

1SUPPORTING STATEMENT  
UNITED STATES INTERNATIONAL TRADE COMMISSION QUESTIONNAIRE

Investigation No. 332-586

*Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses*

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 Committee on Finance of the U.S. Senate (Committee). The Commission's report, *Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses* (Investigation No. 332-586) was requested by the Committee in a letter dated April 7, 2021. The Commission will deliver the results of its investigation to the Committee by July 5, 2022.

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. Trade Representative 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.

The Committee requested that the Commission provide an analysis of the trade and economic effects, through the use of survey data. Questionnaires are one method through which the Commission will collect information for this request. The Commission is using one questionnaire for this investigation. On June 16, 2021 the Commission posted its draft questionnaire on its website (<https://www.usitc.gov/foreigncensorship>) and published a request for public comments in the *Federal Register* on the draft. Public comments were accepted through August 15, 2021.

As indicated above, the report is due to the Committee by July 5, 2022. This deadline necessitates prompt issuance of questionnaires. Requests to complete the online questionnaire are tentatively scheduled to be mailed to respondents on or before September 24, 2021 in order to allow sufficient time for each recipient to complete the questionnaire, which is due back to the Commission by October 23, 2021.

**2. Purpose**

In its request letter, the Committee directed the Commission to produce two reports on foreign censorship. The first report will identify and describe various foreign censorship practices that impede U.S. businesses' trade or investment in key foreign markets. The second report will analyze the trade and economic effects of such policies and practices on affected businesses in the United States and their global operations. The analysis will include impacts of censorship measures on (1) employment, (2) direct costs (for example, compliance and entry costs), (3) foregone revenue and sales, (4) self-censorship, and (5) other effects the Commission consider relevant for the Committee to know.

The Committee specified that the Commission's reports be based on a review of available data, including a survey of U.S. businesses. 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. The information to be collected is critical to the Commission's task in addressing the elements of the Committee's request, since such data are not publicly available. The information collected from questionnaires will be aggregated by the Commission to preserve the confidentiality of information received from the responding businesses.

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 Committee and will be unable to satisfactorily discharge its responsibility under section 332(g) of the Tariff Act of 1930.

### **3. Use of technology**

The Commission will use survey software to allow respondents to complete an online questionnaire. The online version will incorporate skip-logic and piping to ensure respondents only see questions that are relevant to them or that include options based on responses to previous questions. The online form incorporates quality control functions, submission buttons, and summation functions and will require an individual ID for each respondent to access. A PDF version of the questionnaire that can be used for reference will also be available for download from the Commission website.

### **4. Non-duplication of available data**

To the extent possible, the Commission's investigation will rely on existing publicly available data. Commission staff has reached out to government, academic, and industry leaders in this sector, and have confirmed that there is no publicly available data for the analysis required in the reports and that sending a questionnaire is the only way to obtain primary data. Further, after a thorough background search of data sources for these investigations, 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**

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

### **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 fully respond to the Committee's 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 June 16, 2021. The notice and other information related to this study were published on the Commission's internet site at <https://www.usitc.gov/foreigncensorship>.

The Commission's 30-day notice of submission to OMB requesting clearance was published in the *Federal Register* on Aug 23, 2021. The notice is also posted on the Commission's internet site at [https://www.usitc.gov/research\\_and\\_analysis/what\\_we\\_are\\_working\\_on.htm](https://www.usitc.gov/research_and_analysis/what_we_are_working_on.htm). No public comments have been received to date.

Commission staff tested the questionnaire with regard to the availability of data, reporting burden, product coverage and definitions, clarity of instructions, disclosure, and reporting format. All testers received copies of the draft questionnaire. Commission staff requested comments from nine and received comments from six respondents that represent mostly academics and industry associations. Comments and responses are summarized in table 1.

**TABLE 1** – Testing comments and Commission response<sup>1</sup>

| <b>Question number (current question number)</b> | <b>Comment</b>  | <b>Response</b>  |
|--|---|--|
| Definitions                                      | Add party authorities and officials to the definition of Chinese government | Modified Chinese government definition to include authorities and officials of the Chinese Communist party   |
| General  | Limit the use of the word "censorship"                                      | We have tried to focus questions on specific acts and policies. However, we found it impractical to remove the term and it does appear regularly throughout the questionnaire. |
| General  | Strengthen reassurances that responses will be confidential and             | Added language to the Confidentiality section on page 2 also in other places to reassure our   |

<sup>1</sup> Question numbers referenced are based on the version of the questionnaire that was issued for public comment on June 16, 2021. Unless the question has been removed, updated question numbers corresponding to the attached questionnaire are in parentheses.

