

decision will be issued by January 22, 2020.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by November 4, 2019, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminary financially responsible. See 49 CFR 1152.27(c)(1)(i).

Following authorization for abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than November 13, 2019.<sup>2</sup>

All pleadings, referring to Docket No. AB 33 (Sub-No. 342X), must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on UP's representative, Jeremy M. Berman, Union Pacific Railroad Company, 1400 Douglas St., Stop 1580, Omaha, NE 68179, and the County's representative, Carolyn G. Kraska, Hogan Lovells US LLP, 555 13th St. NW, Washington, DC 20004. Replies to the petition are due on or before November 13, 2019.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for

submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: October 18, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Brendetta Jones,**  
*Clearance Clerk.*

[FR Doc. 2019-23203 Filed 10-23-19; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

**[Docket No. EP 670 (Sub-No. 1)]**

### **Notice of Rail Energy Transportation Advisory Committee Meeting**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Rail Energy Transportation Advisory Committee meeting.

**SUMMARY:** Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to the Federal Advisory Committee Act.

**DATES:** The meeting will be held on Thursday, November 14, 2019, at 8:00 a.m. C.S.T.

**ADDRESSES:** The meeting will be held at the Paducah & Louisville Railway headquarters at 200 Clark Street, Paducah, KY 42003.

**FOR FURTHER INFORMATION CONTACT:** Kristen Nunnally at (202) 245-0312 or [Kristen.Nunnally@stb.gov](mailto:Kristen.Nunnally@stb.gov). Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** RETAC was formed in 2007 to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues related to the transportation of energy resources by rail, including coal, ethanol, and other biofuels. *Establishment of a Rail Energy Transp. Advisory Comm.*, EP 670 (STB served July 17, 2007). The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. Potential agenda items for this meeting include a performance measures review, industry segment updates by RETAC members, and a roundtable discussion.

The meeting, which is open to the public, will be conducted in accordance with the Federal Advisory Committee

Act, 5 U.S.C. app. 2; Federal Advisory Committee Management regulations, 41 CFR pt. 102-3; RETAC's charter; and Board procedures. Further communications about this meeting may be announced through the Board's website at [www.stb.gov](http://www.stb.gov).

**Written Comments:** Members of the public may submit written comments to RETAC at any time. Comments should be addressed to RETAC, c/o Kristen Nunnally, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001 or [Kristen.Nunnally@stb.gov](mailto:Kristen.Nunnally@stb.gov).

**Authority:** 49 U.S.C. 1321, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: October 18, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Aretha Laws-Byrum,**  
*Clearance Clerk.*

[FR Doc. 2019-23207 Filed 10-23-19; 8:45 am]

**BILLING CODE 4915-01-P**

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

**[Docket Number USTR-2019-0005]**

### **Procedures for Requests To Exclude Particular Products From the August 2019 Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation**

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In a notice published on August 20, 2019, the U.S. Trade Representative announced that the Office of the U.S. Trade Representative (USTR) would establish a process by which U.S. stakeholders may request an exclusion from additional duties of particular products classified within a tariff subheading covered by the August 2019 action. This notice announces that USTR will open an electronic portal for submission of exclusion requests on October 31, 2019 for products covered by Annex A of the August 2019 action, and sets out the specific procedures for submitting requests.

**DATES:** *October 31, 2019 at noon EDT:* The web portal for submitting exclusion requests—<https://exclusions.USTR.gov>—will open.

*January 31, 2020 at 11:59 p.m. EDT:* Last day for submitting exclusion requests.

Responses to individual exclusion requests are due 14 days after USTR

<sup>2</sup>Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

posts the request on the online portal. Any replies to responses to an exclusion request are due the later of 7 days after the close of the 14-day response period, or 7 days after the posting of a response.

**ADDRESSES:** You must submit all requests, responses to requests, and replies to responses through the online portal: <https://exclusions.ustr.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions about the product exclusion process, contact Assistant General Counsels Philip Butler or Megan Grimball at (202) 395-5725. For questions on customs classification or implementation of additional duties, contact [traderemedy@cbp.dhs.gov](mailto:traderemedy@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**A. August 2019 Action**

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), and 84 FR 22564 (May 17, 2019).

