USA ITA

UNITED STATES ASSOCIATION OF IMPORTERS OF TEXTILES AND APPAREL

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

Re: Comments on Import Monitoring Program on Textile and Apparel Products from Vietnam, 71 Fed. Reg. 70364 (December 4, 2006)

Dear Assistant Secretary Spooner:

The U.S. Association of Importers of Textiles and Apparel, USA-ITA, submits these comments on behalf of the U.S. importing and retailing community and related suppliers, in response to the Federal Register notice by the U.S. Department of Commerce's International Trade Administration, seeking public comment on establishment of a monitoring program covering imports of textile and apparel products from Vietnam. This letter supplements the comprehensive comments separately submitted by USA-ITA and the U.S. importing and retailing community.

USA-ITA has more than two hundred member companies, including manufacturers, distributors, retailers, importers and related service providers, such as shipping lines and customs brokers. The member companies account for in excess of $100 billion in U.S. apparel sales annually and source goods from around the world.

Summary of Comments:

1. It is inappropriate to threaten U.S. imports of apparel as a means of protecting U.S. fabric and yarn makers.

2. Neither import monitoring nor antidumping duties will bring one textile or apparel manufacturing job back to the United States. Futile measures that will only hurt U.S. businesses and American consumers, without creating any benefits for U.S. manufacturers or workers, should not be pursued.

3. Monitoring imports of textiles and apparel made in Vietnam is a blatant and ill-considered first step toward yet another chapter in government management of this sector, and a significant lurch backward from the deregulation envisioned by the Uruguay Round Agreements and this Administration's commitment to trade liberalization.

4. As outlined by the comments prepared by the law firms of Akin Gump, Sidley Austin and WilmerHale and submitted on behalf of the importing and retailing community:

A. The legality of the import monitoring program, under both U.S. law and international agreements, is seriously in doubt;

B. If not abandoned altogether, the import monitoring program must be specifically limited to cover only those products from Vietnam for which monitoring is requested by U.S. producers manufacturing the same products in the United States for the U.S. commercial market and prepared to provide company-specific data that would identify any material injury and the cause of such injury, and the program must create no new document or data burdens or collections for U.S. importers or their vendors; and

C. Any consideration to take the extraordinary action of self-initiation should only follow extensive consultation with interested parties, namely manufacturers and importers, of the like products, and a thorough review and concurrence by the highest levels of the Administration, through the Trade Policy Staff Committee, based upon the standards no less stringent than those that would apply if a petition were filed.

Discussion

1. It Is Inappropriate To Threaten Apparel Trade To Assist Yarn and Fabric Manufacturers

The monitoring program contemplated by the December 4 Federal Register notice reflects the terms of the September 28 letters from Secretary Gutierrez and Ambassador Schwab to Senators Elizabeth Dole and Lindsey Graham, and responds to a persistent campaign of the U.S. textile industry, as represented by their industry associations, for a protected U.S. market. Yet there is a fundamental disconnect between the claims of the U.S. textile industry and any decision to monitor trousers, shirts, underwear, swimwear and sweaters, which are asserted to have "special sensitivity to the domestic industry."

Most obviously, the textile industry, by definition, makes textiles – yarns and fabrics – not apparel. It therefore has no basis to claim that particular apparel products are especially sensitive for them. While some industry representatives have stated that the U.S. textile industry is actually concerned about its sales of yarns and fabrics, that concern is not part of the commitment in the September 28 letter, and certainly does not meet the minimum standards for bringing an anti-dumping action – that the domestic industry must produce a like product. Vague concerns about lost sales to producers of apparel located outside the United States, does not justify threatening U.S. apparel imports from Vietnam with the specter of an antidumping investigation. Both legally and factually, it is reprehensible that the Administration would suggest its willingness to serve as a shill to initiate trade measures that are otherwise not permissible or appropriate.

2. Neither Import Monitoring Nor Import Duties Will "Save" or Create U.S. Textile Jobs

It is a fallacy to believe that apparel imports from Vietnam are a factor in the fate of either U.S. fabric and yarn makers or apparel producers in the Western Hemisphere countries. The harms that have befallen the U.S. textile industry are largely of its own making and the inevitability of development.

Over-reliance upon tariff and quota protection and a lack of responsiveness to the demands of apparel manufacturers and retailers have limited the competitiveness of U.S. yarn and fabric makers. While considerable productivity gains have been achieved in U.S. mills over the decades – accounting for a significant reduction in employment – over time, the U.S. industry also has become renowned for its inflexibility. Time and again, U.S. buyers seeking to do business with U.S. mills were faced with a "here's what we make" mentality rather than the can-do attitude essential to the fast-moving fashion business.

Further, short-sightedly, the industry has sought to manipulate origin rules and the implementation process in both unilateral and negotiated preference programs. While countries in the Western Hemisphere have an inherent advantage by virtue of their location and ability to offer quick inventory replenishment, for USA-ITA members, the attractiveness of these supposed preferential suppliers depends in large part upon the commercial viability and manageability of the origin rules that apply to them, as well as the predictability of those programs. Restrictive measures do not help either U.S. yarn and fabric producers or apparel makers in Western Hemisphere countries retain or pick up new business and, ironically, such measures could cost them some of their business in the quota-free world. Rules designed to limit options simply do not work, and delays or misunderstandings in implementation cause shifts in orders that may never be reversed. Similarly, discriminatory schemes designed to thwart trade from non-preference trading partners will not remedy the limitations of the preference programs.

