

A M T A C

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

Re: Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for
Comments (72 FR 2860, January 23, 2007)

Dear Mr. Spooner:

Thank you for the additional opportunity to comment on the Import Monitoring Program for Textile and Apparel Products from Vietnam and to respond to comments received by the Department as part of its December 4, 2006 request. These comments, in conjunction with those submitted on December 27, 2006, are offered on behalf of the American Manufacturing Trade Action Coalition (AMTAC).

AMTAC is a trade association founded by domestic manufacturers who are committed to maintaining manufacturing in the United States. AMTAC represents a wide range of industrial sectors including chemicals, furniture, tool and die, mold making, metal products, packaging products including corrugated containers, lumber and luggage producers. Additionally, the single largest component of AMTAC's membership consists of producers from the textile and apparel sectors.

We would first like to reiterate that this monitoring program is a response to the critical circumstances that the U.S. textile and apparel industry is facing as a result of Vietnam's entry into the World Trade Organization (WTO). Vietnam is a non-market economy which has exhibited a clear ability to quickly ramp up production of textile and apparel products and disrupt the U.S. market.

Since Vietnam was given "normal trade relations" access to the U.S. textile and apparel market on December 10, 2001, its exports have increased by 6,849 percent and now total \$3.4 billion. This growth was moderated only after quotas were negotiated and imposed on numerous categories in May 2003. See charts below for comparison of key apparel categories partially under quota versus fully unrestrained categories:

U.S. Imports from Vietnam of Selected Categories Under Quota
(Quotas went into effect 5/03)

Category	2001	YE Nov 2006	% Change
334/335 – Cotton Coats	\$170,076	\$75,374,383	44,218%
338/339 – Cotton Knit Shirts & Blouses	\$18,064,995	\$647,769,306	3,486%
340/640 – Cotton & MMF Woven Shirts	\$11,050,344	\$138,843,193	1,156%
341/641 – Cotton & MMF Woven Blouses	\$1,967,384	\$51,665,264	2,526%
342/642 – Cotton & MMF Skirts	\$290,125	\$35,571,856	12,161%
347/348 – Cotton Trousers	\$2,278,630	\$506,680,397	22,136%
351/651 – Cotton & MMF Nightwear	\$73,614	\$24,185,955	32,755%
352/652 – Cotton & MMF Underwear	\$137,965	\$24,488,661	17,650%
638/639 – MMF Knit Shirts & Blouses	\$572,566	\$92,001,194	15,968%
647/648 – MMF Trousers	\$4,661,873	\$188,175,356	3,936%

U.S. Imports from Vietnam in Selected Unrestrained Categories

Category	2001	YE Nov 2006	% Change
349/649 – Cotton & MMF Brassieres	\$1,424	\$6,096,916	428,054%
350/650 – Cotton & MMF Robes	\$13,079	\$72,867,007	557,030%
433 – Wool Men's & Boys' Suit Coats	\$1,115	\$13,378,638	1,199,778%
443 – Wool Men's & Boys' Suits	\$0	\$34,351,278	--
631 – MMF Gloves	\$1,200	\$11,204,997	933,650%
634 – MMF Other Men's & Boys' Coats	\$399,696	\$254,936,303	63,683%
635 – MMF Women's & Girls' Coats	\$393,761	\$228,277,867	57,874%
644 – Women's & Girls Suits	\$65,420	\$62,735,110	95,796%

Vietnam can generate this type of impact due to the fact that they heavily subsidize their industry. Aside from China, Vietnam is the only other country with a large non-market, state-owned textile and apparel sector. Vinatex, fully owned by the Vietnamese government, is the 10th largest garment producer in the world. The textile and apparel sector is Vietnam's largest foreign exchange earner and employs 1.1 million people.