In a notice published on August 20, 2019, the U.S. Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the Section 301 investigation by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion. 84 FR 43304 (August 20, 2019). The August 20 notice contains two separate lists of tariff subheadings, with two different effective dates. List 1, which is set out in Annex A of the August 20 notice, was effective September 1, 2019. List 2, which is set out in Annex C of the August 20 notice, currently is scheduled to take effect on December 15, 2019. On August 30, 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by increasing the rate of additional duty from 10 to 15 percent *ad valorem* on the goods of China specified in Annex A and Annex C of the August 20 notice.

**B. Procedures To Request the Exclusion of Particular Products**

USTR invites interested persons, including trade associations, to submit requests for exclusion from the additional duties for products covered by List 1 of the August 2019 action. As explained in more detail below, each request specifically must identify a particular product, and provide supporting data and the rationale for the requested exclusion. USTR will evaluate each request on a case-by-case basis, taking into account the asserted

rationale for the exclusion, whether the exclusion would undermine the objective of the Section 301 investigation, and whether the request defines the product with sufficient precision. Any exclusion will be effective for one year, starting from the September 1, 2019 effective date for Annex A of the August 20, 2019 notice. USTR will periodically announce decisions on pending requests.

To submit an exclusion request, requesters must first register on the portal at <https://exclusions.ustr.gov>. As noted above, the portal will open at noon EDT on October 31, 2019. After registration, the requester can fill out and submit one or more exclusion request forms.

Fields on the exclusion request form marked with an asterisk (\*) are required fields. Fields with a green (Public) notation will be publicly available. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Additionally, parties will be able to upload documents and indicate whether the documents are BCI or public. Requesters will be able to review the public version of their submission before the submission is posted.

In order to facilitate preparation of requests prior to the October 31 opening of the web portal, a facsimile of the exclusion request form to be used on the portal is attached as an annex to this notice. Please note that the color-coding of public fields and BCI fields is not visible on the attached facsimile, but will be apparent on the actual form used on the portal.

Set out below is a summary of the information to be entered on the exclusion request form.

Each requester must provide contact information, including the full legal name of the organization making the request, whether the requester is a third party (law firm, trade association, or customs broker) submitting on behalf of an organization or industry, and the primary point of contact (requester and/or third party submitter). The requester may report whether the requester's business satisfies the Small Business Administration's size standards for a small business, which are identified by North American Industry Classification Systems Codes and are found in 13 CFR 121.201.

With regard to product identification, any request for exclusion must include the following information:

- The 10-digit subheading of the HTSUS applicable to the particular product requested for exclusion. If no 10-digit subheading is available (*i.e.*, the

8-digit subheading does not contain breakouts at the 10-digit level), requesters should use the 8-digit subheading and add "00". Different models classified under different 8-digit or 10-digit subheadings are considered different products and require separate exclusion requests.

- Product name and a detailed description of the product. A detailed description of the product includes, but is not limited to, its physical characteristics (*e.g.*, dimensions, weight, material composition, etc.). Requesters may submit a range of comparable goods within the product definition set out in an exclusion request. Thus, a product request may include two or more goods with similar product characteristics or attributes. Goods with different SKUs, model numbers, or sizes are not necessarily different products.

- The product's function, application (*e.g.*, whether the product is designed to function in or with a particular machine or other device), principal use, and any unique physical features that distinguish it from other products within the covered 8-digit HTSUS subheading. Requesters may submit attachments that help distinguish the product (*e.g.*, CBP rulings, photos and specification sheets, and previous import documentation). Documents submitted to support a requester's product description must be made available for public inspection and contain no BCI. USTR will not consider requests that identify the product using criteria that cannot be made available for public inspection.

- Whether the product is currently subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.

