

## **Summary of Results of FY 2010 Survey Regarding Section 337 Exclusion Orders**

During FY 2010, the Commission conducted a survey regarding the effectiveness of outstanding exclusion orders. Similar to the previous surveys conducted in FY 2000 and FY 2005, the FY 2010 exclusion order survey was designed to gather feedback from prevailing complainants regarding their experiences with outstanding exclusion orders. Because the Commission issues both general and limited exclusion orders, two survey questionnaires, one for each type of exclusion order, were used in the survey. (These two survey questionnaires can be accessed via links at the bottom of the Intellectual Property page of the USITC website at [http://www.usitc.gov/intellectual\\_property/](http://www.usitc.gov/intellectual_property/)).

Charts summarizing the results of the FY 2010 exclusion order survey are appended hereto. *See* Tabs A-D. For comparison purposes, the results of the FY 2005 exclusion order survey are included alongside the results of the FY 2010 exclusion order survey whenever applicable.

*TAB A*

**COMPARISON OF EXCLUSION ORDER SURVEY OVERALL RESULTS  
(FY 2005 vs. FY 2010)**

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(FY 2005 vs. FY 2010)**

<b>Overall Survey Results<sup>1</sup></b>	<b>FY 2005 Survey</b>	<b>FY 2010 Survey</b>
<b>Overall Survey Response Rate</b>	<b>61% (30/49)</b>	<b>49% (37/76)</b>
<b>GEO Survey Response Rate</b>	<b>52% (15/29)</b>	<b>51% (21/41)</b>
<b>LEO Survey Response Rate</b>	<b>73% (16/22)</b>	<b>46% (16/35)</b>
<b>Percentage of survey responders who believed that infringing goods covered by the exclusion order <i>have not</i> been imported since issuance of the order</b>	<b>39% (12/31)</b>	<b>35% (13/37)</b>
<b>Percentage of survey responders who believed that infringing goods covered by the exclusion order <i>have</i> been imported since issuance of the order</b>	<b>48% (15/31)</b>	<b>51% (19/37)</b>
<b>Percentage of survey responders who reported that they had “no basis to judge” whether infringing goods covered by the exclusion order have been imported since issuance of the order</b>	<b>13% (4/31)</b>	<b>14% (5/37)</b>

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<sup>1</sup> For purposes of tabulating the results for each survey question, each answer to a survey question (including, *e.g.*, an answer of “no basis to judge”) selected or otherwise provided by a survey participant was counted. Where a survey participant did not select or otherwise provide any answer to a survey question, this was deemed a non-response and was not counted in tabulating the results for that survey question.

Overall Survey Results	FY 2005 Survey	FY 2010 Survey
<p>Percentage of survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “effectively stopped” or (b) “decreased substantially”</p>	<p>(a) 34% (10/29) (b) 24% (7/29)</p>	<p>(a) 30% (10/33) (b) 18% (6/33)</p>
<p>Percentage of survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “decreased moderately” or (b) “decreased slightly”</p>	<p>(a) 10% (3/29) (b) 3% (1/29)</p>	<p>(a) 9% (3/33) (b) 3% (1/33)</p>
<p>Percentage of survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “remained the same” or (b) “increased”</p>	<p>(a) 10% (3/29) (b) 0% (0/29)</p>	<p>(a) 6% (2/33) (b) 3% (1/33)</p>
<p>Percentage of survey responders who reported that they had “no basis to judge” to what degree has the value of covered infringing goods increased or decreased since issuance of the exclusion order</p>	<p>17% (5/29)</p>	<p>30% (10/33)</p>

