



December 26, 2006

Hon. David M. Spooner
Assistant Secretary for Import Administration
Room 1870
U.S. Department of Commerce
14th Street and Constitution Ave., NW
Washington, D.C. 20230

Re: Request for Comments on Import Monitoring Program for Textile
and Apparel Products From Vietnam

Dear Assistant Secretary Spooner:

This letter responds to the Department's request for public comment on the development of an Import Monitoring Program on Textile and Apparel Products from Vietnam ("Import Monitoring Program" or "IMP"). See 71 Fed. Reg. 70364 (Dec. 4, 2006). Nike, Inc. ("Nike") is a signatory to the detailed comments being filed collectively by a number of retailers and retail organizations, and endorses fully the comments and recommendations in that submission. Nike wishes, however, to briefly express its individual views on the proposed monitoring program.

First, as the Department recognizes, the implementation of a specific monitoring program for a class of products from a particular country, tied to self initiation of an anti-dumping case, is unprecedented under existing law. Nike has significant concerns about the Department's legal authority to initiate such a process as well as the dangerous precedent that it establishes. The Administration's decision to put such a program in place for Vietnamese textile and apparel products -- which has been largely a political exercise -- with little transparency has undermined confidence in the integrity of the antidumping process. Although we object to the proposed IMP, given the Department's decision to move forward, we are hopeful that the Department will proceed in a manner which will restore confidence in and maintain the integrity and fairness of the antidumping laws.

Second, it is important for the Department to recognize the very significant impact that its IMP is having and will continue to have on U.S.-Vietnam trade and on the U.S. business community. To the credit of the Administration, the issues of concern to the U.S. domestic textile industry (i.e., subsidies) were fully addressed in the U.S.-Vietnam bilateral accession Agreement. That Agreement includes specific provisions and remedies to effectively address any issues that may arise with respect to Vietnam textile and apparel subsidies. Based on that Agreement, Nike and other U.S. apparel

companies developed and began implementing long-term apparel sourcing strategies for Vietnam. The unexpected announcement of the IMP and the uncertainty that it has fostered have created a significant chilling effect and, by itself, has led some retailers, including Nike, to reconsider sourcing strategies vis-a-vis Vietnam.

Third, the chilling effect on trade occasioned even by the announcement of the IMP runs directly counter to the intended impact of Vietnam's WTO accession, i.e., the increase of trade flows and a reliance on WTO processes and procedures to address any resulting problems. A new member's accession to the WTO should result in trade liberalization, not new and innovative trade restrictions such as the IMP, which will affect Vietnam's strongest job creating and export-oriented industry.

Given these concerns, Nike strongly urges the Department to take every possible step to mitigate the significant chilling effect of its IMP. To be clear, this chilling effect cannot be eliminated if the IMP goes forward, but it can be limited. In particular, the Department must ensure that it narrowly defines the group of products subject to monitoring under its program. This is the best way to limit the negative impact of the program.

In this regard, a key consideration is that there must be no monitoring of products as to which there is no directly corresponding U.S. industry. Nike urges the Department to require US producers to come forward, provide detailed information on the products they produce, to identify the imported products they seek to have monitored and to explain why their own products are equivalent to the imported products proposed for monitoring. There are several other ways that the Department can narrow its monitoring, limit the chilling effect on trade and focus only on those products produced by domestic industry:

- Given the extraordinary nature of the proposed program, the Department should limit monitoring to products that are identical to those produced in the United States. The trade-chilling effect of the IMP can be limited by narrowly defining the scope of monitoring to those products which clearly and demonstrably may be of concern to bona fide USA producers.
- The Department should define the products subject to monitoring by reference to particular HTSUS codes, rather than the much broader categories previously used for textile quota administration.
- The Department should exclude from monitoring those products, even though included within HTSUS categories identified for monitoring, which are not made in the United States and do not compete with U.S. production. Some athletic products, for example, have special performance features not provided by any U.S. producers.

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These products are not made in the United States and do not compete with U.S. producers. They should not be subject to monitoring.

- The Department must ensure that U.S. retailers and importers have the opportunity to provide detailed comments on any products proposed for monitoring before products are finally identified for monitoring.
- The Department must not impose upon exporters or importers of textile and apparel products from Vietnam any new data collection or reporting requirements. Any monitoring must be limited to the information and data currently available to the Department.

The detailed retailer comments that Nike has joined provide these and numerous other constructive recommendations on the proposed IMP. Nike respectfully refers the Department to that submission and urges the Department to take every step to ensure that it defines and narrows the scope of its monitoring to those limited products for which there is a corresponding U.S. industry and that it does not impose any new burdens on importers or exporters of textiles and apparel from Vietnam.

Sincerely,



Brad Figel
Global Director of Government Relations
& Public Affairs
Nike, Inc.

cc: Senator Gordon Smith
Senator Ron Wyden
Senator Max Baucus
Senator Chuck Grassley