



BILLING CODE 3290-F5

## **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

Request for Public Comments To Compile the National Trade Estimate Report on Foreign Trade Barriers

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit comments to assist it in identifying significant barriers to U.S. exports of goods, services, and U.S. foreign direct investment for inclusion in the NTE. The TPSC invites written comments from the public on issues that USTR should examine in preparing the NTE.

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ("Section 1377") requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. In past years, USTR has solicited comments with regard to Section 1377 in a separate Federal Register Notice. In 2016, USTR is collecting information

regarding the trade barriers pertinent to the conduct of the review called for in Section 1377 through this notice.

**DATES:** Public comments are due not later than 11:59pm, October 28, 2015.

**ADDRESSES:** Submissions should be made via the Internet at [www.regulations.gov](http://www.regulations.gov) docket number USTR 2015-0014. For alternatives to on-line submissions please contact Yvonne Jamison (202) 395-3475. The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this notice should be directed to Yvonne Jamison at (202) 395-3475.

**SUPPLEMENTARY INFORMATION:** The NTE sets out an inventory of the most important foreign barriers affecting U.S. exports of goods and services, U.S. foreign direct investment, and protection of intellectual property rights. The inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers. The report also provides a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2015 NTE Report may be found on USTR's Internet Home Page (<http://www.ustr.gov>) under the tab "Reports". To ensure compliance with the NTE's statutory mandate and the Obama Administration's commitment to focus on the most significant foreign trade barriers, USTR will be guided by the existence of active private sector interest in deciding which restrictions to include in the NTE.

**Topics on which the TPSC Seeks Information:** To assist USTR in preparing the NTE, commenters should submit information related to one or more of the following categories of foreign trade barriers:

- (1) Import policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);
- (2) Government procurement restrictions (e.g., “buy national policies” and closed bidding);
- (3) Export subsidies (e.g., export financing on preferential terms, subsidies provided to equipment manufacturers contingent on export and agricultural export subsidies that displace U.S. exports in third country markets);
- (4) Lack of intellectual property protection (e.g., inadequate patent, copyright, and trademark regimes);
- (5) Services barriers (e.g., limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, unnecessary or discriminatory technical regulations or standards for telecommunications services and barriers to the provision of services by professionals);
- (6) Investment barriers (e.g., limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees, and royalties);
- (7) Government-tolerated anticompetitive conduct of state-owned or private firms that restrict the sale or purchase of U.S. goods or services in the foreign country's markets;
- (8) Trade restrictions affecting electronic commerce (e.g., tariff and non-tariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation);

(9) Trade restrictions implemented through unwarranted Sanitary and Phytosanitary Measures, including unwarranted measures justified for purposes of protecting food safety, and animal and plant life or health;

(10) Trade restrictions implemented through unwarranted standards, conformity assessment procedures, or technical regulations (Technical Barriers to Trade) that may have as their objective protecting national security requirements, preventing deceptive practices, or protecting human health or safety, animal or plant life or health, or the environment, but that can be formulated or implemented in ways that create significant barriers to trade (including unnecessary or discriminatory technical regulations or standards for telecommunications products); and

(11) Other barriers (e.g., barriers that encompass more than one category, such as bribery and corruption, or that affect a single sector).

In addition, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ("Section 1377") requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a trade agreement or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. In past years, USTR has solicited comments with regard to Section 1377 in a separate Federal Register Notice. For 2016, USTR is collecting the information with regard to the trade barriers pertinent to the Section 1377 review through this notice.

Furthermore, commenters are invited to identify those barriers covered in submissions that may operate as “localization barriers to trade”. Localization barriers are measures designed to protect, favor, or stimulate domestic industries, services providers, and or intellectual property at the expense of goods services or intellectual property from other countries, including the provision of subsidies linked to local production. For more information on localization barriers, please go to <http://www.ustr.gov/trade-topics/localization-barriers> .

In responding to this notice, commenters should place particular emphasis on any practices that may violate U.S. trade agreements. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2015 NTE as well as information on new barriers. If USTR does not include in the NTE information that it receives pursuant to this notice, it will maintain the information for potential use in future discussions or negotiations with trading partners.

**Estimate of Increase in Exports:** Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than \$5 million; \$5 to \$25 million; \$25 million to \$50 million; \$50 million to \$100 million; \$100 million to \$500 million; or over \$500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

**Requirements for Submissions:** Commenters providing information on foreign trade barriers in more than one country should, whenever possible, provide a separate submission for each country. In order to ensure the timely receipt and consideration of comments, USTR strongly

encourages commenters to make on-line submissions, using the <http://www.regulations.gov> website.

Comments should be submitted under docket number USTR 2015-0014. Persons submitting comments must do so in English and must identify (on the first page of the submission)

“Comments Regarding Foreign Trade Barriers To U.S. Exports for 2016 Reporting.”

In order to be assured of consideration, comments should be submitted by 11:59 p.m., October 28, 2015. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the [www.regulations.gov](http://www.regulations.gov) website.

To submit comments via [www.regulations.gov](http://www.regulations.gov) enter docket number USTR 2015-0014 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now!” (For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page).

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. USTR prefers that comments be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the “Type Comment” field. For example: “See attached comments with respect to (name of country)”. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “Type Comment” field. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters

“BC”. Any page containing business confidential must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather include any information that might appear in a cover letter in the comments themselves. Similarly to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through [www.regulations.gov](http://www.regulations.gov) , if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison should be contacted at (202) 395-3475. General information concerning USTR is available at [www.ustr.gov](http://www.ustr.gov) . Comments will be placed in the docket and open to public inspection, except confidential business information. Comments may be viewed on the <http://www.regulations.gov> website by entering the relevant docket number in the search field on the home page.

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Edward Gresser  
Acting Chair, Trade Policy Staff Committee.  
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