



United States International Trade Commission

# 2021 CHIEF FOIA OFFICER REPORT



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## Introduction

Congress established the U.S. International Trade Commission (USITC or Commission) in 1916. It is an independent, quasi-judicial federal agency whose mission is to investigate and make determinations in proceedings involving imports claimed to injure a domestic industry or violate U.S. intellectual property rights; provide independent analysis and information on tariffs, trade, and competitiveness; and maintain the U.S. tariff schedule.

The Commission has identified two mission-related strategic goals. First, it will produce sound, objective, and timely determinations in trade remedy proceedings. Second, the Commission will produce independent, objective, and timely analysis and information on tariffs, trade, and competitiveness. These goals reflect the interests of its principal customers – the president, the U.S. Trade Representative, and Congress, and thereby also serve U.S. industry, workers, and the general public. In order to deliver greater impact, the Commission also has established a management goal to efficiently and effectively advance the agency’s mission.

The USITC’s Chief Freedom of Information Act (FOIA) Officer administers the USITC’s FOIA Program with the assistance of the FOIA Public Liaison. As a small agency, the USITC maintains staff commensurate with its needs to effectively implement its FOIA program.

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Please provide a short narrative for how your agency improved its FOIA administration during the reporting period. Your narrative may include any steps taken to: apply the presumption of openness, ensure that your agency has an effective system in place for responding to requests, increase proactive disclosures, greater utilize technology, and improve timeliness in responding to requests and reducing any backlogs. You may also include in this narrative a description of any best practices and/or challenges that your agency has faced in its FOIA administration.

### **Section I: Steps Taken to Apply the Presumption of Openness**

In March 2020, in response to the COVID-19 global pandemic, the Commission instituted a mandatory telework posture and closed the USITC building to the public. The Commission provided public notice informing of the temporary changes in operations, including to Commission hearing proceedings, and to the temporary suspension of rules requiring the filing of paper copies in Commission investigatory proceedings. Additionally, the USITC created a webpage to inform and provide updates to the public regarding Commission operations, and to provide details regarding the Commission's Three-Phase Plan to Re-Establish Business Operations at the USITC Building. [https://www.usitc.gov/press\\_room/featured\\_news/usitc\\_response\\_covid\\_19.htm](https://www.usitc.gov/press_room/featured_news/usitc_response_covid_19.htm)

The "USITC Response to COVID-19" webpage contains information regarding the USITC's operations during the pandemic, references and links to the applicable Federal Register notices concerning the temporary changes to Commission rules, guidance materials, and frequently asked questions (FAQs) to assist agency customers and the public in conducting business before the Commission in the current environment. The website also contains a specific section related to information regarding FOIA requests. In that section, the USITC notifies the public that the agency may experience delays in responding to FOIA requests that seek documents that are available only in hard copy, and in processing FOIA requests and related correspondence by mail. The FOIA-related section encourages those who intend to submit FOIA requests to do so electronically, through the agency's online portal, or by email.

### **Section II: Effective System in Place for Responding to Requests**

The USITC places a high priority on training and education. During calendar year 2020, FOIA staff attended the Department of Justice's (DOJ) training sessions covering updates to the annual report, and the Chief FOIA Officer's Council meetings. All of the Commission's FOIA professionals attended substantive FOIA training during this reporting period.

In 2020, the USITC's FOIA Program updated its FOIA correspondence templates to promote efficiency and expediency in responding to FOIA requests. Using templates as a baseline to respond to requestors also continues to ensure that the agency provides clear and consistent information to requestors.

As part of its continuous efforts to ensure that the USITC's FOIA Program operates efficiently and effectively, Commission FOIA staff, including the Chief FOIA Officer and the FOIA Public Liaison, meet at least quarterly to review the current-year FOIA files. We review our FOIA checklist to ensure that all appropriate documents are contained within each file, as well as recorded accurately, and we ensure that staff has followed all internal procedures. This approach enables the FOIA staff to continually improve and streamline the FOIA process to ensure that our FOIA Program 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/offices/secretary/foia/index.htm>.



### Section III: Steps Taken to Increase Proactive Disclosures

The Commission has an informal, but extensive, practice for identifying records and information of interest to the public for proactive disclosure. Staff working in each functional area reviews their applicable section(s) of the Commission's website to determine how best to address the interests of the public.

The USITC website contains links to the resources noted below.

- ( 1 ) *Federal Register* notices (since March 2020, published over **1458** columns notices in the Federal Register and posted over **455** notices on the Commission's website),
- ( 2 ) Publications (since March 2020, made over **108** additional publications available online),
- ( 3 ) Statistical data regarding investigations before the Commission (for example, **44** new section 337 investigations were instituted in (FY) 2020),
- ( 4 ) Electronic Document Information System (EDIS) (since March 2020, posted over **15,000** public documents),
- ( 5 ) Press releases (**148** press releases issued and posted during the 2020 calendar year), and
- ( 6 ) The Harmonized Tariff Schedule of the United States (HTS) (received approximately **8.93** million visits to the HTS Search website for tariff information in 2020.).

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

Additionally, the USITC maintains the FOIA Releasable Documents page, which provides the public with documents requested under FOIA. The USITC actively reviews closed FOIA requests throughout the year in order to be able to proactively disclose records likely to be of interest to the public. We are dedicated to ensuring openness and transparency as is evidenced by our commitment to increase proactive disclosures. The USITC's FOIA Releasable Documents page is available at: <https://www.usitc.gov/secretary/foia/foia-releasable-documents>.

Lastly, the Commission 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 (e.g., country of origin); unfair act(s) at issue (e.g., list of specific patent numbers alleged); procedural history information (e.g., 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 that imported goods infringe on U.S. patents and trademarks.

## Section IV: Steps Taken to Greater Utilize Technology

The Commission utilizes electronic means, when feasible, to communicate with FOIA requestors. When requestors provide their email address, we respond by email and acknowledge receipt of their request. We also use email 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. Additionally, the Commission provides electronic records whenever possible and utilizes an Adobe software to electronically apply any necessary redactions to released records.

Notably, we submitted all of the Commission's quarterly FOIA reports to our agency's web team for transmittal to DOJ for web posting. All quarterly reports were timely under DOJ's deadlines.

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

The Commission uses separate tracking for simple requests. In FY 2020, the average number of days to process simple requests was sixteen (16) days, and twenty-eight (28) days for complex requests. There were no backlogged requests or appeals at the end of FY 2020.

## SUCCESS STORY

In August 2020, the Commission published its annual report, *The Year in Trade 2019: Operation of the Trade Agreements Program, 71st Report* which provides factual information on trade policy and its administration in 2019 by examining the operation of trade preference programs. In previous years, this report contained lengthy and extensive indexes and tables containing pertinent trade, trade program, and trade remedy related data.

In an effort to promote ease of use and accessibility to the public, the Commission provided a new presentation of the data in interactive dashboards and data visualizations. These changes enable readers to quickly understand the composition and shifts in merchandise trade flows by top countries and import preference program. These interactive dashboards also include data related to trade remedy activities before the Commission, the World Trade Organization, and the North American Free Trade Agreement Dispute Settlement Body.



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