Overall Survey Results	FY 2005 Survey	FY 2010 Survey
<p>Survey responders who believed that covered goods were continuing to be imported after entry of the exclusion order estimated the value of lost sales due to infringing imports at:</p> <ul style="list-style-type: none"> <li>(a) \$50,000 or less</li> <li>(b) \$100,000 - \$500,000</li> <li>(c) \$1 million - \$5 million</li> <li>(d) More than \$5 million</li> <li>(e) No basis to judge</li> </ul>	<ul style="list-style-type: none"> <li>(a) 29% (5/17)</li> <li>(b) 12% (2/17)</li> <li>(c) 12% (2/17)</li> <li>(d) 12% (2/17)</li> <li>(e) 35% (6/17)</li> </ul>	<ul style="list-style-type: none"> <li>(a) 11% (2/19)</li> <li>(b) 5% (1/19)</li> <li>(c) 16% (3/19)</li> <li>(d) 26% (5/19)</li> <li>(e) 42% (8/19)</li> </ul>
<p>Survey responders who believed that covered goods were continuing to be imported after entry of the exclusion order estimated the value of lost sales due to infringing imports at:</p> <ul style="list-style-type: none"> <li>(a) Less than 5%</li> <li>(b) 5-10%</li> <li>(c) 10-20%</li> <li>(d) 21-33%</li> <li>(e) 50-67%</li> <li>(f) No basis to estimate</li> </ul>	<ul style="list-style-type: none"> <li>(a) 73% (8/11)</li> <li>(b) 9% (1/11)</li> <li>(c) 9% (1/11)</li> <li>(d) 0% (0/11)</li> <li>(e) 9% (1/11)</li> <li>(f) 0% (0/11)</li> </ul>	<ul style="list-style-type: none"> <li>(a) 26% (5/19)</li> <li>(b) 16% (3/19)</li> <li>(c) 11% (2/19)</li> <li>(d) 5% (1/19)</li> <li>(e) 0% (0/19)</li> <li>(f) 42% (8/19)</li> </ul>
<p>Percentage of survey responders who believed that imports of covered goods after entry of the exclusion order hurt their company's sales to the following extent:</p> <ul style="list-style-type: none"> <li>(a) Little or no extent</li> <li>(b) Some extent</li> <li>(c) Moderate extent</li> <li>(d) Substantial extent</li> <li>(e) Very great extent</li> <li>(f) No basis to judge</li> </ul>	<ul style="list-style-type: none"> <li>(a) 41% (11/27)</li> <li>(b) 22% (6/27)</li> <li>(c) 7% (2/27)</li> <li>(d) 7% (2/27)</li> <li>(e) 0% (0/27)</li> <li>(f) 22% (6/27)</li> </ul>	<ul style="list-style-type: none"> <li>(a) 48% (17/35)</li> <li>(b) 11% (4/35)</li> <li>(c) 9% (3/35)</li> <li>(d) 9% (3/35)</li> <li>(e) 3% (1/35)</li> <li>(f) 20% (7/35)</li> </ul>

<b>Overall Survey Results</b>	<b>FY 2005 Survey</b>	<b>FY 2010 Survey</b>
<b>Percentage of survey responders who undertook investigation after entry of the exclusion order to identify covered goods intended for sale in the U.S.</b>	<b>58% (18/31)</b>	<b>57% (21/37)</b>
<b>Percentage of survey responders who provided information to U.S. Customs to aid in enforcement of the exclusion order</b>	<b>58% (18/31)</b>	<b>54% (20/37)</b>

Overall Survey Results	FY 2005 Survey	FY 2010 Survey
Of the survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has</i> led U.S. Customs to interdict shipments of covered goods	44% (8/18)	55% (11/20)
Of the survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has not</i> led U.S. Customs to interdict shipments of covered goods	11% (2/18)	10% (2/20)
Of the survey responders who provided information to U.S. Customs, the percentage responding that they did not know whether the information has led U.S. Customs to interdict shipments of covered goods	44% (8/18)	35% (7/20)
Of the survey responders who provided information to U.S. Customs, the percentage responding that they were “satisfied” or “very satisfied” with U.S. Customs’ response to the information	78% (14/18)	60% (12/20)
Of the survey responders who provided information to U.S. Customs, the percentage responding that they were “dissatisfied” or “very dissatisfied” with U.S. Customs’ response to the information	22% (4/18)	15% (3/20)
Of the survey responders who provided information to U.S. Customs, the percentage responding that they were “neither satisfied nor dissatisfied” with U.S. Customs’ response to the information	0% (0/18)	25% (5/20)

Overall Survey Results	FY 2005 Survey	FY 2010 Survey
Percentage of survey responders finding the letter containing Customs and ITC contact information sent by the ITC to their counsel to be helpful	100% (12/12)	70% (26/37) <sup>2</sup>

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<sup>2</sup> In the FY 2010 survey, the remaining 30% (11/37) of survey responders reported that they were “not aware of such a letter.”

***TAB B***

**COMPARISON OF *GENERAL* EXCLUSION ORDER SURVEY RESULTS  
(FY 2005 vs. FY 2010)**

**COMPARISON OF *GENERAL* EXCLUSION ORDER SURVEY RESULTS  
(FY 2005 vs. FY 2010)**

<b>GEO Survey Results</b>	<b>FY 2005 Survey</b>	<b>FY 2010 Survey<sup>1</sup></b>
<b>Percentage of GEO survey responders who believed that infringing goods covered by the exclusion order <i>have not</i> been imported since issuance of the order</b>	<b>40% (6/15)</b>	<b>29% (6/21)</b>
<b>Percentage of GEO survey responders who believed that infringing goods covered by the exclusion order <i>have</i> been imported since issuance of the order</b>	<b>53% (8/15)</b>	<b>62% (13/21)</b>
<b>Percentage of GEO survey responders who reported that they had “no basis to judge” whether infringing goods covered by the exclusion order have been imported since issuance of the order</b>	<b>7% (1/15)</b>	<b>9% (2/21)</b>

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<sup>1</sup> For purposes of tabulating the results for each survey question, each answer to a survey question (including, *e.g.*, an answer of “no basis to judge”) selected or otherwise provided by a survey participant was counted. Where a survey participant did not select or otherwise provide any answer to a survey question, this was deemed a non-response and was not counted in tabulating the results for that survey question.