Requesters must provide their relationship to the product (Importer, U.S. Producer, Purchaser, Industry Association, Other) and provide specific data on the annual quantity and value of the Chinese-origin product, domestic product, and third-country product the requester purchased, in 2017, 2018, and the first half of 2019.

Requesters must provide information regarding their gross revenues for 2018 and the first half of 2019.

For imports sold as final products, requesters must provide the percentage of their total gross sales in 2018 that sales of the Chinese-origin product accounted for.

For imports used in the production of final products, requesters must provide the percentage of the total cost of producing the final product(s) the Chinese-origin input accounts for and the percentage of their total gross sales

in 2018 that sales of the final product(s) accounted for.

As noted in the attached facsimile, required information regarding the requester's purchases and gross sales and revenue is BCI and the information entered will not be publicly available.

With regard to the rationale for the requested exclusion, each requester will be asked to address the following:

- Whether the particular product is available only from China and whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries. The requester must provide an explanation if the product is not available outside of China or the requester is not sure of the product availability.

- Whether the requester has attempted to source the product from the United States or third countries.

- Whether the imposition of additional duties on the particular product will cause severe economic harm to the requester or other U.S. interests.

- Whether the particular product is strategically important or related to "Made in China 2025" or other Chinese industrial programs.

In addressing each factor, the requester should provide support for their assertions. To provide information about the possible cumulative effects of the Section 301 tariff actions, requesters also may submit information about any exclusion requests submitted by the requester under the initial \$34 billion tariff action (Docket ID: USTR-2018-0025), the additional \$16 billion tariff

action (Docket ID: USTR-2018-0032), or the additional \$200 billion tariff action (Docket ID: USTR-2019-0005) and the value of the requester's imports covered by the previous tariff actions. Requesters also may provide any other information or data that they consider relevant to an evaluation of the request.

### C. Responses to Requests for Exclusions

After a request for exclusion of a particular product is posted on USTR's online portal, interested persons will have *14 days* to respond to the request, indicating support or opposition and providing reasons for their view. A response to a product exclusion request must be submitted using USTR's online portal at <https://exclusions.ustr.gov>. To file a response, an interested party does not have to register. Responses will be publicly available.

### D. Replies to Responses to Requests for Exclusions

After a response is posted on USTR's online portal, the requester will have the opportunity to reply to the response using the same portal. Any reply must be submitted within the later of *7 days* after the close of the 14-day response period, or 7 days after the posting of a response. A reply to a response must be submitted using USTR's online portal at <https://exclusions.ustr.gov>. Replies to responses will be publicly available.

### E. Submission Instructions

As noted above, interested persons must submit requests for exclusions in the period between the opening of the portal on October 31, 2019, and January

31, 2020. Any responses to those requests must be submitted within 14 days after the requests are posted. Any reply to a response must be submitted within the later of 7 days after the close of the 14-day response period, or 7 days after the posting of a response.

Interested persons seeking to exclude two or more products must submit a separate request for each product, *i.e.*, one product per request. As noted above, a single product may include two or more goods with similar product characteristics or attributes.

By submitting an exclusion request, a response, or a reply, the submitter certifies that the information provided is complete and correct to the best of his or her knowledge.

### F. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, USTR submitted a request to the Office of Management and Budget (OMB) for emergency review and clearance of this information collection request (ICR) titled *301 Exclusion Requests*. OMB assigned control number 0350-0015, which is due to expire on December 31, 2019. USTR has submitted the information collection to OMB for review and approval of a three-year extension of the control number. 84 FR 43853 (August 22, 2019).

