload system or via email.

4. Non-duplication of available data

To the extent possible, the Commission's investigation will rely on existing publicly available data. Commission staff have reached out to government, academic, and industry leaders in the relevant industries, and have confirmed that there is no existing data that describe U.S. companies' perceptions about recent changes in Indian policies and the effects these changes have had on their strategies towards India. Further, after a thorough background search of data sources for this investigation, it has been determined that no other industry, government, or academic organizations collect or publish data that are duplicative of the data requested in the questionnaire.

5. Impact on small businesses

According to the U.S. Census Bureau, on average only one in 500 small firms (with less than 50 employees) in the United States exports to India. These small firms are even less likely to have corporate affiliates in India. Because of the extreme scarcity of small firms that conduct business with India, this survey does not include firms with fewer than 50 employees, except in a few industries in which smaller firms are expected to be more active in India.¹ Hence relatively few respondents to the questionnaire will be small businesses, as specified under the Small Business Administration Rules (13 CFR Part 121), and very small firms were eliminated from our sampling population (for further detail, please see Justification Part B, page 2).

To minimize the reporting burden, the questionnaire was designed to be as brief as possible, consistent with information requirements. Skip logic ensures that firms answer only relevant sections, based on their activity in India. Check -the-box and select-from-a-list response options are used where appropriate to simplify the questionnaire. In addition, the questionnaire indicates that carefully prepared estimates are acceptable, which should further reduce the potential burden on smaller firms that may not have sufficient administrative resources or automated record-keeping systems.

¹ These industries include alcoholic beverage production and distribution, production of certain crops and livestock, and other agricultural industries. Firms with as few as 20 employees may be randomly surveyed in these industries, and industry associations provided lists of small firms in some of these industries to the USITC for use in developing the sampling population.

6. Consequences of non-collection

Due to the lack of suitable data from other sources, without this information collection, the Commission will be unable to fulfill the Committees’ request and therefore will be unable to satisfactorily discharge its responsibility under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

7. Frequency of data collection

This is a one-time, nonrecurring data collection.

8a. Consistency with 5 CFR 1320.6 guidelines

No special circumstances exist that require the collection to be conducted in a manner inconsistent with the guidelines of 5 CFR 1320.6. If any respondents do not maintain information in the format requested by the questionnaire, they are requested to submit carefully prepared estimates based upon available information.

8b. Consultations with affected public

The Commission’s 60-day notice requesting public comment was published in the Federal Register on November 14, 2013. The notice and other information related to this study were published on the Commission’s Internet site at http://pubapps2.usitc.gov/comments_332_543/.

The Commission’s 30-day notice of submission to OMB requesting clearance was published in the Federal Register on December 23, 2013. The notice is also posted on the Commission’s Internet site at http://www.usitc.gov/research_and_analysis/What_We_Are_Working_On.htm. One public comment has been received to date.

Commission staff field tested the questionnaire with regard to the availability of data, reporting burden, product coverage and definitions, clarity of instructions, disclosure, and reporting format. All field testers received copies of the draft questionnaire. Commission staff consulted a representative from one company or association in each of the following industries:

1. Food and agricultural products
2. Retail services
3. Computer services
4. Hide, skin, and leather products
5. Solar electricity
6. Biotechnology
7. Copyright-based industries
8. Pharmaceuticals
9. Banking services

Because of concerns raised by individual companies and suggestions received by other government agencies, the names and contact information for companies and associations that field tested the questionnaire have not been reported here.

The table below provides a record of all changes made to the questionnaire since the draft was published for public comment. The table includes changes made in response to public comments, field testers’ feedback, and Commission review.