According to information revealed during its WTO negotiations, Vietnam is currently subsidizing its textile and apparel sector through preferential interest rates, wage controls, rent holidays, export subsidies, preferential tax rates and direct investment from the Vietnamese government. Investment in Vinatex alone totaled more than \$891 million¹ in the last five years with another \$1 billion in subsidies planned for 2006-2010.²

AMTAC has little confidence that Vietnam will transition fully from this highly-subsidized environment to a market-driven system immediately upon their entry to the WTO. Furthermore, the safeguard mechanism designed to address non-compliance with subsidy commitments is extremely limited. These factors combined with the fact that China continues to heavily subsidize its textile and apparel industries five years after joining the WTO make it apparent that U.S. anti-dumping law should be as accessible as possible to effected companies in the United States. AMTAC views the monitoring system and pledge to self-initiate cases where warranted as a means to discourage and address illegal activity on the part of companies operating in Vietnam.

¹ <http://www.vfabric.com/textile/vinatexp.pdf>

² http://www.fibre2fashion.com/news/textile-news/newsdetails.aspx?News_id=16700

In addition to these general comments, AMTAC would like to address several issues raised in the public responses to the December 4th FR notice. This is not an exhaustive list, but simply highlights some of the main issues conveyed.

1) **Statutory authority of the monitoring program:** While AMTAC will not attempt to comment on the legal authority of the program, common sense dictates that collecting and examining trade data is an inherent right held by the U.S. government. The U.S. Department of Commerce's proposed monitoring program is a reasonable response in addressing an anticipated surge in imports from a non-market economy. Collecting and analyzing information on imports is not an excessive or radical use of government resources in our opinion.

2) **Consistency with non-discrimination principles of GATT/WTO:** Illegal subsidies are certainly inconsistent with GATT/WTO rules and principles. AMTAC would welcome a more extensive monitoring system for imports from all sources. However, as mentioned in many of the comments on the Vietnam monitoring program, it is important to most effectively use government resources. Vietnam, as a state-run economy with a history of providing extensive subsidies to its textile and apparel industry, runs a higher than average risk of illegally dumping sensitive products on the U.S. market. The United States must be able to address critical circumstances such as those presented by Vietnam's accession to the WTO, noting their state-run economy.

3) **Effect on predictability:** AMTAC's understanding is that only exporters engaging in illegal activity or sourcing from companies engaging in illegal activity should be concerned. Should the presence of a monitoring program drive away foreign investment and buyers from Vietnam, it speaks to the current and past levels of subsidization in the industry. Furthermore, had subsidies been removed prior to Vietnam's accession instead of upon accession, there would be much less skepticism, concern, and necessity for a monitoring program.

4) **Importance of Transparency:** One of the driving forces behind this initiative is that Vietnamese government and their practices are nontransparent. Hence, it is important to take a closer look to ensure that the promised elimination of illegal trade practices is completed and maintained. AMTAC agrees that the U.S. monitoring process should be done in a transparent manner. We share an interest in providing comments, having access to data collected, and understanding the decision making process with self-initiated cases. However, we strongly disagree that participation should be restricted to apparel producers. Instead, all affected parties should be allowed to voice concerns and provide information so that a realistic and comprehensive picture is considered.

5) **Scope of the monitoring system:** AMTAC feels that the effectiveness of the program will be severely diminished if thresholds, such as those proposed in the importer and retailer comments, are imposed which make certain products ineligible for the monitoring program. AMTAC strongly recommends that the monitoring program remain a flexible process, with all textile and apparel categories under the recently expired U.S./Vietnam textile bilateral and the U.S./China textile bilateral being monitored at a minimum. (See previous submission for more extensive comments.) Monitoring should not be relegated to specific HTS lines, but instead done on the long-standing textile and apparel category basis. This will help ensure coverage of the entire range of products within a specific category, as opposed to exemptions for products that may have a slightly different construction or fiber blend. Basing the review on the category system acknowledges that there are literally dozens of slightly different products that are directly substitutable within a given market.

In addition, considering the substitutability issue, monitored products should not have to be identical to a domestically produced product. For example, a shirt that is a 60 percent cotton and a 40 percent polyester blend directly competes with a shirt that is a 50 percent cotton and 50 percent polyester blend. Moreover, the Department of Commerce should not exclude any product categorically at this point and should allow itself the flexibility to monitor any item it deems necessary. It is impossible for the Department of Commerce to determine in advance whether a specific product might be a good candidate for monitoring at some point over the next two years.

