

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, DC

Investigation No. 332-585

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

AGENCY: United States International Trade Commission.

ACTION: Notice of Investigation and Scheduling of a Public Hearing

SUMMARY: Following receipt on January 4, 2021, of a request from the U.S. Senate Committee on Finance (Committee), under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332-585, *Foreign Censorship: Trade and Economic Effects on U.S. Businesses*.

DATES:

August 24, 2021: Deadline for filing requests to appear at the public hearing.

September 2, 2021: Deadline for filing prehearing briefs and statements.

September 7, 2021: Deadline for filing electronic copies of oral hearing statements.

September 14, 2021: Public hearing.

September 21, 2021: Deadline for filing posthearing briefs and statements.

October 1, 2021: Deadline for filing all other written submissions.

July 5, 2022: Transmittal of Commission report to the Committee.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be submitted electronically and addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Project Leader Ricky Ubee (202-205-3493 or ravinder.ubee@usitc.gov), Deputy Project Leader Shova KC (202-205-2234 or shova.KC@usitc.gov), or Deputy Project Leader Isaac Wohl (202-205-3356 or isaac.wohl@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

BACKGROUND: The Committee requested the investigation and report pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. § 1332(g)). As requested by the Committee, the Commission

will deliver the requested report no later than 18 months from the date of the letter (that is, by July 5, 2022), and in view of the fact the Committee intends to make the report available to the public in its entirety, the Commission will not include any confidential business information in its report.

In its letter the Committee defined censorship as “the prohibition or suppression of speech or other forms of communication,” and stated that foreign governments use many tools to carry out censorship, including technological measures that restrict digital trade. The Committee said that these tools, and the policies that enable them, allow authorities in foreign markets to limit speech by controlling the flow of information and services.

More specifically, the Committee asked that the Commission conduct an investigation and prepare a report, informed by a survey of businesses in the United States, that provides detailed information, including the following:

1. Identification and descriptions of various foreign censorship practices, in particular any examples that U.S. businesses consider to impede trade or investment in key foreign markets. The description should include to the extent practicable:
 - a. the evolution of censorship policies and practices over the past 5 years in key foreign markets;
 - b. any elements that entail extraterritorial censorship; and
 - c. the roles of governmental and non-governmental actors in implementation and enforcement of the practices.
2. To the extent practicable, including through the use of survey data, an analysis of the trade and economic effects of such policies and practices on affected businesses in the United States and their global operations. The analysis should include to the extent practicable, quantitative and qualitative impacts of the identified policies, including by reference, where identifiable, to:
 - a. impact on employment;
 - b. direct costs (e.g., compliance and entry costs);
 - c. foregone revenue and sales;
 - d. self-censorship; and
 - e. other effects the Commission considers relevant for the Committee to know.

PUBLIC HEARING: A public hearing in connection with this investigation will be held either in the Commission’s main hearing room in its building at 500 E Street SW, Washington, D.C., or via an online videoconferencing platform, beginning at 9:30 am on September 14, 2021. More information will follow closer to the time of the hearing about whether the hearing will be held in person or by videoconference. Information about how to participate in or view the hearing will be posted on the Commission's website at (https://usitc.gov/research_and_analysis/what_we_are_working_on.htm). Once on that web page, scroll down to the entry for Investigation No. 332-585, *Foreign Censorship: Trade and Economic Effects on U.S. Businesses*, and click on the link to “Hearing Instructions.” Interested parties should check the Commission’s website periodically for updates.

Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 pm, August 24, 2021, in accordance with the requirements in the “Written Submissions” section below. All prehearing briefs and statements should be filed not later than 5:15 pm, September 2, 2021. To facilitate the hearing, including the preparation of an accurate written transcript of the hearing, oral testimony to be presented at the hearing must be submitted to the Commission electronically no later than noon, September 7, 2021. All posthearing briefs and statements should be filed not later than 5:15 pm, September 21, 2021. Posthearing briefs and statements should address matters raised at the hearing. For a description of the different types of written briefs and statements, see the “Definitions” section below.

In the event that, as of the close of business on August 24, 2021, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202-205-2000 after August 24, 2021, for information concerning whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 pm, October 1, 2021. All written submissions must conform to the provisions of section 201.8 of the Commission’s *Rules of Practice and Procedure* (19 CFR 201.8), as temporarily amended by [85 FR 15798](#) (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802), or consult the Commission’s Handbook on Filing Procedures.

DEFINITIONS OF TYPES OF DOCUMENTS THAT MAY BE FILED; REQUIREMENTS: In addition to requests to appear at the hearing, this notice provides for the possible filing of four types of documents: prehearing briefs, oral hearing statements, posthearing briefs, and other written submissions.

(1) *Prehearing briefs* refers to written materials relevant to the investigation and submitted in advance of the hearing, and includes written views on matters that are the subject of the investigation, supporting materials, and any other written materials that you consider will help the Commission in understanding your views. You should file a prehearing brief particularly if you plan to testify at the hearing on behalf of an industry group, company, or other organization, and wish to provide detailed views or information that will support or supplement your testimony.

(2) *Oral hearing statements (testimony)* refers to the actual oral statement that you intend to present at the public hearing. Do not include any confidential business information in that statement. If you plan to testify, you must file a copy of your oral statement by the date specified in this notice. This statement will allow Commissioners to understand your position in advance of the hearing and will also assist the court reporter in preparing an accurate transcript of the hearing (e.g., names spelled correctly).

(3) *Posthearing briefs* refers to submissions filed after the hearing by persons who appeared at the hearing. Such briefs: (a) should be limited to matters that arose during the hearing, (b) should

respond to any Commissioner and staff questions addressed to you at the hearing, (c) should clarify, amplify, or correct any statements you made at the hearing, and (d) may, at your option, address or rebut statements made by other participants in the hearing.

(4) *Other written submissions* refer to any other written submissions that interested persons wish to make, regardless of whether they appeared at the hearing, and may include new information or updates of information previously provided.

There is no standard format that briefs or other written submissions must follow. However, each such document must identify on its cover (1) the type of document filed (i.e., prehearing brief, oral statement of (name), posthearing brief, or written submission), (2) the name of the person or organization filing it, and (3) whether it contains confidential business information (CBI). If it contains CBI, it must comply with the marking and other requirements set out below in this notice relating to CBI. Submitters of written documents (other than oral hearing statements) are encouraged to include a short summary of their position or interest at the beginning of the document, and a table of contents when the document addresses multiple issues.

CONFIDENTIAL BUSINESS INFORMATION: Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

As requested by the Committee on Finance, the Commission will not include any confidential business information in its report. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

SUMMARIES OF WRITTEN SUBMISSIONS: Persons wishing to have a summary of their position included in the report should include a summary with their written submission on or before October 1, 2021 and should mark the summary as having been provided for that purpose. The summary should be clearly marked as "summary for inclusion in the report" at the top of the page. The summary may not exceed 500 words, should be in MS Word format or a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the written submission can be found.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: January 26, 2021