

AMERICAN EAGLE OUTFITTERS

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

**Re: Comments on the Monitoring Program For Textile and Apparel
Products From Vietnam**

Dear Assistant Secretary Spooner:

These comments are being filed on behalf of American Eagle Outfitters.

▪ **AMERICAN EAGLE OUTFITTERS**

American Eagle Outfitters (Nasdaq: AEO) is a leading retailer that designs, markets and sells its own brand of casual, fashion right clothing targeting 15 to 25 year-olds, providing high-quality merchandise at affordable prices. In 2006, the company launched a new collection of denimwear and intimate apparel, "*aerie* by American Eagle," which is now available in American Eagle stores across the country and at aerie.com. The company also introduced MARTIN + OSA, a new sportswear concept targeting 25 to 40 year-old women and men. MARTIN + OSA currently operates five stores.

The company's total sales in 2005 were 2.3 billion and, in the first three quarters of 2006, were 20% greater than in the comparable period of 2005. Headquartered in Warrendale, PA, American Eagle Outfitters currently operates 834 stores in 50 states, the District of Columbia and Puerto Rico, and 72 AE stores in Canada. AE also operates ae.com, which offers additional sizes and styles of favorite AE merchandise and ships around the world. The company operates two Distribution Centers located in Warrendale, PA and Ottawa, KS, and its design center is located in New York, NY. The company employs 844 associates at its corporate offices, 670 within its distribution facilities and more than 22,773 at its store locations throughout the country. The company imports merchandise from several countries throughout the world including Vietnam.

- **OUTREACH PROCESS**

As it begins implementation of the Vietnam textile and apparel monitoring program, it is important for the Department of Commerce to understand that most major U.S. clothing retailers who are affected by this program, including American Eagle, have been continuously involved in a complex transition from a quota-driven industry to an open-market economy, free of quotas, over the past several years. This transition requires that American Eagle management devote significant effort toward adjusting to a quota-free environment while, at the same time, remaining competitive. Further, because the textile apparel industry had been regulated by quota restraints (rather than dumping laws) until expiry of the quota system in 2005, American Eagle and its fellow retailers as a whole have had extremely limited experience with U.S. antidumping law, especially as it is applied to non market economies such as Vietnam.

For these reasons, we are concerned that there is insufficient information available to us on the processes being implemented that could otherwise aid us in making informed decisions on a course of action to best serve our interests and those of our constituents. For this reason, we respectfully request that the Department do everything within its power to reduce this uncertainty by increasing the transparency of the processes involved in the monitoring program and any subsequent self-initiation of a dumping investigation. By doing so, we believe that the Department can help us to reduce the risk of harm to our company, our shareholders, employees and customers and the regional economies where we do business throughout the U.S. We also believe that, by reducing this uncertainty, the Department can decrease the likelihood that companies such as ours will reduce their investments in Vietnam, a country whose continued economic growth and stability serves the United States' strategic interests in Asia.

AE has examined both the first¹ and second² Federal Register requests for comments and does not believe that they provide a clear, transparent explanation of the processes to be implemented by the Department. In order to fill this void, we urge the Department to issue a detailed policy statement as soon as possible addressing the following issues:

- (1) The Department should release a Policy Memorandum as soon as possible, describing the mechanics of the monitoring program step by step with sufficient detail to allow U.S. importer's to react appropriately to the program.

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

² *Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments*: 72 Fed. Reg. 2860 (January 23, 2007)

- (2) The Department should release a Policy Memorandum as soon as possible, advising all stakeholders step-by-step how the Department will self-initiate and conduct dumping investigations of textile and apparel imports from Vietnam.

In summary, it appears that the Department's outreach process to date has resulted in a far greater flow of information traveling from industry members to the Department than vice versa. It is important that this information flow be made mutual as soon as possible in order to allow U.S. importers to adequately determine a best course of action.

We also believe that Public Forums initiated by the Department would be much more helpful to U.S. importers than would public hearings, which many see simply as a continuation of the one way flow of information from the industry to the Department. The Public Forums should include detailed information presentations by Department teams explaining the mechanics of the monitoring program and the way in which the Department will conduct any dumping investigations that may be self-initiated.