The Department of Commerce should also ensure that the monitoring programs fully extend to goods produced at state-operated companies and privately-owned enterprises. A state-run economy, such as Vietnam, naturally discourages any legitimate transparency. Consequently, it will be virtually impossible for Commerce to clearly distinguish between state-run entities and so-called private companies. More importantly, the market impact is the same whether a product is manufactured by a state-owned supplier or a private enterprise.

6) Suppliers under the Berry Amendment: Comments from other suggest that production under the Berry Amendment should not be included when assessing domestic production of a product. They maintain, “[Berry Amendment] production is, by law, protected from import competition so it would be impossible for Vietnam’s imports to cause injury.” AMTAC strongly disagrees and feels that Berry suppliers should be included when gauging domestic interests and injury. Suppliers to the U.S. military under the Berry Amendment often have a commercial aspect of their business as well. Government purchases are sporadic and uncertain, making it very difficult for a company to remain in business through government procurements alone. Furthermore, there is a level of competition in the Berry system as certain free trade agreement partners also qualify and exemptions are provided when domestic suppliers do not have sufficient capacity and/or the price is prohibitively high relative to U.S. market prices.³

7) Decision-making process: AMTAC feels that it is highly probable that dumping will take place after Vietnam joins the WTO. As a result, a quick-response system needs to be in place to address illegally-driven surges in exports to the United States. However, we are certainly not asking for or suggesting a predetermined outcome to the monitoring program or any AD cases that may be initiated. Some of the comments submitted assert that the monitoring program will not (and should not) result in the initiation of any AD cases if “properly” (i.e. narrowly) conducted. With such an end goal in mind, comments on the scope and details of the monitoring program seem to be aimed at crippling the program when considered in context. AMTAC takes issue with any predetermination of the outcome of the program.

8) Goals of the monitoring/self-initiation process: AMTAC views the goal of this process as **discouraging and effectively addressing illegal dumping activity in the U.S. textile and apparel market.** Furthermore, we maintain that achieving this goal is in the interest of the country as a whole and the 592,800 textile and apparel workers remaining in the United States. U.S. textile and apparel industries have taken a direct hit from highly-subsidized imports from China resulting in numerous plant closings and job losses. Vietnam has many of the same characteristics, and thus addressing Vietnam’s unfair trade practices will be beneficial to the

³ 10 U.S.C. 2533(c)(d)(e)(f)(g)(h) Exceptions to the Berry Amendment are: when the Secretary of Defense or the Secretary of the military department determine that satisfactory quality and sufficient quantity of any such article or item or specialty metal cannot be procured as and when needed at United States market prices; procurement outside the United States in support of combat operations; procurement by vessels in foreign waters; emergency procurement of perishable foods by an establishment located outside the United States, for the personnel attached to such an establishment; procurement of specialty metals or chemical warfare protective clothing produced outside the United States, under certain circumstances; procurement which complies with reciprocal agreements with foreign governments; procurement of certain foods; procurement for resales at commissaries, exchanges, and other non-appropriated fund instrumentalities; procurement values that are under the simplified acquisition threshold.

industry and its employees. Furthermore, these are good-paying jobs which support numerous others in their communities and, through the Berry Amendment, help to create a strong domestic manufacturing base critical to our national defense. We strongly feel that if warranted anti-dumping duties are ultimately imposed on Vietnamese products, it will not create an undue burden on the American consumer and, at the same time, will further the goals of fairness and create a level playing field in international trade.

In conclusion, AMTAC strongly feels that the United States can and should fully address illegal trade practices that provide overwhelming advantages to offshore producers, who often already enjoy reduced production costs. In cases where foreign governments cheat to gain market share, monitoring trade and imposing anti-dumping duties when warranted is not “protectionist” but a logical and necessary policy.

This is one small step to inject oversight into a broader problem both in terms of Vietnam and subsidized imports from all sources. AMTAC urges the Administration to view the monitoring program as one piece of the solution. AMTAC also recommends additional efforts such as aggressive customs enforcement to prevent likely transshipments from China, measures to address Vietnam’s managed currency, and other such actions to ensure that Vietnam becomes a responsible WTO member.

Again, thank you for this additional opportunity to comment. We look forward to working with you on this important matter.

Sincerely,

Auggie Tantillo
Executive Director
American Manufacturing Trade Action Coalition