Comments/Suggestions	Response
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Section 7, which is intended to address the impact of prohibitive barriers to trade, does not provide adequate opportunity for industries that are completely barred from exporting products to India to report the effects of those measures.	Added a question that asks firms that have no market access how likely they would be to enter the Indian market if the prohibitive barrier were removed.
Question 6.4, which asks about firms' responses to Indian regulatory barriers, does not ask for a response from firms that have faced an unchanged barrier, only from firms that have faced an increase in barriers since 2007.	Incorporated suggestion by modifying the question to ask for responses from firms that have faced any barrier during the 2007-13 period, not just those that have faced increasing barriers.
The term "sales" is not commonly used as a measure of firm performance in the financial services industry.	Expanded definition of sales throughout the questionnaire to state that these firms should report "revenue, net interest margin, or similar measure instead of sales."
Question asking for total global sales is unnecessarily burdensome.	Deleted question and will instead rely on the number of employees as a statistical control.
Questions asking about joint venture operations and about holding companies tend to result in a number of calls and emails from respondents seeking clarification.	Removed question about joint ventures and changed question about holding companies to instead ask whether the respondent is a parent company operating in the U.S.
Firms who believe the questionnaire does not apply to them often call USITC staff asking why they are required to respond.	Created a table on the first page that lists possible scenarios and which sections that firm is required to respond to. (For example, for firms with no international activity, the table states that the survey asks for "limited information about your company so we can ensure our survey accurately represents your industry.")
Confidentiality language in the certification section (Section 9) does not allow the USITC the flexibility to conduct internal evaluation of statistical methods used in questionnaire collection and analysis, which may occur after the conclusion of an investigation.	In consultation with General Counsel's office, adjusted the language slightly, most notably to add "internal evaluation" to the list of ways the questionnaire response may be used.
Typos in items 2 and 3 of question 2 (add "in")	Implemented.
Firms may have difficulty listing the exact number of establishments in industries where employees may work from home.	Question 2.4 revised to ask only for presence in each state rather than number of establishment. The definition of establishment was extended to exclude employees working from home as an establishment.
Corruption should be added to the list of policies in Question 3.3.	Corruption is already listed under the general market conditions in question 6.5.
The questions requesting the most affected product does not address the fact that multiple products may be affected by a specific regulation, or that restrictions on a given product affect the sale of affiliated products.	Total exports to India have been requested by the questionnaire, which will capture any broader effects of discriminatory policies. The most affected product is requested in order to estimate the effect of policies on the most affected products, and potentially to compare

	the most affected products to all products exported or sold via foreign affiliates.
Draft regulations create uncertainty and may affect business confidence or operations.	Two policy questions that ask about the effect of regulatory uncertainty were added to Questions 3.3, 4.2, 5.2
Price controls can be problematic for firms and should be included in the list of challenges.	Price controls were added to Question 6.5, the question regarding the general business environment in India.
The question requesting lost sales does not make it clear that only lost sales due to discriminatory policies are requested; it should be clarified that lost sales due to market conditions should not be included.	Language was clarified.
It is difficult to find sectors in the drop down list – should be alphabetized or broken down into sectors.	The drop down box will be separated into sector groupings which will each be alphabetized.
Provide an option in Question 6.4 of leaving the Indian market altogether.	Implemented.
Requested an additional question that permits firms to describe any other effects that could not be directly quantified.	Additional question provided after Question 6.3 with free response area.
Certain investment policies were not covered, including limits on number of licenses and geographical expansion with the country.	Implemented by adding additional prompts in Question 5.2.
Provide additional language on confidentiality.	No change made. The Commission uses standard language based on statutes, court cases, and existing Commission rules and regulations.
Additional issues proposed for general market conditions questions, including intellectual property protection, discriminatory measures, and additional charges or fees.	The issues raised were already largely included in Questions 3.3, 4.2, and 5.2. “Bureaucratic or regulatory delays” in Question 6.5 was broadened to include red tape more generally.
The wording of section 7 is unclear, and seems to discuss only prohibited items rather than highly restrictive barriers.	Language clarified.
Question 7.3 should be augmented to include several additional categories.	Most proposed categories were either already included or were too industry-specific to be included in a general questionnaire. One “other” category was added.

9. Payments or gifts

Not applicable. Questionnaire recipients will not be provided with any payments or gifts for their responses.

10. Assurances of confidentiality

On the first page of the questionnaire, the Commission provides recipients with an assurance of confidentiality, indicating that: “The Commission has designated as “confidential business information” the information you provide in the response to this questionnaire, to the extent that such information would reveal the operations of your firm and is not otherwise available to the public. The Commission will not disclose such confidential business information except as provided for in section 9 of this questionnaire. Information received in response to this questionnaire will be aggregated with information from other questionnaire responses and will not be published in a manner that would reveal the operations of your firm.”

