



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON DC 20508

**Supporting Statement for Emergency Clearance of Information Collection Request:
Large Civil Aircraft Dispute Portal
OMB Control Number [TBD]**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

Following an investigation, and nearly 15 years of litigation, the U.S. Trade Representative determined that the European Union (EU) and certain member States or former member States denied U.S. rights under the World Trade Organization (WTO) Agreement and failed to implement WTO Dispute Settlement Body recommendations concerning certain subsidies to the EU large civil aircraft industry. Pursuant to sections 301(a), 301(c), 304(a)(1)(B), and 306(b) of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2411(a), 2411(c), 2414(a)(1)(B), and 2416(b)), the U.S. Trade Representative determined to take action in the form of additional duties on products of certain EU member States, at levels of 10 or 25 percent *ad valorem*, as specified in the list of products included in Annex A of the October 9 notice, effective October 18, 2019 (retaliation list). *See* 84 FR 54245 (October 9, 2019).

You can find background on the proceedings in this investigation in prior notices including 84 FR 15028 (April 12, 2019), 84 FR 32248 (July 5, 2019), 84 FR 54245 (October 9, 2019), 84 FR 55998 (October 18, 2019), 84 FR 67992 (December 12, 2019), 85 FR 10204 (February 21, 2020), and 85 FR 14517 (March 12, 2020).

Section 306(b)(2)(B) of the Trade Act requires the U.S. Trade Representative to revise the retaliation list unless certain conditions are met. Under section 306(c), the U.S. Trade Representative must make revisions 120 days after he took action, and every 180 days thereafter unless certain conditions are met. Before making revisions, section 306(d) requires the U.S. Trade Representative to seek public comments.

The U.S. Trade Representative announced the beginning of the 120-day review of the action on December 12, 2019. *See* 84 FR 67992 (December 12 notice). The December 12 notice specifically requested public comments on:

- whether the U.S. Trade Representative should remove products of specific EU member States from the list of products subject to additional duties or should remain on the list.
- if a product remains on the list, whether the U.S. Trade Representative increase the current rate of additional duty to as high as 100 percent.
- whether the U.S. Trade Representative should add additional EU products to the list.

USTR received nearly 26,000 comments in response to the December 12 notice. The U.S. Trade Representative announced certain revisions to the action being taken in the investigation on February 14, 2020. *See* 85 FR 10204 (February 21, 2020), and 85 FR 14517 (March 12, 2020).

Unless certain statutory conditions are met, the next 180-day revision is required on or about August 12, 2020. USTR anticipates receiving at least as many public comments as it received in response to the 120-day review.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

USTR intends to collect the same type of information it requested in the December 12 notice (see response to Question 1) for each periodic revision. To assist in timely and comprehensive review and public availability of comments in response to notices of periodic revisions, USTR is establishing the Large Civil Aircraft Dispute Portal and requiring use of the attached LCA Form. USTR uses the information it collects to inform the U.S. Trade Representative's determination whether or not to make any revisions. USTR will make the comments, except for Business Confidential Information (BCI), available to the public through the Portal.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Commenters will make all submissions via an electronic portal - the Large Civil Aircraft Dispute Portal. USTR will make the information, except for BCI, available to the public through the Portal.

4. Describe efforts to identify duplication.

Commenters will be able to submit their views regarding multiple products at once. This will mitigate the need for commenters to make more than one submission if they want to comment on more than one product.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The submission requirements for all commenters to submit views on whether to change the treatment accorded to a particular product are the same. The ability to submit a single comment on multiple products will minimize the burden on all commenters, including small businesses.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without the information collection, USTR will be unable to comply with the provisions of the

Trade Act that require the U.S. Trade Representative to revise the action being taken in the large civil aircraft dispute, unless certain conditions are met, in accordance with a specified schedule.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection of information is consistent with OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

On May 27, 2020 (85 FR 31845), USTR published an emergency clearance request notice in the *Federal Register*. It asked interested persons to submit comments to OMB no later than June 9, 2020. Most comments addressed whether the U.S. Trade Representative should make changes to the duties on products of certain EU member States. In response to the comments concerning the LCA Form, USTR will label each question/field, other than the information identifying a commenter in Question 1, as an ‘optional field.’ USTR also will add introductory language to each section/screen on the portal to indicate that a commenter may proceed to the next screen/section, and a note at the bottom of each screen/section indicating that commenters will have an opportunity to “submit additional information, general comments, and attachments at Step 4.” A mock-up of an example portal page is attached.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees. N/A.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

USTR will post all submissions for public inspection through the Portal other than information the submitter certifies is business confidential.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. N/A.

12. Provide an estimate in hours of the burden of the collection of information.

Based on the first periodic review, USTR anticipates receiving approximately 25,000 comments in response to each biannual notice of periodic revision. Because a commenter can submit a single comment on multiple products, we do not anticipate more than one comment from the same submitter. Commenters likely will include importers and end-users of a product. For

example, in the first review, USTR received comments from importers and distributors of wine, as well as individual wine consumers.

USTR expects that the length of submissions and burden on commenters will vary widely. Comments expressing general support or opposition to the tariff action, which are not specific to a particular product, comprised 80% of the first review submissions, and generally are less than 10 sentences. Preparation and submission of these comments likely takes 15 minutes or less. Comments that are product specific, or submitted on behalf of industries, tended to be more complex and lengthy, spanning three to ten or more pages, and including additional attachments. These more detailed submissions could take up to two hours to prepare.

