



January 31, 2007

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

Re: Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments (FR Vol. 72 No. 14, January 23, 2007)

Dear Mr. Spooner:

NCTO greatly appreciates the opportunity to provide additional feedback and comments on the Import Monitoring Program for textile and apparel products from Vietnam. As the national trade association representing the U.S. textile industry, NCTO's members remain concerned about imports from Vietnam due to its non-market economy and its state-owned enterprises, many of which are involved in textile and apparel manufacturing.

As outlined in our previous comments on the import monitoring program (71 FR 70364, December 4, 2006), this new program is intended to provide a meaningful remedy to address subsidized apparel imports from Vietnam that result in prices that are often below costs of production. As a non-market economy with state-owned enterprises, Vietnam has demonstrated an absolute ability to rapidly increase its apparel production and to offer prices that are clearly aimed at market domination in certain apparel segments, which in turn can materially injure U.S. textile and apparel manufacturers.

This is not the first time U.S. textile and apparel industries have faced critical market circumstances as a result of Vietnam. When Vietnam was granted "normal trade relations (NTR)" on December 10, 2001, its textile and apparel exports to the United States grew at such an alarming rate that the U.S. government imposed quotas on numerous textile and apparel categories in order to stem the injury that was being inflicted on domestic manufacturers. In fact, since the granting of NTR to Vietnam, its textile and apparel exports have increased by 6,849 percent and now total \$3.4 billion. The only other country to experience such growth is China, also a non-market economy. In both cases, the only reasonable explanation for such growth is the fact that each of these countries heavily subsidizes their industries, which allow them to price their textile

and apparel exports at below their costs of production, often 30 – 40 percent below the prices offered by the rest of the world.<sup>1</sup>

According to information disclosed during its WTO accession negotiations, Vietnam subsidizes its textile and apparel sector in a myriad of ways including export subsidies, wage controls, preferential interest and tax rates, rent holidays and most importantly, direct investment from the Vietnamese government. In fact, the Vietnamese government investment in Vinatex, the 10<sup>th</sup> largest garment producer in the world and a wholly-owned company of the Vietnamese government, totaled more than \$891 million in the last five years with an additional \$1 billion in subsidies planned for 2006-2010.<sup>2</sup>

To expect Vietnam to transition from such a centrally-controlled and heavily-managed environment to a market-based system in such a short-period of time is unlikely and may in fact be economically impossible. This reality, coupled with the very-limited scope and effectiveness of the safeguard mechanism provided under the U.S.-Vietnam WTO bilateral agreement, make it imperative that U.S. anti-dumping law is available to impacted U.S. companies and is applied in a meaningful way. Absent meaningful application of U.S. trade remedy laws, support for trade liberalization among American workers and companies will continue to erode.

Given many of the concerns and objections to the monitoring program that were raised in the previous comment period (71 FR 70364, December 4, 2006), NCTO offers the following comments in response to those issues.

**1) Goals and objectives of the Vietnam import monitoring program and self-initiation process:**

The U.S. government committed to this program as a result of concerns that were raised by Senators Elizabeth Dole (NC) and Lindsey Graham (SC) who were concerned that their textile and apparel constituencies were left completely defenseless against heavily-subsidized imports from Vietnam. The fact the U.S. government committed to such a program is an acknowledgement that the Senator's concerns are valid and warrant special attention. As long as Vietnam and the companies who source from Vietnam adhere to the established rules of the global trading environment and offer prices that reflect true costs of production, then there is no need for alarm. If Vietnam and these companies, however, were depending on a pricing system that was not reflective of such costs, then they are cheating the system, and most importantly, U.S. companies and workers, and should be penalized for such practices. The global trading system ultimately benefits when the rules of trade are enforced and are applied in a consistent and meaningful way. Again, in the absence of such application, support for trade liberalization among U.S. workers and companies, as well as their elected officials, will continue to erode.

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<sup>1</sup> U.N. Comtrade Database

<sup>2</sup> [http://www.fibre2fashion.com/news/textile-news/newsdetails.aspx?News\\_id=16700](http://www.fibre2fashion.com/news/textile-news/newsdetails.aspx?News_id=16700)

## **2) Decision-making process:**

Given Vietnam's track record, it is highly likely that dumping will indeed occur in textiles and apparel, and as a result, a system must be in place to react to these conditions. Furthermore, this process of monitoring and self-initiation must proceed in such a way that does not allow for the predetermination of the outcome or the government's commitment becomes meaningless. To propose, as several of the previously-submitted comments did, that the monitoring process should not result in the initiation of any anti-dumping cases if "properly" conducted, suggests that Commerce should predetermine the outcome of this process before we even know what the import monitoring program will demonstrate. Given that the U.S. government already monitors imports of textiles and apparel from every supplier country, including Vietnam, the monitoring program should build upon this infrastructure with a goal towards creating a program that is transparent and provides a meaningful remedy where warranted.