- **PRODUCT COVERAGE**

The Department is correct in stating that the five product groups identified in the second request for comments are far too broad to allow for effective monitoring. The Department should monitor textile and apparel data in a mode that reflects the Department's approach toward an antidumping analysis. In order to be meaningful, aggregate data collected by the Department should be formatted to facilitate the ability of stakeholders to evaluate whether specific product lines may be subject to potential antidumping enforcement. Data currently being collected by OTEXA is based upon the traditional three digit category number and the 10 digit HTS number making such analysis difficult at best as these categories contain many distinct products.

In evaluating product coverage, we believe the Department also must disclose to the public as soon as possible what textile and apparel products are produced in the United States. This information is critical to all involved in terms of anticipating the scope of any self-initiated dumping investigations. It makes no sense for the Department to waste valuable resources by monitoring products not produced by the domestic industry.

In fashioning product coverage for dumping purposes, the Department should also notify the industry of the approach it will take toward defining product lines in a dumping investigation. For example, the Department should indicate whether it will differentiate between adult, children, male, female, product categories for dumping purposes. In addition, the Department should account for the wide variety of products contained within each category and within each HTS item. There is no one market for "cotton knit shirts" ...there are multiple markets which, in many cases, never overlap or intersect. For example a fine gauge knit sweater and a t-shirt both fall under this category, but could not be considered a "like" or "similar" product for antidumping purposes. The Department's monitoring program and biannual review process should specifically address and account for these differences.

- **PRODUCTION TEMPLATES**

The Department's reference to "production templates" must be further clarified. What are production templates? How are production templates to be used by the Department? What entities will be used to build production templates? We believe that it is to the advantage of all

parties for the Department to lay out in detail the Department's concepts for production templates.

- **BIANNUAL EVALUATION**

The law is well established that a dumping investigation can be initiated only on behalf of a domestic industry; however, the first mention by the Department of the domestic industry is presented in the discussion of biannual evaluations, almost as an after-thought. We believe that the Department cannot rely on publicly available information to evaluate the injury side of a potential antidumping investigation. Instead, we believe the Department must obtain indicators of industry health from the individual members of the domestic industry. Therefore, we are concerned that, to date, there has been no mention of issuing questionnaires to domestic industry members. We feel that these questionnaires would be critical in obtaining the information essential to a pre-initiation evaluation of whether there is sufficient evidence to support a conclusion that it is likely that injury to the domestic industry is occurring.

In issuing questionnaires to the domestic industry, we believe that it is important that the Department request production and other data with respect to the same product categories as used for collecting import data. It is our understanding that currently the Department does not collect domestic data either on the 10 digit HTS code basis but does aggregate some production data at the traditional three digit category number. The Department can only make a meaningful decision regarding whether to self-initiate an antidumping proceeding if it is considering comparable data. Moreover, we urge the Department to release questionnaire responses to the public. Not only would public release of this information make the Department's monitoring

and biannual review process more transparent, but public release would assist companies, such as American Eagle, in making sound, reasoned business judgments with respect to sourcing merchandise.

In addition, the Department states public import data will be posted on the website and updated monthly. The Department also states that data will be reviewed at the 10-digit HTS level and that price and volume trends will be considered. Based on the description above, it would appear that the data may well be virtually meaningless without additional manipulation by the Department, even given the monthly data releases on the Department's website. If the Department data is to be meaningful to U.S. importers, then it must be formatted by the Department along the lines of formatting traditionally used by the Department in an antidumping duty analysis. Moreover, as traditional antidumping analysis is new to most involved in the textile and apparel industry, we request that in publishing this data the Department identify specific trigger indicators in the reported data that would result in the Department self-initiating antidumping proceedings.

- **CRITICAL CIRCUMSTANCES**

It is our understanding that a finding of critical circumstances will require that the Department impose antidumping duties against exporters retroactively. Yet, there has been no use of the word "retroactive" in the entire discussion of critical circumstances.

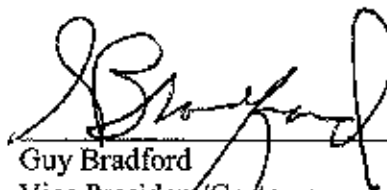
Instead, there is a vague discussion of when suspension of liquidation would apply to unliquidated entries. The Department needs to release a Policy Memorandum that fully

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describes critical circumstances investigations and that clearly states the earliest date that entries of textile and apparel could be retroactively subject to antidumping duty liability.

We appreciate this opportunity to put our views before you and ask that you give them consideration as you continue to develop plans for implementation of the monitoring process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Guy Bradford", is written over a horizontal line. The signature is stylized and cursive.

Guy Bradford
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