



United States International Trade Commission

2017 CHIEF FOIA OFFICER REPORT



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Introduction

The United States International Trade Commission (USITC or Commission) was established in 1916. It is an independent, quasi-judicial federal agency whose mission is consistent with its statutory mandate, to make determinations in proceedings involving imports claimed to injure a domestic injury or violate U.S. intellectual property rights; provide independent tariff, trade and competitiveness-related analysis and information; and maintain the U.S. tariff schedule.

The Commission has identified two mission-related strategic goals. First, the agency will produce sound, objective, and timely determinations in investigative proceedings. Second, the Commission will produce objective, high-quality and responsive tariff, trade, and competitiveness-related analysis and information. These goals reflect the interests of its principal customers: the President, the USTR, and Congress, and thereby also serve U.S. industry, workers, and the general public. In order to deliver greater impact through increasing effectiveness and efficiency, the Commission also has established a management goal to achieve agency-wide efficiency and effectiveness to advance the agency's mission.

The USITC's Freedom of Information Act (FOIA) program is administered by the Chief FOIA Officer with the assistance of the FOIA Liaison. As a small agency, the USITC maintains staff commensurate with the agency's needs to effectively implement its FOIA program.

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Section I: Steps Taken to Apply the Presumption of Openness

The USITC places a high priority on training and education. During calendar year 2016, FOIA staff attended the Department of Justice’s (DOJ) training sessions covering updates to the annual report and the Chief FOIA Officer’s report. All of the Commission’s FOIA professionals attended substantive FOIA training during this reporting period.

The Commission, in its continual efforts to increase transparency in government, implemented a new procedure for the filing of requests for duty suspensions or reductions pursuant to the American Manufacturing Competitiveness Act of 2016 (the Act). Under the new procedure, likely beneficiaries—or their representatives—must file a petition directly with the Commission instead of making their request(s) to members of Congress. The Commission must publish the petitions received that meet the requirements set out in the Act and the Commission’s rules, provide an opportunity for the public to file comments on the published petitions, and then submit preliminary and final reports to the Committees. The agency developed a web-based petition system that allows the public to view and access information regarding the petitions (and subsequent comments related to) for duty suspensions or reductions. This new procedure allows all members of the public to view the petitions and comments in response to the requests for duty suspensions/reductions. The agency strongly supports increased transparency in this new procedure. For this reason, in October 2016, the agency provided free training to the public regarding the Commission’s web-based petition system. Moreover, the agency produced and posted a training video and “how to” guides for both filing a petition and for commenting on a petition. This training and guides allow the public to learn more about the features of the system and help further the agency’s goals to ensure the presumption of openness.

Section II: Effective System in Place for Responding to Requests

Due to the low volume of FOIA requests received, the FOIA Liaison is able to address and resolve questions regarding the handling of requests. In a continual effort to ensure that the USITC FOIA system operates efficiently and effectively, agency FOIA staff meet at least quarterly to review the current year FOIA files. We review our FOIA checklist to ensure that the all appropriate documents are contained within each file, as well as recorded accurately, and check to make sure that staff has followed all internal procedures. This approach enables the FOIA Office to continually improve and streamline the FOIA process to ensure that our FOIA system operates efficiently and effectively.

The Commission provides the public with reference materials and a guide for requesting records or information. This resource is available on the USITC website at <https://www.usitc.gov/secretary/foia.htm>.

Section III: Steps Taken to Increase Proactive Disclosures

The Commission has an informal but extensive practice for identifying records for proactive disclosure. Staff working in each function area reviews their applicable section(s) of the agency's website to determine what information is available and what information is needed to address the interests of the public. Notably, the Commission maintains the Electronic Document Information System (EDIS). EDIS is a repository for documents filed in import injury investigations, intellectual property-based import investigations, and other proceedings before the Commission. Any member of the public may register for access to this system without charge. EDIS contains public documents of interest to the general public and lessens the need to formally request such documents through FOIA.

The USITC website contains links to the resources noted below.

- (1) Federal Register notices (since March 2015, published over 1,100 columns notices in the Federal Register and posted over 280 notices on the agency website),
- (2) Publications (since March 2016, made over 1,700 additional publications available online),
- (3) Statistical data regarding investigations before the Commission (for example, instituted 79 new section 337 investigations and ancillary proceedings related to section 337),
- (4) Electronic Document Information System (EDIS) (since March 2016, posted over 12,900 public documents),
- (5) Press releases (over 150 press releases issued and posted during the 2016 calendar year), and
- (6) The Harmonized Tariff Schedule (HTS) (received approximately 7.13 million requests for tariff information annually, which represents about 92% of the 7.78 million visits to the USITC website annually).

The Commission also offers free email updates via eSubscribe. Users may select multiple topic areas of interest to receive email notifications.

Lastly, the agency maintains the 337Info repository which contains section 337 investigative data from FY 2009 to the present. It provides a list of recent complaints filed, and comprehensive investigative data including: complainant/respondent(s) information (i.e. country of origin); unfair act(s) at issue (i.e. list of specific patent numbers alleged); procedural history information (i.e. evidentiary hearing dates, target date, etc.); appeal information; and the assigned administrative law judge. Users may utilize the search engine to obtain a wealth of detailed information regarding 337 investigations. Section 337 investigations conducted by the Commission most often involve claims regarding intellectual property rights, including allegations of patent infringement and trademark infringement by imported goods. The primary remedy available in section 337 investigations is an exclusion order that directs U.S. Customs and Border Protection to stop infringing imports from entering the United States. In addition, the Commission may issue cease and desist orders against named importers and other persons engaged in unfair acts that violate section 337.

Section IV: Steps Taken to Greater Utilize Technology

The USITC utilizes an online survey tool to solicit feedback regarding the agency website. During FY 2016, the agency released a survey specifically tailored to obtain feedback regarding EDIS. Also, in the 337Info repository, users may provide comments and concerns to the Commission via e-mail.

The agency utilizes electronic means, when feasible, to communicate with requestors. When requestors provide their e-mail information we provide a receipt via e-mail indicating receipt of their request. We also use e-mail as an opportunity to communicate with requestors during the course of processing the FOIA request and to respond to any general concerns or feedback relating to the request.

Notably, all of the Commission's FOIA reports for each quarter were submitted to our agency's web team for transmittal to the DOJ to post to their website location and were submitted timely in accordance with DOJ's deadline.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Commission uses separate tracking for simple requests. In FY 2016, the average number of days to process simple requests was fifteen (15) days. There was no backlog of requests or appeals in FY 2015 or FY 2016.

SUCCESS STORY

During FY 2016, the Commission received a complex FOIA request involving ten (10) different section 337 investigations. Eleven (11) separate agency programming offices searched for and reviewed documents responsive to the request. Four staff that works on FOIA reviewed and manually redacted thousands of pages of responsive documents. This function required an enormous amount of staff resources and was a significant undertaking in light of the current staffing and workload of the agency. FOIA staff was able to process and respond to the request timely and also provided the redacted documents within five (5) months of the initial request.



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