**Joseph Barloon,**

*General Counsel, Office of the U.S. Trade Representative.*

**BILLING CODE 3290-F0-P**

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## Exclusion Request Form

### 1. Submitter Information

Full Organization Legal Name \* (Public)

Requestor First Name \* (BCI)

Requestor Last Name \* (BCI)

Requestor Mailing Address

Street Address Line 1 \* (BCI)

Street Address Line 2 (BCI)

City \* (BCI)

State \* (BCI)

Zip Code \* (BCI)

Country \* (BCI)

Requestor E-mail Address \* (BCI)

Requestor Phone Number \* (BCI)

**Does your business meet the size standards for a small business as established by the Small Business Administration? \* (Public)** YES/NO/Not Sure

**Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? \* (Public)** YES/NO

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name (Public)

Third Party First Name (BCI)

Third Party Last Name (BCI)

Third Party Mailing Address

Street Address Line 1 (BCI)

Street Address Line 2 (BCI)

City (BCI)

State (BCI)

Zip Code (BCI)

Country (BCI)

Third Party E-mail Address (BCI)

Third Party Phone Number (BCI)

**Who will be the primary point of contact? (Select One) \* (BCI)**

- Requestor
- Third Party Submitter
- Requestor and Third Party Submitter

2. **Please provide the 10-digit HTSUS item number\* for the product you wish to address in this product exclusion request. A 10-digit HTSUS number is required. \*** (Public)

Use numerical characters only with no special characters (Example: 1023456789). For help with finding the HTSUS item number associated with your product, see <https://hts.usitc.gov/>.

3. **Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? \***

4. **Please provide a complete and detailed description of the particular product of concern.** (A detailed description of the product includes, but is not limited to, its physical characteristics (e.g., dimensions, weight, material composition, etc.), whether product is designed to function in or with a particular machine (application), the unit value of the product (please provide a range if necessary), and any unique physical features that distinguish it from other products within the covered 8-digit HTSUS subheading. If needed, please attach images and specification sheets, CBP rulings, court decisions, and previous import documentation below.) **Please also describe the product's principal use.**

Note: USTR will not consider requests that identify the product using criteria that cannot be made available to the public. USTR will not consider requests in which more than one unique product is identified.

**Product Name \* (Public)**

**Product Description (e.g. dimensions, weight, material composition, etc.) \* (Public)**

**Product Function, Application, and Principal Use \* (Public)**

Please upload any relevant attachments that will help identify and distinguish your product (e.g. CBP rulings, photos and specification sheets, and previous import documentation) (Public)

5. Requestor's relationship to the product (select all that apply) \* (Public)

- Importer
- U.S. Producer
- Purchaser
- Industry Association
- Other

6. Is this product, or a comparable product, available from sources in the United States? (If you indicate "NO" or "NOT SURE," in the box below, you must explain why the product is unavailable or why you are unsure of the product's availability.) \* (Public)

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product's availability. (Submitter Determines BCI or Public)

7. Is this product, or a comparable product, available from sources in third countries? (If you indicate "NO" or "NOT SURE," in the box below, you must explain why the product is unavailable or why you are unsure of the product's availability.) \* (Public)

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product's availability. (Submitter Determines BCI or Public)

8. Please discuss any attempts to source this product from United States or third countries. \* (Public)

9. Please provide the value in USD and quantity (with units) of the Chinese-origin product of concern that you purchased in 2017, 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. \* (BCI)

2017 Value: 2017 Quantity:  
2018 Value: 2018 Quantity:  
2019 Value (Jan-Jun): 2019 Quantity (Jan-Jun):

**Are the provided figures estimates?: \* (BCI) YES/NO**

**Are any of these purchases from a related company? \* (BCI) YES/NO**

**Please list the name and relationship of the related company. (BCI)**

- 10. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from any third-country source in 2017, 2018, and the first half of 2019 (Jan-Jun). Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. \* (BCI)**

2017 Value: 2017 Quantity:  
2018 Value: 2018 Quantity:  
2019 Value (Jan-Jun): 2019 Quantity (Jan-Jun):

**Are the provided figures estimates?: \* (BCI) YES/NO**

- 11. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from domestic sources in 2017, 2018, and the first half of 2019 (Jan-Jun). Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. \* (BCI)**

2017 Value: 2017 Quantity:  
2018 Value: 2018 Quantity:  
2019 Value (Jan-Jun): 2019 Quantity (Jan-Jun):

**Are the provided figures estimates?: \* (BCI) YES/NO**

- 12. Please provide information regarding your company's gross revenue in USD for 2018 and the first half of 2019 (Jan-Jun). \* (BCI)**

