



December 27, 2006

**Via Hand Delivery**

Honorable David M. Spooner  
Assistant Secretary for Import Administration  
U.S. Department of Commerce  
Central Records Unit  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20230

**Re: Comments of Outdoor Industry Association – Monitoring Program for  
Textile and Apparel Products from Vietnam**

Dear Assistant Secretary Spooner:

**I. INTRODUCTION**

On December 4, 2006 the Department published a request for comments with respect to a proposed import monitoring program involving textile and apparel products from Vietnam.<sup>1</sup> These comments are being filed with the Department to present the views of Outdoor Industry Association on the proposed monitoring program.

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<sup>1</sup> Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments, 71 Fed. Reg. 70364 (December 4, 2006).

## **II. LIAISON CONTACT**

The Department should direct any future communications concerning this issue to Frank Hugelmeyer, President and Chief Executive Officer, Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder Colorado 80301, Telephone: 303-444-3353, Email: fhugelmeyer@outdoorindustry.org.

## **III. OUTDOOR INDUSTRY ASSOCIATION**

Outdoor Industry Association (“OIA”) was founded in 1989 and is now the premiere national trade association for companies involved in the active outdoor recreation business. OIA provides trade services for over 4,000 manufacturers, distributors, suppliers, sales representatives and retailers in outdoor industry.

OIA works to ensure that there is a healthy and diverse retail and supply chain based on quality, innovation and service for the specialty outdoor performance wear industry in which OIA members are involved. OIA members include recognized brands such as Columbia Sportswear, Patagonia, Timberland, The North Face, Salomon, W.L. Gore, Sierra Designs, White Sierra, Marmot/K2 and Spyder, among others. OIA retail members are national specialty stores with locations and employees across the country, such as Eastern Mountain Sports, Cabela’s and REI, as well as smaller regional and resort specialty shops. OIA has member companies in every state of the United States.

More than three out of four Americans participate in outdoor recreation each year. Simple outdoor activities such as hiking, biking, camping, hunting, or wildlife viewing have a significant impact on the U.S. economy that touches many of the nation’s major economic

sectors. A recent report<sup>2</sup> found that active outdoor recreation activities contributed \$730 billion annually to the U.S. economy, support nearly 6.2 million jobs, generate \$88 billion in annual state and national tax revenue and have other far-reaching and positive effects on the U.S. economy.

Many OIA members import performance outerwear products from Vietnam. Performance outerwear may fall generally within the broad category of apparel. However, performance outerwear constitutes a specialty/niche product that should be excluded from the Department's monitoring program. Performance outerwear imported by OIA members is specifically designed to withstand the rigors of outdoor activities such as off-road bicycling, camping, fishing, hunting, kayaking, rafting, canoeing, downhill skiing, cross-country skiing, snowshoeing, hiking, backpacking and rock climbing. As a result, performance outerwear, including performance outerwear imported by OIA members from Vietnam, must meet significant requirements in terms of construction, materials and other characteristics. These characteristics set performance outerwear apart from the apparel products targeted by the Department and the domestic industry.

#### **IV. OIA COMMENTS**

##### **A. *Consultative Process***

- The Department should establish consultative mechanisms with outreach efforts to all interested parties.

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<sup>2</sup> The Outdoor Recreation Economy, Outdoor Industry Foundation, Fall 2006.

- There are, to the best of our knowledge, no definitive advisory panels that the Department should meet with on an ongoing basis. There are, however, trade associations with which the Department should consult on a regular basis. Given OIA's leadership role in the specialty performance outerwear industry, the Department must, with all due respect, we submit, include OIA on the list of key trade associations with whom the Department will remain in continuing consultations.

- The Department should hold at least one field hearing. That field hearing should be held in Denver, Colorado in order to facilitate the ability of OIA members to further demonstrate to the Department the unique characteristics of performance outerwear.

***B. Products***

- To the best of OIA's knowledge, there is no common denominator that would allow the Department to project findings of dumping from one product line to a separate and distinct product line.

- The Department's notice cites five product groupings that are of "special sensitivity" – trousers, shirts, underwear, swimwear, and sweaters. We are highly concerned that these product groupings are too broad. They encompass a wide variety of articles. For example, the term "trousers" would include articles of any type of fiber (cotton, wool, manmade fibers, silk ramie, etc.), construction (knit or woven) and for all persons (infants, boys, girls, men and women) and a variety of different product types including jeans, casual slacks, dress slacks, stirrup pants, hunting pants, ski pants, etc. The same is true of the remaining four listed product categories. In all, there are 777 10-digit tariff descriptions relating to these articles in the current U.S. HTS. Thus, the Department must narrow, not

expand, the scope of the monitoring program, and can reasonably do so by eliminating performance outerwear from the program.