GEO Survey Results	FY 2005 Survey	FY 2010 Survey
<p>Percentage of GEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “effectively stopped” or (b) “decreased substantially”</p>	<p>(a) 33% (5/15) (b) 20% (3/15)</p>	<p>(a) 28% (5/18) (b) 22% (4/18)</p>
<p>Percentage of GEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “decreased moderately” or (b) “decreased slightly”</p>	<p>(a) 13% (2/15) (b) 7% (1/15)</p>	<p>(a) 11% (2/18) (b) 0% (0/18)</p>
<p>Percentage of GEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “remained the same” or (b) “increased”</p>	<p>(a) 13% (2/15) (b) 0% (0/15)</p>	<p>(a) 6% (1/18) (b) 6% (1/18)</p>
<p>Percentage of GEO survey responders who reported that they had “no basis to judge” to what degree has the value of covered infringing goods increased or decreased since issuance of the exclusion order</p>	<p>13% (2/15)</p>	<p>27% (5/18)</p>

GEO Survey Results	FY 2005 Survey	FY 2010 Survey
Percentage of GEO survey responders who undertook investigation after entry of the exclusion order to identify covered infringing goods intended for sale in the U.S.	67% (10/15)	62% (13/21)
Percentage of GEO survey responders who provided information to U.S. Customs to aid in enforcement of the exclusion order	73% (11/15)	71% (15/21)
Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has</i> led U.S. Customs to interdict shipments of covered goods	55% (6/11)	67% (10/15)
Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has not</i> led U.S. Customs to interdict shipments of covered goods	0% (0/11)	7% (1/15)
Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that they did not know whether the information has led U.S. Customs to interdict shipments of covered goods	45% (5/11)	26% (4/15)

<b>GEO Survey Results</b>	<b>FY 2005 Survey</b>	<b>FY 2010 Survey</b>
<b>Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that they were “satisfied” or “very satisfied” with U.S. Customs’ response to the information</b>	<b>82% (9/11)</b>	<b>67% (10/15)</b>
<b>Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that they were “dissatisfied” or “very dissatisfied” with U.S. Customs’ response to the information</b>	<b>18% (2/11)</b>	<b>13% (2/15)</b>
<b>Of the GEO survey responders who provided information to U.S. Customs, the percentage responding that they were “neither satisfied nor dissatisfied” with U.S. Customs’ response to the information</b>	<b>0% (0/11)</b>	<b>20% (3/15)</b>

**TAB C**

**COMPARISON OF *LIMITED* EXCLUSION ORDER SURVEY RESULTS  
(FY 2005 vs. FY 2010)**

**COMPARISON OF *LIMITED* EXCLUSION ORDER SURVEY RESULTS  
(FY 2005 vs. FY 2010)**

LEO Survey Results	FY 2005 Survey	FY 2010 Survey <sup>1</sup>
Percentage of LEO survey responders who believed that infringing goods covered by the exclusion order <i>have not</i> been imported since issuance of the order	<b>38% (6/16)</b>	<b>44% (7/16)</b>
Percentage of LEO survey responders who believed that infringing goods covered by the exclusion order <i>have</i> been imported since issuance of the order	<b>44% (7/16)</b>	<b>38% (6/16)</b>
Percentage of LEO survey responders who reported that they had “no basis to judge” whether infringing goods covered by the exclusion order have been imported since issuance of the order	<b>18% (3/16)</b>	<b>18% (3/16)</b>

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<sup>1</sup> For purposes of tabulating the results for each survey question, each answer to a survey question (including, *e.g.*, an answer of “no basis to judge”) selected or otherwise provided by a survey participant was counted. Where a survey participant did not select or otherwise provide any answer to a survey question, this was deemed a non-response and was not counted in tabulating the results for that survey question.