3. Monitoring Is Another Form of Managed Trade and Managed Trade Is Not The Answer Today Anymore Than It Was Previously

One of the major successes of the Uruguay Round Agreement was the decision to eliminate the international system of quotas and bring textile and apparel trade back into the normal trading system. For decades, the international quota system meant that one country after another fell subject to trade limits. Each time a supplier was subjected to quotas, new entrants emerged to meet the demands of the marketplace because restrictions on trade from one source or another ultimately created incentives for the development of new sources of supply. It is one of the inadvertent effects of the quota program that countries with limited development and minimal manufacturing capability have become sewing factories, making apparel from yarns and fabrics produced in more accomplished countries and from designs and marketing developed right here in the United States. At the end of

2004, when the Agreement on Textiles and Clothing expired, U.S. importers and retailers were sourcing garments from more than 100 countries around the world.

Thus, while an import monitoring program may well lead buyers to relocate sourcing in order to reduce their exposure to an unknown duty risk, the primary beneficiaries of that decision will be the other suppliers who meet buyers' criteria for value, quality, quantities, speed to market, and reliability. And there is wealth of supply options available to U.S. buyers now that the quota system has been eliminated. USA-ITA member companies can make sourcing decisions based on what is right for our business and our customers. Those are benefits for American consumers as well as for companies. Restrictions have done nothing to help the U.S. textile industry, and neither will an import monitoring program; U.S. consumers have been and will be the victims.

The elimination of the quotas was phased out over ten years – a lengthy phase-out but one that allowed all companies and countries to plan for the changes in the industry. Some U.S. manufacturers – particularly apparel makers -- implemented strategies to compete globally and are benefiting from that foresight. Others, however, have not, perhaps in part because they did not believe that the protection would ever end or because they have been able to use political clout, disproportionate to the role of textiles in the U.S. economy and workforce, to obtain further excuses to delay the necessary reforms.

Now, in yet another attempt to control the market rather than identify new markets or develop innovative products, the U.S. textile industry has procured a commitment to mar Vietnam's accession to the World Trade Organization with the proposed U.S. import monitoring program. Instead of the United States leading by example, we begin Vietnam's tenure in the WTO by discriminating against its apparel trade and needlessly threatening the viability of a reliable and competitive source of supply. Monitoring imports of textiles and apparel made in Vietnam is a blatant and ill-considered first step toward yet another chapter in government management of this sector, and a significant lurch backward from the deregulation envisioned by the Uruguay Round Agreements and this Administration's commitment to trade liberalization.

Ironically, the purported basis for monitoring – the presence of state-run factories – has been fast becoming history in Vietnam. USA-ITA member companies sourcing from Vietnam do business almost exclusively with foreign-invested factories. But if the monitoring program is implemented, and particularly if it is not carefully limited in its scope to target only those few – if any – products for which there is direct competition between U.S. made products and Vietnamese-made products, those non-state-run apparel factories can and will take flight. That means the increased role of foreign investment and decline in government intervention and control in Vietnam that the United States should be encouraging will be compromised. And certainly that would have cascading effects, with related suppliers and service providers, many of whom are likely to be American firms, experiencing declines and no offsetting benefits.

IV. The Monitoring Plan Should Be Abandoned As Illegal and Ill-Considered, And If Not Withdrawn, Must Be Significantly Limited

As detailed in the comments signed by the U.S. importing and retailing community, the legality of the planned monitoring program is dubious. There is no specific legal authority for the Commerce Department to monitor trade where there is no pre-existing antidumping order in place covering a like product from another supplier or covering a downstream product, and certainly not for a two year period. The Department should therefore abandon its plan and call upon the U.S. textile industry to identify for itself whether there is a basis 1) for any trade remedy proceedings or 2) to use the mechanisms established in the Bilateral Accession Agreement, which were expressly drafted to address their alleged concerns about the continued availability of prohibited subsidies to state-run enterprises in Vietnam.

If the Administration persists in the planned import monitoring program, it must take significant steps to limit the considerable negative effects the program would have. Most importantly, this means requiring U.S. apparel producers to identify which specific products they actually produce and sell in the U.S. commercial market and would want monitoring to cover. U.S. apparel producers accounting for a sufficient share of U.S. production of such a product also must commit to provide the data necessary to identify "material injury" and the cause of such injury as a pre-condition for monitoring of that product. Further, there must be no new document or data burdens or collections connected with the importation of textile or apparel products made in Vietnam.

In addition, given the extraordinary, unusual and significant implications of self-initiations by the government, the Administration should only consider such an action following extensive consultation and a thorough review by the highest levels within the Administration. The Trade Policy Staff Committee should be charged with considering the value and appropriateness of self-initiation, based upon standards no less stringent than those that would apply if a petition were filed. The TPSC should make a recommendation to the President, and the ultimate decision should be made only with the concurrence of the President.

Respectfully submitted,

Laura E. Jones
Executive Director