The Department itself has recognized the significant difference between performance outerwear and other apparel products when it identified a separate class of merchandise – ski and snowboard pants. The Department has recognized a definition of woven ski and snowboard pants, and has determined that imports of such items from China did not contribute to market disruption in the case of the safeguard action on the broader class of merchandise – manmade fiber trousers and shorts.<sup>3</sup> The fact that the new definition of ski & snowboard pants comprised articles that were classified in a number of separate tariff breakouts did not preclude creating a separate class of merchandise.

More recently, the International Trade Commission (ITC) has initiated a study of the U.S. market for performance outerwear pants and jackets.<sup>4</sup> While the ITC has yet to set out a definition of performance outerwear pants and jackets, it is clear that there is a dramatic distinction between such articles and those contained in broader classifications such as “trousers”. Performance outerwear can be construed as articles that contain, among other things, special characteristics such as water-resistance, special closures and seams, reinforcements at critical stress points, and are made of specialized fabrics that provide a combination of stretch, insulation, and the ability to breathe and wick away moisture.

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<sup>3</sup> Committee for the Implementation of Textile Agreements (CITA) issued a directive to the Commissioner, Customs and Border Protection, not to subject ski and snowboard pants to limits on category 674/648 and to release them from the current embargo for goods manufactured in the People’s Republic of China. See 70 Fed. Reg. 65889 (Oct. 26, 2005).

<sup>4</sup> Certain Textile Articles, Performance Outerwear; ITC Institution of investigation and request for comments, 71 Fed. Reg. 67638 (Nov. 22, 2006) (Section 332 investigation of performance outerwear requested by the House Committee on Ways and Means).

In summary, the Department must, we submit, identify specific products within the sensitive product group categories that are of particular interest to the domestic industry for monitoring purposes. All other remaining product types should be excluded from the monitoring program. Performance outerwear is one of the product groups that should be excluded from the Department's monitoring program.

- The Department should not monitor any products imported from Vietnam unless identical products are produced in the United States. Performance outerwear is not, for all intents and purposes, manufactured in the United States, and for that reason alone, should not be monitored. Furthermore, as the Department may already have discovered, there is an enormous need to reduce the number of products to be monitored to avoid total gridlock in the program. A requirement that a product must be manufactured in the United States, in a commercially viable volume, is a reasonable and rational way to narrow the products to be monitored.

- No textile and apparel categories should be added to the existing five sensitive categories already identified by the Department. In fact, the number of products in the five sensitive groups must be dramatically reduced if the Department expects to establish a functional monitoring program.

- We are unaware of publicly available aggregate information, other than the OTEXA reports.

***C. Production Templates***

- Without the identification of particular products, there is no basis for recommending proxy countries to the Department.
- The term “production template” requires further definition before it is possible to provide meaningful comments.

***D. Domestic Industry Information***<sup>5</sup>

- It is OIA’s understanding that the health and performance of the domestic industry (if one exists) is of critical importance in deciding whether a basis exists to support self-initiation of a dumping investigation. All information relevant to the health and performance of the domestic industry should be requested from the industry members, by the Department, in the form of comprehensive requests to the companies to answer specific questions and to produce certain documents.
- As noted above, OIA submits that all domestic industry information required to evaluate self-initiation of dumping investigations must be obtained directly from members of the domestic industry. There is no alternate source of this information, which is critical to any reasonable biannual evaluation process.

***E. Biannual Evaluation Process***

- The most important information, from the perspective of OIA, that the Department should consider in its biannual evaluation process includes the characteristics of

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<sup>5</sup> OIA reserves the right to aggressively challenge the existence of any domestic industry with respect to the production of performance outerwear.

the products being evaluated. No case self-initiated by the Department should be directed against performance outerwear, a niche, specialty product for which there is no meaningful domestic production, if there is any domestic production at all.

- No dumping investigation should be self-initiated by the Department without first holding a public hearing, and inviting comments, on whether the Department should self-initiate a particular case.

- The Department should establish a minimum threshold, per entry, of an entered value of at least \$10,000 before adding a particular entry to the monitoring program. This is a reasonable and rational basis for ensuring that the biannual evaluation process is not distorted by otherwise negligible imports and for reducing to a manageable level, the scope of the monitoring program.

## **V. CONCLUSION**

Performance outerwear, a product imported from Vietnam by many OIA members, should be excluded from the monitoring program for the following reasons: (1) Performance outerwear is a specialty, niche product that is dramatically different from the apparel product of interest to the domestic industry and the Department, (2) There is no meaningful production of performance outerwear, if any production at all, in the United States.

In addition to the above reasons for excluding performance outerwear, the Department, as a practical matter, needs to streamline the monitoring program. Performance outerwear, by definition, is a separate and distinct product line that forms a reasonable and rational basis for exclusion from other apparel products. Performance outerwear can be

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identified as such on entry documents allowing that product line to be easily identified by the Department and excluded from the monitoring program.

Respectfully Submitted,

A handwritten signature in black ink, reading "Frank Hugelmeyer". The signature is written in a cursive style with a long horizontal line extending to the right.

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Frank Hugelmeyer  
President and Chief Executive Officer  
Outdoor Industry Association