On page 28 of the questionnaire, the Commission states that: “Section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) provides that the Commission may not release information which it considers to be confidential business information unless the party submitting such information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The undersigned acknowledges that information submitted in this questionnaire response and throughout this investigation may be used by the USITC, its employees, and contract personnel who are acting in the capacity of USITC employees, for the purposes of developing or maintaining the records of this investigation or related proceedings for which this information is submitted, or in internal audits and in investigations relating to the programs and operations of the USITC pursuant to 5 U.S.C. Appendix 3.” The questionnaire also notes that the Committees “have asked that the Commission not include any confidential business information in the report it transmits to them.”

11. Sensitive information

The Commission is not seeking information on issues of a sensitive nature involving persons or firms.

12. Respondents’ projected cost burden

The Commission has reduced the reporting burden on respondents by limiting the length and complexity of the questionnaire. Furthermore, the questionnaire only contains questions that the Commission believes to be readily available from firms’ existing records and not all sections will apply to all firms.

The reporting burden is estimated to be:

Number of respondents:	(No.)	9,000
Frequency of response:	(No.)	1
Annual burden per respondent:	(hours)	12
Total burden:	(hours)	108,000

These estimates are based on reported response statistics from recently completed, similar surveys that the Commission has executed. It is estimated that completing the questionnaire, including time to gather necessary information, would take approximately 10 hours depending on the size and complexity of the firm. The burden on individual respondents may vary. The actual burden experienced by individual firms will likely be lower than 10 hours because not all sections of the questionnaire apply to all firms. Moreover, the total burden is likely to be considerably lower because the total response rate will likely be less than 100 percent, and firms not conducting business with India will complete only a small portion of the questionnaire.

The Commission has included a notice of the above response burden averages in the questionnaire, along with a request that respondents send comments to the Commission and to OMB.

The combined annualized cost to all respondents for the estimated hour burdens identified above is as follows:

$$\text{Cost} = 108,000 \text{ hours} \times \$68.27^* \text{ per hour} = \$7,373,160$$

*This is the same hourly cost estimate used in item 14 below. The Commission projects that this is an accurate hourly cost estimate for personnel who will likely complete the questionnaire.

13. Annual public response burden

This is a one-time collection of information and therefore the total recurring annual cost burden is zero.

a. Total capital and start-up cost component: The Commission does not expect any capital and start-up costs because all information likely already exists in firms' records storage facilities.

b. Total operation and maintenance and purchase of service component: The Commission does not expect respondents will need to purchase any services in completing the questionnaire.

14. Federal change in burden

The estimated total cost to the Federal Government is \$295,500 as detailed below. No new equipment will be purchased because existing equipment will be used to process the questionnaires.

The estimated number of work hours includes designing the questionnaires, soliciting field test comments, editing results (i.e., contacting respondents after completion of the questionnaires to clarify responses), and compiling and tabulating questionnaire responses.

Personnel cost*	= \$269,500
Operational costs**	= <u>\$22,600</u>
Total cost	= \$292,100

*The hourly figure was approximated by dividing the Commission's average salary level (\$143,000) by the number of work hours per year (2,080), which is equivalent to an average cost of \$68.75 per hour. Personnel costs also include three weeks of two full time staff members to follow up with respondents. This time includes calls to questionnaire recipients from Commission staff to ensure that organizations reply to the questionnaire and that responses received are accurate. The Commission estimates that 3,920 personnel hours (98 personnel weeks) will be spent on the questionnaire, which is approximately 23 percent of the total personnel hours the Commission budgeted for the study.

**Operational costs include printing, mailing, and statistical consultant fees. Costs for printing and mailing costs provided by a mailing house are estimated at \$19,748, and statistical consultant fees are estimated at \$2,851.

15. Program change justification

The Commission currently imposes no reporting burden on firms with respect to Indian industrial policies that discriminate against U.S. trade and investment. The burden on firms increased because of a request from the Committees to provide a report on this topic. Such data are not publicly available. This is a one-time collection for such data. The Committees' request letter is attached as a supplemental document.

16. Project plan and schedule

After receiving completed questionnaires, Commission staff will edit and review each response for accuracy, resolve any questions with the respondent, and tabulate the returns. Data will be analyzed,

compiled in a form that will not reveal the individual operations of any respondent, and prepared for publication. The questionnaire is scheduled to be mailed on or before February 11, 2014. The respondents are requested to respond by March 18, 2014. The report, incorporating questionnaire information, will be transmitted to the Committees on December 15, 2014.

17. Non-display of expiration date

Not applicable, the expiration date appears on page 1 of the Commission questionnaire.

18. Exceptions to certification statement to form OMB 83-I

Not applicable.