| Question number (current question number) | Comment  | Response   |
|---|--|--|
|   | safeguarded.   | commitment to confidentiality.   |
| General                                   | Ask specifically about security concerns or exit bans for employees in an open form question.  | No modification made since the request was too specific.   |
| General                                   | Add questions related to Hong Kong since the implementation of National Security law   | Added reference to Hong Kong in Q4.14  |
| Instructions                              | Move the text that says respondents will be able to save a copy of their reply.  | Moved the text to earlier in the instructions page to let the respondents know that they will be able to save a copy of the questionnaire.           |
| Instructions                              | Tell respondents that they will receive the token in the notification letter   | Added the token information in the instructions page to let the respondents know where to find the token.  |
| Q1.3 (Q1.3)                               | Add educational services to the list of products and services due to increasing instances of censorship experience by educational services                   | Added educational services to information content development and/or distribution category.  |
| Q2.1, 2.2, 2.6 (Q2.1a, 2.2a, 2.5)         | Provide definitions for "speech-related activities" or "business activities related to speech"   | Added definition for clarity to the questionnaire's definition section.  |
| Q2.2 (Q2.2a)                              | Consider adding softer tactics, like public self-criticisms and apologies broadcast on state media here.   | Added "Requirements to publicly apologize for statements made by the business or by employees in order to continue operating in China" as an option. |
| Q2.11 (Q2.2a)                             | Include state sanctioned VPN that also limit security of data flow for corporations  | Added this to Q2.2a since state approved VPNs are a way to enable censorship   |
| Q2.12 (Q2.12)                             | Include presence of party committee requirements at place of operations  | Option was not appropriate for the question topic. The situation seems like a discussion best left for narrative response questions.                 |
| Q2.2 (Q2.2a)                              | Add distribution slowdown  | Not added to the question since it is too specific to add to acts, policies, and procedures  |
| Q2.5 (Q2.4a)                              | "subject to censorship, positively impacted" unclear   | Added an example of what it means to the question  |
| Q2.8 (Q2.8)                               | Ask whether business has ever modified their behavior, products/services based on punitive measures taken by Chinese authorities to limit another business's | Added it to the list of impacts in Q2.8  |

| Question number (current question number) | Comment   | Response  |
|---|---|---|
|   | market access or business operations.   |   |
| Q3.1 (Q3.1)                               | Split “not concerned” into “not concerned” and “not applicable”.  | Added "Not applicable" to Q3.1 and 3.2  |
| Q4.11 (Q4.15)                             | Ask about whether Chinese market will impact businesses’ willingness to invest in Taiwan  | The question is outside the scope of the effects we're interested in.   |
| Q4.3-4.6 (Q4.3,4.5, 4.7)                  | Provide what businesses included in their estimates   | That would add more burden on the respondents since most item non-response is for cost estimates in our previous surveys. |
| Q5.1 (Q5.1)                               | Include UAE and Qatar in the list of other countries experiencing censorship since there are educational services that could have been affected by it | Not added to the list in order to make the country list more manageable.  |

## 9. Payments or gifts

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

## 10. Assurances of confidentiality

In the questionnaire, the Commission provides recipients with an assurance of confidentiality, indicated in the following paragraph:

“The Commission will designate the information you provide in response to this questionnaire as “confidential business information,” unless such information is otherwise available to the public. Information received in response to this questionnaire will be aggregated with information from other questionnaire responses. The information will not be published in a manner that would identify your firm or reveal the operations of your business. 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.”

Additionally, we reassure our respondents about our commitment to confidentiality in all our narrative questions with this statement: “As with all answers to this questionnaire, your response will be confidential and will only be referenced if we can ensure anonymity.”

## 11. Sensitive information

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

### **12. Respondents' projected cost burden**

The Commission has reduced the reporting burden on respondents by using an online form with skip-logic and piping and by limiting the length and complexity of the questionnaire. Furthermore, the questionnaire only contains questions that the Commission believes to be readily available from businesses' existing records.

The reporting burden is estimated to be:

|                                |         |        |
|--------------------------------|---------|--------|
| Number of respondents:         | (No.)   | 3,790  |
| Frequency of response:         | (No.)   | 1      |
| Average burden per respondent: | (hours) | 15     |
| Total burden:                  | (hours) | 56,850 |

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 15 hours depending on the size and complexity of the business. The burden on individual respondents may vary; smaller businesses will likely have fewer sections to complete than larger, multinational businesses. Moreover, the total burden is likely to be considerably lower because the total response rate will likely be less than 100 percent, and businesses without operations abroad 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 cost to all respondents for the estimated burden hours identified above is as follows:

$$\text{Cost} = 56,850 \text{ hours} \times \$79.90 \text{ per hour} = \$4,542,315$$

### **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 businesses' 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 \$612,198 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.

|                                   |             |
|-----------------------------------|-------------|
| Total personnel cost <sup>2</sup> | = \$577,198 |
| Operational costs <sup>3</sup>    | = \$35,000  |
| Total cost                        | = \$612,198 |

### **15. Program change justification**

The Commission currently imposes no reporting burden on businesses with respect to foreign censorship. The burden on businesses increased because of a request from the Committee to provide two reports on this topic, part 2 of which requires a primary data collection. Such data are not publicly available. This is a one-time collection for such data.

### **16. Project plan and schedule**

After receiving completed questionnaires, Commission staff will review and edit each response for accuracy, resolve any questions with the respondent, and tabulate the responses. Data will be analyzed, compiled in a form that will not reveal the individual operations of any respondent, and prepared for publication. A letter providing the link to the online questionnaire is scheduled to be mailed on or before September 20, 2021. The respondents are requested to respond by October 20, 2021. Incorporating questionnaire information, the Commission will deliver the results of its investigation to the Committee by July 5, 2022.

### **17. Non-display of expiration date**

Not applicable, the expiration date appears at the beginning of the Commission questionnaire.

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

Not applicable.

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<sup>2</sup> The Commission estimates that 7,224 personnel hours (181 personnel weeks) will be spent on the questionnaire (at average wage), which is approximately 60 percent of the total personnel hours the Commission budgeted for the study. Personnel costs include three weeks of two full time staff members to follow up with respondents. This time also includes calls to questionnaire recipients from Commission staff to ensure that organizations reply to the questionnaire and that responses received are accurate.

<sup>3</sup> Operational costs include printing and mailing and survey consultant costs. Costs for printing and mailing postcards, letters, and reminders provided by a mailing house are estimated at \$15,000. Costs for survey consultant are estimated at \$20,000.