



June 9, 2020

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: Large Civil Aircraft Dispute Portal (ICR Reference No: 202005-0350-001)

Dear Ambassador Lighthizer,

On behalf of the National Retail Federation, we are submitting these comments on behalf of our members in response to the Office of the U.S. Trade Representative's (USTR) request for information regarding the establishment of the Large Civil Aircraft Dispute Portal. While NRF appreciates USTR's attempt to streamline their comment process, NRF and its members are concerned about some requirements of the portal and the impact it will have on the ability of some stakeholders to submit comments.

The National Retail Federation, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail thrive. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs — 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

NRF previously filed comments with USTR when the initial tariff list against the EU was first published. In our submission, we provided a list of over 100 HTS numbers that would have been negatively impacted by the imposition of tariffs. Tariffs are taxes that are paid by the U.S. importer and passed along to the U.S. consumer. We continue to remain concerned about the fact that the U.S. complaint is over EU subsidies to airplanes, but the much of the proposed U.S. retaliation impacts American consumers, not the EU aircraft industry or Airbus.

As USTR noted, there is broad public interest in this issue. Close to 26,000 comments were filed in response to a December 12, 2019 request for comments. The vast majority of these comments were filed by individuals or small businesses with little to no familiarity with the trade lexicon. USTR proposed new portal to receive information from the public about the potential impacts on it of these tariffs would in our view be difficult for many of these individuals or small businesses to use in large part because of the increased burden of the information collection request ("ICR"), thereby discouraging public participation in the public comment process.

To ease these burdens and ensure that USTR receives the valuable information it needs to make a fully-informed assessment of the likely impacts of proposed tariffs, NRF suggests that:

- (1) USTR should not make any of the data fields in the ICR “mandatory” for submitting a comment, and
- (2) USTR should accept free-form narrative comment responses of sufficient length to allow meaningful expression by a commenter.

Mandatory information requirement. The requirement to identify a product by its HTSUS subheading or statistical reporting in field 2(c) could present a significant burden for many small importers or individual purchasers of imported products targeted for tariffs and thus a barrier to public participation in the ICR. An average consumer may be directly and personally affected by a tariff action proposed by USTR, and may know that the tariff action stands to affect a particular type of product from a particular jurisdiction (e.g., wine from Europe), but have no knowledge of what an HTSUS statistical reporting number is, much less which such number describes the product at issue. As an example, an individual small retailer who sells wine imported from an EU country, but may purchase the wine from a wholesaler/distributor, would be impacted by the tariff, but not be aware of the specific HTSUS number for the product.

The burden would lie upon these small businesses and individuals to look to outside trade experts to identify the right information. At a time when we are trying to reduce regulatory burdens and help businesses reopen and recover from the coronavirus pandemic, the administration should not look to put new barriers in place that will harm the public participation process.

Mandatory information from drop down menus. While it may be useful for the USTR to receive the information from commenters by using a drop down menu, identifying an HTSUS code should not be a precondition to filing a comment. If a commenter wants to submit comments, either in opposition or support for proposed tariffs a specific product from Europe, they should be permitted to file a comment to that effect, have it be recognized by USTR and acted upon accordingly, without having to rely on trade lawyers to determine specific HTSUS numbers.

The proposed solution is straightforward—all data fields in the ICR should be “optional” rather than mandatory, and field 7, which permits free-form narrative responses should permit a comment of sufficient length as to enable the average consumer enough space to meaningfully express a position in layman's terms.

Conclusion

We appreciate the opportunity to comment on the development of the Large Civil Aircraft Dispute Portal. We believe that our proposed changes will allow USTR to use the portal in a manner that will elicit as much public participation in the comment process and not discourage stakeholders from commenting.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Gold". The signature is fluid and cursive, with a large initial "J" and a stylized "G".

Jonathan Gold
Vice President, Supply Chain and Customs Policy