Fiscal Year 2018:

First Half of 2018 (Jan-Jun):

First Half of 2019 (Jan-Jun):

**Are the provided figures estimates?: \* (BCI) YES/NO**

13. Is the Chinese-origin product of concern sold as a **final product** or as an **input** used in the production of a final product or products? \* (Public)

a) For imports sold as **final products**, please provide: (BCI)

% of your company's total, U.S. gross sales in 2018 that the Chinese-origin product accounted for.

b) For imports of **inputs** used in the production of final products, please provide: (BCI)

% of the total cost of producing the final product(s) the Chinese-origin input accounts for.

% of your company's total, U.S. gross sales in 2018 that sales of the final product(s) incorporating the input accounts for.

14. Please comment on whether the imposition of additional duties on the product you are seeking to exclude will result in severe economic harm to your company or other U.S. interests. In addressing this factor, please address the number of employees in your company and the number of employees potentially affected. \* (BCI)

15. Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (Submitter Determines BCI or Public)

16. Did you submit exclusion requests for the Section 301 \$34 billion (Docket ID: USTR-2018-0025), the \$16 billion (Docket ID: USTR-2018-0032), and/or the \$200 billion (Docket ID: USTR-2019-0005) tariff actions? \* (Public) YES/NO

Please enter the total value of your company's imports applicable to the tariff action for which you submitted one or more exclusion request: (BCI)

Initial \$34 Billion Tariff Action:

Additional \$16 Billion Tariff Action:

Additional \$200 Billion Tariff Action:

17. Please comment on whether the particular product of concern is strategically important or related to "Made in China 2025" or other Chinese industrial programs. You must explain in the box below why you believe the product of



concern is or is not strategically important or related to “Made in China 2025” or other Chinese industrial programs. \* (Public)

**18. Include any additional attachments that should be considered along with this exclusion request (e.g., customs rulings, court decisions, previous import documentation, etc.). Please do not include attachments that contain your written argument. (Submitter Determines BCI or Public)**

[FR Doc. 2019–23181 Filed 10–23–19; 8:45 am]

BILLING CODE 3290–F0–C9

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

[Docket Number USTR–2019–0018]

**Applications for Inclusion on the  
Binational Panels Roster Under the  
North American Free Trade Agreement**

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

**ACTION:** Invitation for applications.

**SUMMARY:** The North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the roster. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on the roster for the period April 1, 2020, through March 31, 2021.

**DATES:** USTR must receive your application by November 29, 2019.

**ADDRESSES:** You should submit your application through the Federal eRulemaking Portal: <http://www.regulations.gov>, using docket number USTR–2019–0018. Follow the instructions for submitting comments below. While USTR strongly prefers electronic submissions, you also may submit your application by fax, to Sandy McKinzy at (202) 395–3640.

**FOR FURTHER INFORMATION CONTACT:** Philip Butler, Assistant General Counsel, [Philip.A.Butler@ustr.eop.gov](mailto:Philip.A.Butler@ustr.eop.gov), (202) 395–5804.

**SUPPLEMENTARY INFORMATION:**

**Binational Panel AD/CVD Reviews  
Under the NAFTA**

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a

binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party using the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel’s decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of 15 current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties must consult and seek to achieve a mutually satisfactory solution.

**Roster and Composition of Binational Panels**

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist

of lawyers in good standing, and the chair of the panel must be a lawyer.

When there is a request to establish a panel, roster members from the two involved NAFTA Parties will complete a disclosure form that is used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member’s firm.

**Criteria for Eligibility for Inclusion on Roster**

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (Section 402) provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

**Adherence to the NAFTA Code of Conduct for Binational Panelists**

The “Code of Conduct for Dispute Settlement Procedures Under Chapters 19 and 20” (see <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Code-of-Conduct>), which was established pursuant to Article 1909 of the NAFTA, provides that current and former Chapter 19 roster members “shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the