

UNITED STATES DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

Textile and Apparel
Products from Vietnam
Import Monitoring Program
Public Hearing

Statement of the
Vietnam Producers/
Exporters Group

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Good Morning. My name is Tom Vakerics. I am a member of the law firm of Sandler, Travis & Rosenberg and am appearing here today on behalf of the Vietnam Producers/Exporters Group.

VPEG is an ad hoc coalition of companies that are producers and/or exporters of apparel products respectively in or from Vietnam. VPEG members represent, in terms of value and volume, a significant amount of apparel exports from Vietnam to the United States and, in that capacity, have a significant interest in this proceeding.

The Department's monitoring program, and pledge to self-initiate, if available evidence warrants, has created a great deal of uncertainty in U.S. Vietnam apparel trade. Our basic message today is that the Department should do everything within its power to increase the transparency of this program in order to reduce existing uncertainties to an absolute minimum.

Domestic Industry Issues

To the best of our knowledge, not one single American apparel company has stepped forward in this proceeding to support the Department's monitoring and self-initiation programs. Nevertheless, as the Department is well aware, sales at less than normal value alone will not support a dumping order. The evidence must also establish that there is a domestic industry and that the domestic industry has been materially injured, or is threatened with material injury, by reason of dumped imports.

In a petition-based dumping investigation, the Department and the U.S. International Trade Commission require substantial evidence showing the existence of a domestic industry and injury, or threat thereof, to that domestic industry. It would indeed be more than unfortunate if this disruptive monitoring program and a resulting dumping

case self-initiated by the Department were to terminate 45 days later because of an apparent lack of attention in the Department's monitoring program to domestic industry injury issues. It is in everyone's best interest to stop an investigation before it starts, if domestic industry criteria are not met.

In order to ensure that the Department has thoroughly vetted domestic industry issues, the Department, at a minimum, should release a list of domestic apparel producers as soon as possible, and provide the opportunity to all interested parties to comment on important domestic industry issues after that list is released. That list should also include, in plain English narrative descriptions, the apparel products manufactured by domestic companies.

Scope Issues

Sandler, Travis & Rosenberg is currently working with Vietnamese exporters to audit their operations to ensure they are not dumping. In order to do so, we are required to "work back" from identifying individual product lines that may be targeted in a future dumping investigation.

Assuming, *arguendo*, there is some legitimate reason for not identifying domestic apparel manufacturers, we urge the Department to release, at a minimum and as soon as possible, a list of apparel products manufactured by domestic companies. This would enhance significantly the ability of VPEG member companies to sort through product lines as needed to conduct effective proactive antidumping duty audits. This product list should be in plain English narrative form, as one would expect to see in a dumping investigation scope definition.

Critical Circumstances Issues

Importers that continue to source apparel products from Vietnam are, of course, concerned with the earliest date that apparel entries from Vietnam could be subject to potential antidumping duty liability.

The Department's regulations, on their face, appear to be fairly straight forward. In order to find critical circumstances, the Department must, among other things, find that there have been "massive imports" of the subject merchandise over a relatively short period of time (19 USC § 673b(e)). In deciding whether imports have been massive, the Department's regulations require an increase of at least 15% in imports over an immediately preceding period of comparable duration. (19 CFR 351.206)

In order to further reduce uncertainty, VPEG urges the Department to use the date of self-initiation as the base point from which periods of comparison will be made and to use the 15% bright line standard for gauging whether import increases have been massive. This position should be clearly stated in any notice of self-initiation that may occur. This will, in turn, rightly reduce the risks and uncertainties with which importers are concerned and which create a chilling effect on trade in apparel with Vietnam.

Thank you for the opportunity to present this statement.

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