

1SUPPORTING STATEMENT  
UNITED STATES INTERNATIONAL TRADE COMMISSION QUESTIONNAIRE

Investigation No. 332-588

*Foreign Trade Zones (FTZs): Effects of FTZ Policies and Practices on U.S. Firms Operating in U.S. FTZs and Under Similar Programs in Canada and Mexico*

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 United States Trade Representative (USTR). The Commission's report, *Foreign Trade Zones (FTZs): Effects of FTZ Policies and Practices on U.S. Firms Operating in U.S. FTZs and Under Similar Programs in Canada and Mexico* (Investigation No. 332-588) was requested by USTR in a letter dated December 14, 2021. The Commission will deliver the results of its investigation to USTR by April 14, 2023.

The Commission is conducting the investigation and preparing the report under section 332(g) of the Tariff Act of 1930 "(19 U.S.C. 1332(g)) at the request of the USTR. Section 332(g) requires the Commission, whenever requested, to "make such investigations and reports as may be requested by the President [...]." The President has delegated his authority to request such investigations and reports to the USTR under Executive Order 12661. 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.

USTR requested that the Commission provide detailed data and other information on firms operating in FTZs in the United States, and FTZ-type programs in Canada, and Mexico, which may also require use of survey data. Questionnaires are one method through which the Commission will collect information for this request for data that are not publicly available from other sources. The Commission plans to issue one questionnaire for this investigation. On April 28, 2022, the Commission posted its draft questionnaire on its website (<https://www.usitc.gov/ftzinvestigation>) and published a request for public comments in the *Federal Register* on the draft. Public comments will be accepted through June 27, 2022.

As indicated above, the USTR has requested that the Commission provide its report by April 14, 2023. This deadline necessitates prompt issuance of questionnaires. Requests to complete the online questionnaire are tentatively scheduled to be emailed to respondents on or before August 29, 2022, in order to allow sufficient time for each recipient to complete the questionnaire, which is due back to the Commission by September 27, 2022.

**2. Purpose**

In her request letter, the USTR directed the Commission to conduct an investigation and provide a report that describes the operation of U.S. FTZs and similar programs in Canada and Mexico, and whether and how policies and practices with respect to those respective FTZs and programs impact employment and the competitiveness of goods produced in FTZs in the United States. The USTR also

asked the Commission to provide an overview of economic activity in FTZs, including through the use of survey data if necessary, of the quantitative and qualitative effects of current FTZ policies and practices on affected firms. The analysis will include (1) number of firms operating in U.S. FTZs and U.S. FTZ employment, (2) FTZ admissions and shipments, (3) foreign direct investment in FTZs, (4) FTZ tariff treatment and other policies and practices that affect cost-competitiveness of U.S. firms operating in FTZs, and (5) perceptions of competitiveness of those firms relative to Canadian and Mexican firms.

USTR specified that the Commission's report be based on a review of available data that may also include a survey of U.S. firms participating in FTZs. The use of a questionnaire is necessary to collect relevant information USTR's 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 USTR'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 "may require any person, firm, copartnership, corporation, or 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 USTR 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 has confirmed that there are no publicly available data for portions of the analysis required in the report and that sending a questionnaire is the only way to obtain the additional 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 USTR'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 April 28, 2022. The notice and other information related to this investigation were published on the Commission's internet site at <https://www.usitc.gov/ftzinvestigation>.

The Commission's 30-day notice of submission to OMB requesting clearance was published in the *Federal Register* on July 5, 2022. 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 industry participants, associations, and FTZ legal consultants. Comments and responses are summarized in table 1.

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

Testing question number   Current	Comment	Response
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<sup>1</sup> Question numbers referenced are based on the version of the questionnaire that was issued for public comment on April 28, 2022. Unless the question has been removed, updated question numbers corresponding to the attached questionnaire are in parentheses.

<b>question number</b>		
Definitions	General purpose zone is an outdated term	Changed to just say "previously activated site"
Definitions	Modify definition of Tariff Inversion	Will use Duty Reduction throughout
Definitions	Zone Restricted	Include that Zone restricted status merchandise must be exported or destroyed and cannot be used in production
Definitions	Correct where FTZ Board is under Commerce	Corrected
Definitions	Make sure all words in glossary: production, value added	Updated glossary
2.7   2.7	Total wages paid and total hours worked will be difficult and time consuming to get (and may be impossible to get for some firms)	Removed these two lines of the table
2.8   2.8	Any references to Admissions of Domestic status merchandise should refer to "receipts and/or admissions" of such merchandise	Updating references to Admissions
2.9   –	FTZ board collects information at the HTS 6-digit level; how would one respond if multiple products with different descriptions imported under a single tariff line?	Removed question; can determine using other methods
2.10   2.9	Unclear what question is asking	Clarified by adding "U.S. origin" and "Foreign origin" in front of options and specified materials rather than product
2.11   –	Is it important to collect data for different sources separately?	Removed question because of modification to previous question
2.16   2.14	Confusing wording	Clarify question using wording "solely warehoused"
2.17   2.15	May be unable to break out for sites with mixed use; unsure how to differentiate between domestic and foreign investments	Included clarification in prompt and clarified definition in glossary
3.1   3.1	Include definitions of effects in glossary	Added
3.4   3.4	May not be able to give breakout of status; concern with domestic status merchandise excluding the additional duties	Included clarification in prompt and clarified definition in glossary
3.6   3.4	Clarify what is meant by a re-export	Added to glossary; combined this with 3.4

3.7   3.6	—	Added clarification of what a "primary" factor is
4.3   4.3	—	Updated Canadian programs
4.8   4.8	—	Updated Mexican programs
5.5   5.5	Simplify the question	Reworded

## 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 has designated 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 firm. 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.

## 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.)	400
Frequency of response:	(No.)	1
Average burden per respondent:	(hours)	25
Total burden:	(hours)	10,000

These estimates are based on reported response statistics from recently completed, similar surveys that the Commission has executed and the feedback during cognitive testing from industry participants. It is

estimated that completing the questionnaire, including time to gather necessary information, would take approximately 25 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. 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.

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 burden hours identified above is as follows:

$$\text{Cost} = 10,000 \text{ hours} \times \$79.90 \text{ per hour} = \$799,000$$

### **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 \$490,986 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>	= \$490,826
Operational costs <sup>3</sup>	= \$160
Total cost	= \$490,986

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

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<sup>2</sup> The Commission estimates that 6,143 personnel hours (154 personnel weeks) will be spent on the questionnaire (at average wage), which is approximately 50 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 firms reply to the questionnaire and that responses received are accurate.

<sup>3</sup> Operational costs include printing and mailing the initial postcard. Costs for printing and mailing postcards from the USITC are estimated at \$160.

The Commission currently imposes no reporting burden on businesses with respect to FTZs. The burden on businesses increased because of a request from USTR to provide a report on this topic, part 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. An email providing the link to the online questionnaire is scheduled to be emailed on or before August 29, 2022. The respondents are requested to respond by September 27, 2022. Incorporating questionnaire information, the Commission will deliver the results of its investigation to USTR by April 14, 2023.

**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.