Comment	Submission Time	Number of Comments	Total Annual Hours	Total Annual Cost
prepare and submit comment	2 hours	25,000 per notice	50,000 x 2=100,000	\$200 per request x 50,000 = \$10M

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The estimated annual cost burden to respondents excluding the value of the burden hours in Question 12 is \$0.

14. Provide estimates of annualized cost to the Federal government.

Comment	Processing Time	Number of Requests	Total Annual Hours	Total Annual Cost
evaluate each comment	15 minutes	25,000 per notice	6,250 x 2 = 12,500	\$1.25M x 2 = \$2.5M

The \$1.25 million biannual cost estimate includes the average annual salary plus benefits, for the federal employees and contractors expected to work on the periodic review process. Until certain statutory requirements are met, USTR will initiate a periodic review every 180 days, or twice a year. If necessary, the estimated annual cost of the information collection would be \$2.5 million.

15. Explain the reasons for any program changes or adjustments.

USTR has transitioned its collection of public comments from the public docket on Regulations.gov to a purpose built electronic portal available through USTR’s website. Among other improvements to the public comment process, the electronic portal facilitates the collection of comments, enhances USTR’s ability to view/organize data, and allows the public to more easily search/view public submissions.

16. For collections whose results will be published, outline the plans for tabulation and publication.

USTR will announce the Large Civil Aircraft Dispute Portal in the *Federal Register* notices soliciting comments on revisions and provide a link to the Portal on the USTR website. The submissions, except for BCI, will be publicly available and searchable through the Portal. Based on a review of public comments, and other considerations, USTR will publish the results of its periodic review in the *Federal Register*.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate. N/A.

18. Explain each exception to the certification statement. N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Review of Action: Large Civil Aircraft Dispute Form

1. Submitter Information

Full Organization Legal Name **(Public)**

Commenter First Name **(Public)**

Commenter Last Name **(Public)**

Commenter Email Address **(BCI)**

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? **(Public)**

Note: If you are submitting on behalf of an organization or industry, provide the information below.

Third Party Organization Type **(Public)**

Third Party Firm; Association Name **(Public)**

Third Party Representative **(BCI)**

Third Party Email Address **(BCI)**

2. Product Details

a) Select one or more product categories applicable to or covered by your comment. **(Public)**

Submitter will have the option to select one or more general product categories from a pre-filled list.

b) What specific product(s) are applicable to or covered by your comment? **(Public)**

Submitter may enter their own product names.

c) Provide the HTSUS subheading or the statistical reporting number applicable to the specific product(s). **(Public)**

Submitter will have the option to select one or more HTSUS codes from a pre-filled list and/or enter their own.

d) What is the current or former EU member State(s) applicable to or covered by your comment? (i.e., the origin of product.) **(Public)**

Submitter may select one or more applicable current or former EU member State(s) from a drop down menu.

3. Respond to the questions below if the product(s) you identified in Question 2 is currently subject to additional duties. (Annex I to the Federal Register notice

lists products currently subject to additional duties.) If the product(s) you identified in Question 2 is not currently subject to additional duties, move to Question 4.

a) With respect to product(s) identified in your response to Question 2, what is your recommendation as to whether additional duties should be maintained? **(Public)**

*Submitter may select the applicable recommendation (*dropdown):
Maintain current level of additional duties on product(s); Remove additional duties from product(s); Maintain additional duties on product, but modify current rate of additional duties; N/A*

b) If you recommend the rate of additional duty be modified, you may provide a recommendation as to the revised rate of additional duty (as high as 100 percent).

4. Respond to the questions below if the product(s) you identified in Question 2 is not currently subject to additional duties. (Annex II to the Federal Register notice lists products for which additional duties of up to 100 percent previously had been proposed, but for which no additional duties are currently imposed.)

a) With respect to products listed in Annex II, what is your recommendation as it relates to the inclusion of the specific product(s) on a revised list of products subject to additional duties? **(Public)**

*Submitter may select the applicable recommendation (*dropdown):
Support Imposition of Additional Duties; Oppose Imposition of Additional Duties;
N/A*

b) You may provide a recommendation as to the rate of additional duty to be imposed (as high as 100 percent). **(Public)**

5. Please comment on whether maintaining or imposing additional duties on a specific product of one or more specific EU member State (or former member State) would be appropriate to enforce U.S. WTO rights or to obtain the elimination of the WTO-inconsistent measures, and/or would be likely to result in the implementation the DSB recommendations in the Large Civil Aircraft dispute or in achieving a mutually satisfactory solution. **(Public)**

6. Please comment on whether maintaining or imposing additional duties on specific products of one or more specific EU member States (or former member States) would cause disproportionate economic harm to U.S. interests, including small or medium size businesses and consumers. **(Public)**

7. Use the field below to provide any additional information in support of your comment, taking account of the instructions provided in Section B of the Federal Register notice. **(Public)**

8. You may upload additional attachments in support of your comment. Please specify whether the attachment is Public or contains Business Confidential Information. **(Submitter Determines Public or BCI)**

*Fields designated as BCI will not be visible to the public.