



Vietnam Textile and Apparel Association (VITAS)

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January 29, 2007

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

Re: Further Comments on Import Monitoring Program on Textile
and Apparel Products from Vietnam, 72 Fed. Reg. 2860
(January 23, 2007)

Dear Assistant Secretary Spooner,

The Vietnam Textile and Apparel Association, VITAS, must express its great disappointment with the January 11, 2007, implementation of the Import Monitoring Program against textile and apparel products of Vietnam and with the “outline” of that discriminatory program, as described in the January 23, 2007, Federal Register notice by the U.S. Department of Commerce. Platitudes by the Department that the program “is not meant to inhibit legitimate trade” cannot overcome the reality that the program will have exactly that effect. By disregarding the concerns and advice of VITAS, as expressed in the written comments submitted last month, the Department has rushed to establish an amorphous and unjustified program that places a cloud over all textile and apparel products made in Vietnam.

VITAS of course appreciates the Department’s procedural gestures, such as making it possible to file comments via email, setting up an email hotline, and investigating means to allow individuals, companies and associations to observe a hearing even if they cannot be present in person. But those steps cannot offset the significant substantive concerns – and violations of U.S. law and rights under the World Trade Organization -- that remain, many of which have yet to be addressed by the Department.

Most significantly, the Department has not identified the basis for its legal authority to establish this monitoring program.

Further, as importantly, if not more importantly, the Department has done nothing to narrow the scope of products subject to monitoring, apparently rejecting, but without any explanation, the need to first identify the existence of “like products” made in the United States and the interest of producers of those like products in monitoring.

The Department states that the “initial focus” of its monitoring efforts will be the five product groups identified in the September 28 letters and provides no meaningful

guidance on how or why “products may be added or removed from monitoring as appropriate.” All that is revealed is that “changes in product coverage may occur in response to input received from interested parties, changes in the trade, or as the Department broadens its understanding of the composition and structure of the textile and apparel industry.” With all due respect, VITAS urges that scope of any monitoring should FIRST be defined by composition and structure of the textile and apparel industries.

It remains VITAS’s strong view that the first question must be which specific products are actually made in the United States, and whether a U.S. producer requesting monitoring for a product it produces is producing that like product for the commercial market in the United States. The second question must be whether the producers of that particular product are willing to provide essential data to determine whether they are suffering material injury and whether imports from Vietnam are the cause of that claimed injury. There is no basis to monitor imported products if there is no corresponding domestic industry or if the domestic producers either do not seek or support monitoring and the possibility of an antidumping investigation and/or are not prepared to provide necessary data to determine their condition.

Based upon the January 23 Federal Register notice, VITAS is quite concerned that the Department contemplates relying simply upon public information on the domestic textile and apparel industries, or general information provided by industry associations rather than company-specific data from producers of like products, and only at the point of a biannual review. Yet it only makes sense that relevant company-specific data be used and that such data serves as the starting point rather than as an ending point.

The Department’s January 23 notice also fails to acknowledge that the stated purpose of the monitoring program, at least as stated in the September 28, 2006, letters to Senators Elizabeth Dole and Lindsey Graham, is only to address a (baseless) concern that “Vietnam may continue to offer prohibited subsidies to state-run textile and apparel industries” in Vietnam, another reason why the program can and should be greatly narrowed. So long as there are no such subsidies – and there are not because Vietnam is acting in compliance with its commitments under the World Trade Organization -- there is no basis for either monitoring or self-initiation of any antidumping investigations.

To that point, VITAS takes strong exception to the unsupported – and unsupportable – allegation in the comments submitted by AMTAC and NCTO, contending that Vietnam “heavily subsidize[s] their industry.” AMTAC’s misleading reference to the Vietnam Government’s disclosure, during the course of the accession negotiations and in accordance with its WTO obligations, of the existence of subsidies is aimed at providing a justification for AMTAC’s demands for undeserved and unnecessary protection. What Vietnam’s disclosure actually demonstrates is Vietnam’s commitment to the WTO, especially since that disclosure then led to an unprecedented commitment to eliminate those subsidies even before accession – a significant concession made precisely to respond to the concerns of the U.S. textile industry and to prevent

demands for further special protection -- and Vietnam promptly honored that commitment, a fact that AMTAC chooses to disregard.

AMTAC's assertions that the monitoring program should be based upon the quota category system because factories produce a variety of garments and that the monitoring program should cover any quota category for which Vietnam is a top ten supplier or accounts for more than one percent of the U.S. imports also should be directly rejected by the Department. As indicated above, the issue is not what factories in Vietnam may produce, but rather what U.S. producers manufacture that is like what is produced in Vietnam. Convenience or efficiency, the excuses put forward by both AMTAC and NCTO, cannot and must not justify any unnecessarily and overly expansive monitoring system. Further, setting arbitrary thresholds for monitoring, such as Vietnam's rank according to textile quota categories, or one percent of imports, again based upon an obsolete quota category designation, makes no sense when the issue should be the existence and condition of U.S. producers making products for the commercial market like those made by Vietnam.

VITAS is also concerned about the repeated references to China in the comments by AMTAC and NCTO. Such a direction of attention to China is both inappropriate and revealing. There is no justification for using Vietnam as a surrogate for their actual target.

Finally, VITAS takes note of which comments were NOT filed in response to the Department's December 4 request: other than from a committee of U.S. sock producers (whose concerns are difficult to understand because Vietnam accounts for only one-fifth of one percent of U.S. imports of man-made fiber socks and has shipped no cotton or wool socks), there was not a single comment from U.S. apparel producers in support of monitoring of imports from Vietnam.¹ The demands by U.S. yarn and fabric makers for a program intended to intimidate apparel imports have no backing from U.S. apparel makers. VITAS is baffled by the suggestion, from NCTO, that U.S. apparel producers are too "fragmented" and too "vulnerable" to speak up for themselves. A far more reasonable interpretation of their silence is that many U.S. apparel makers are themselves global in their outlook and their businesses or have developed unique niches. They must well understand that threatening or curbing imports of apparel made in Vietnam through baseless charges and discriminatory scrutiny will not change the competitive stance of U.S. apparel makers.

For all these reasons, and on behalf of the 2 million workers in Vietnam's textile and apparel industries, VITAS respectfully and urgently urges the U.S. Administration to reconsider this Import Monitoring Program. With each passing day, the negative

¹ Many of the U.S. apparel producers listed at the back of the 1999 U.S. International Trade Commission study cited by NCTO, Industry and Trade Summary: Apparel, under Appendix A, entitled "Recent Restructuring In the U.S. Apparel Industry," are actually important customers of Vietnam's apparel industry.

consequences of the decision to establish the monitoring program become more apparent to Vietnam's industry, which had served as such an important incentive for WTO accession. Apparel manufacturers in Vietnam are increasingly being told by important buyers that shipments intended for the second half of 2007 must be moved out of harm's way. Unless the Department acts promptly to address the concerns expressed above, the cloud over Vietnam's textile and apparel trade to the United States will only grow larger, darker and more ominous.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'LQA', with a long, sweeping horizontal stroke extending to the right.

Le Quoc An
Chairman

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