## **3) Scope of the monitoring system and participation by domestic industries:**

As outlined above, the U.S. government already monitors imports of textiles and apparel from all countries through publication of its Major Shippers Report. The Vietnam monitoring program should be constructed in such a way that builds upon this existing infrastructure and provides for a flexible and responsive monitoring program. At a minimum, textile and apparel categories covered under the U.S.-Vietnam textile bilateral and the U.S.-China textile bilateral should be monitored, but the system should also allow for closer monitoring in products outside these categories where the data warrants.

When countries dump product onto the U.S. market, the entire supply chain for those products is disrupted. Therefore, it is imperative that the import monitoring and AD investigation process allow all impacted parties to participate so that a complete and realistic understanding of the marketplace can be achieved.

Comments submitted by the American Apparel and Footwear Association (AAFA) propose that textile and apparel production under the Berry Amendment should not be included when evaluating domestic production of a product. NCTO strongly disagrees with this proposition since many companies engaged in Berry Amendment production also maintain commercial production to balance the unpredictability of Department of Defense procurement activity. To automatically exclude this segment of domestic production would severely inhibit the Department's ability to analyze and assess the impact of Vietnamese textile and apparel imports on domestic manufacturers.

Finally, there are many exceptions and waivers to the Berry Amendment that open up government procurement under this Amendment to suppliers in other countries.

So to suggest that this segment of manufacturing is not import sensitive is inaccurate.

#### **4) Legal Authority of the monitoring program:**

As discussed earlier in our comments, the U.S. government already monitors imports of textiles and apparel from all supplier countries through its Major Shippers Report and preliminary import data report. The Steel Import Monitoring program is also another example where the government monitors import data for a specific sector. The existence of these programs clearly demonstrates that the U.S. government has the legal authority to monitor these products and to monitor in any way it deems necessary. Collecting and analyzing data is an activity that the government undertakes across a variety of industries and it does so for a variety of reasons. Therefore, it is fair to conclude, in our opinion, that such activity is a reasonable use of government resources and is not outside the scope of the government's legal authority.

#### **5) GATT-WTO Consistency:**

In analyzing what policies and activities are consistent with international commitments under the GATT/WTO, it is important to point out that dumping and illegal subsidies are clearly in violation of such commitments. It is also clear that the U.S. maintains the right to initiate AD investigations where warranted and to impose AD penalties where the data supports such action and that this activity in no way violates its international obligations. The transparency of the U.S. government's process in undertaking such activities ensures that all interested parties have access to the analysis and can participate in the process where relevant.

If Vietnam's economy reflected the same transparency that is inherent in the U.S. government's AD process, then an import monitoring program may not even be necessary. It is this lack of transparency coupled with Vietnam's non-market economy that creates an environment where dumping is likely to occur and which necessitates closer scrutiny and the ability for the government to react when it becomes apparent that the advantages offered to companies in a non-market economy are negatively impacting the global trading system, and most importantly, the U.S. domestic market.

In conclusion, NCTO maintains that those who choose to violate our laws by dumping products onto our market must be held to account. In the case of Vietnam, the subsidies provided to its textile and apparel sector are enormous and create an environment where its prices are not market driven and are completely out of whack when compared to the rest of the world. As we discussed earlier in our comments, these practices have, in the past, materially injured the domestic textile and apparel industries and to such a degree that the U.S. government imposed quantitative restraints on Vietnamese imports. Given the lack of authority to continue to impose

quotas on Vietnam, the government must utilize the AD and other trade remedy statutes to address illegal trade practices.

If Vietnam chose to divest itself of its state-owned enterprises and end its comprehensive subsidy program immediately<sup>3</sup>, then US government monitoring would not be necessary. Unfortunately, Vietnam has given no indication that it is willing to do this. Hopefully, through utilization of our trade laws, the U.S. government can help Vietnam move towards a more market-based transparent system. Absent such action, however, there is little incentive for Vietnam to change its current structure given that this structure allows it to underprice its competitors in the global textile and apparel market and force U.S., as well as manufacturers in other countries, out of business, thereby eliminating its competition.

Thank you for the opportunity to provide comments. We look forward to continue working with you on this very important program.

Sincerely,

A handwritten signature in black ink, appearing to read "Cass Johnson". The signature is fluid and cursive, with the first name "Cass" written in a larger, more prominent script than the last name "Johnson".

Cass Johnson  
President

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<sup>3</sup> As part of its WTO accession agreement, Vietnam agreed to end only WTO prohibited export subsidies and continues to retain a large number of non-export subsidies.