LEO Survey Results	FY 2005 Survey	FY 2010 Survey
<p>Percentage of LEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “effectively stopped” or (b) “decreased substantially”</p>	<p>(a) 36% (5/14) (b) 29% (4/14)</p>	<p>(a) 33% (5/15) (b) 13% (2/15)</p>
<p>Percentage of LEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “decreased moderately” or (b) “decreased slightly”</p>	<p>(a) 7% (1/14) (b) 0% (0/14)</p>	<p>(a) 7% (1/15) (b) 7% (1/15)</p>
<p>Percentage of LEO survey responders who believed that since issuance of the exclusion order, the value of infringing goods covered by the order has:</p> <p>(a) “remained the same” or (b) “increased”</p>	<p>(a) 7% (1/14) (b) 0% (0/14)</p>	<p>(a) 7% (1/15) (b) 0% (0/15)</p>
<p>Percentage of LEO survey responders who reported that they had “no basis to judge” to what degree has the value of covered infringing goods increased or decreased since issuance of the exclusion order</p>	<p>21% (3/14)</p>	<p>33% (5/15)</p>

<b>LEO Survey Results</b>	<b>FY 2005 Survey</b>	<b>FY 2010 Survey</b>
<b>Percentage of LEO survey responders who undertook investigation after entry of the exclusion order to identify covered goods intended for sale in the U.S.</b>	<b>50% (8/16)</b>	<b>50% (8/16)</b>
<b>Percentage of LEO survey responders who provided information to U.S. Customs to aid in enforcement of the exclusion order</b>	<b>44% (7/16)</b>	<b>31% (5/16)</b>
<b>Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has</i> led U.S. Customs to interdict shipments of covered goods</b>	<b>29% (2/7)</b>	<b>20% (1/5)</b>
<b>Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that the information <i>has not</i> led U.S. Customs to interdict shipments of covered goods</b>	<b>29% (2/7)</b>	<b>20% (1/5)</b>
<b>Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that they did not know whether the information has led U.S. Customs to interdict shipments of covered goods</b>	<b>42% (3/7)</b>	<b>60% (3/5)</b>

LEO Survey Results	FY 2005 Survey	FY 2010 Survey
Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that they were “satisfied” or “very satisfied” with U.S. Customs’ response to the information	71% (5/7)	40% (2/5)
Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that they were “dissatisfied” or “very dissatisfied” with U.S. Customs’ response to the information	29% (2/7)	20% (1/5)
Of the LEO survey responders who provided information to U.S. Customs, the percentage responding that they were “neither satisfied nor dissatisfied” with U.S. Customs’ response to the information	0% (0/7)	40% (2/5)

**Tab D**

**FY 2010 EXCLUSION ORDER SURVEY RESULTS  
(Additional Questions Asked in 2010)**

**FY 2010 EXCLUSION ORDER SURVEY RESULTS**  
**(Additional Questions Asked in 2010)**

FY 2010 Survey Results	Overall Survey Results <sup>1</sup>	GEO Survey Results	LEO Survey Results
Percentage of survey responders who believed that infringing goods covered by the exclusion order <i>were not</i> being imported at the time of the survey	46% (17/37)	43% (9/21)	50% (8/16)
Percentage of survey responders who believed that infringing goods covered by the exclusion order <i>were</i> being imported at the time of the survey	35% (13/37)	38% (8/21)	31% (5/16)
Percentage of survey responders who reported that they had “no basis to judge” whether infringing goods were being imported at the time of the survey	19% (7/37)	19% (4/21)	19% (3/16)

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<sup>1</sup> For purposes of tabulating the results for each survey question, each answer to a survey question (including, *e.g.*, an answer of “no basis to judge”) selected or otherwise provided by a survey participant was counted. Where a survey participant did not select or otherwise provide any answer to a survey question, this was deemed a non-response and was not counted in tabulating the results for that survey question.

FY 2010 Survey Results	Overall Survey Results	GEO Survey Results	LEO Survey Results
<p><i>Of the survey responders who believed that infringing goods covered by the exclusion order have been imported since issuance of the order or were being imported at the time of the survey, the responses regarding the types of products imported broke down as follows:</i></p> <p><b>A. The imported infringing articles were the same product(s) or model number(s) of the articles at issue before the ITC.</b></p> <p><b>B. The imported infringing articles were newly developed or other products that were not at issue before the ITC.</b></p> <p><b>C. The imported infringing articles were a combination of the same product(s) or model number(s) of the articles at issue before the ITC and newly developed or other products that were not at issue before the ITC.<sup>2</sup></b></p> <p><b>D. No basis to judge.</b></p>	<p><b>22% (4/18)</b></p> <p><b>28% (5/18)</b></p> <p><b>39% (7/18)</b></p> <p><b>11% (2/18)</b></p>	<p><b>23% (3/13)</b></p> <p><b>38% (5/13)</b></p> <p><b>31% (4/13)</b></p> <p><b>8% (1/13)</b></p>	<p><b>20% (1/5)</b></p> <p><b>0% (0/5)</b></p> <p><b>60% (3/5)</b></p> <p><b>20% (1/5)</b></p>

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<sup>2</sup> Although this was not a separate answer choice, as shown above, a significant number of survey responders indicated that covered imports consisted of a *combination* of products that had been before the Commission and other products that had not been at issue before the Commission.