

UNITED STATES DEPARTMENT OF COMMERCE

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VIETNAM TEXTILE & APPAREL IMPORT MONITORING PROGRAM

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PUBLIC HEARING

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TUESDAY,
APRIL 24, 2007

The public hearing was held in the main auditorium of the Department of Commerce, 14th and Constitution, NW, Washington, D.C., at 9:00 a.m., David Spooner, Assistant Secretary, Import Administration, presiding.

PRESENT:

DAVID SPOONER	Assistant Secretary, Import Administration
JOSEPH A. SPETRINI	Deputy Assistant Secretary for Policy and Negotiations, Import Administration
MATT PRIEST	Deputy Assistant Secretary, Office of Textiles and Apparel
DAVID RICHARDSON	Senior Counsel, Office of the Chief Counsel for Import Administration
GARY TAVERMAN	Deputy Senior Advisor for Operations

PANELISTS:

STEPHEN LAMAR	Executive Vice President, American apparel and Footwear Association (AAFA)
RONALD SHULMAN	President, JCPenney Purchasing Corporation
WILBUR ROSS, JR.	Chairman, International Textile Group
JEFF MEIER	Senior Vice President of Global Sourcing, Hampshire Group
KHIEN DUY NGUYEN	Commercial Counselor, Government of Vietnam

PANELISTS CONT'D:

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MATTHEW NICELY	Vinson & Elkins, obo Korea International Trade Association (KITA)
MICHAEL HUBBARD	Vice President, National Council of Textile Organizations
ERIK AUTOR	Vice President, International Trade Counsel, National Retail Federation
STEPHANIE LESTER	Vice President for International Trade Retail Industry Leaders Association (RILA)
LE XUAN DUONG	Executive Director, Vietnam Trade Center, obo Vietnam Textile Apparel Association (VITAS)
GARY ROSS	Vice President, Corporate Manufacturing/Sourcing - Liz Claiborne, obo U.S. Association of Importers of Textiles and Apparel (USA-ITA)
THOMAS VAKERICS	Sandler Travis and Rosenberg, obo Vietnam Producers/Exporters Group (VPEG)

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I-N-D-E-X

OPENING REMARKS:

David Spooner 4

PRESENTATION OF TESTIMONY:

Stephen Lamar 6
 Ron Shulman 12
 Wilbur Ross, Jr. 19
 Jeff Meier 24

QUESTIONS AND ANSWERS:

Gary Taverman 30
 Matt Priest 30
 David Spooner 30

PRESENTATION OF TESTIMONY:

Khien Duy Nguyen 36
 Matthew Nicely 40
 Michael Hubbard 46
 Erik Autor 53

QUESTIONS AND ANSWERS:

Joseph A. Spetrini 59
 David Spooner 60
 Matt Priest 61

PRESENTATION OF TESTIMONY:

Stephanie Lester 63
 Le Xuan Duong 68
 Gary Ross 72
 Thomas Vakerics 77

QUESTIONS AND ANSWERS:

David Spooner 81

CLOSING REMARKS:

David Spooner 83

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P-R-O-C-E-E-D-I-N-G-S

9:06 a.m.

1
2
3 FACILITATOR SPOONER: Good morning and
4 welcome to today's hearing on the Vietnam Textile &
5 Apparel Import Monitoring Program. This is not in my
6 remarks, but I should probably make a few brief
7 remarks about how we'll run things this morning.

8 As you all can see, we have four chairs in
9 front of me. After making a brief formal statement,
10 I'll ask the first four witnesses to come down and sit
11 at the table as a panel. This is a little nicer than
12 F Street at USTR, which I'm used to in the past.

13 As you know, the Import Monitoring Program
14 began with Vietnam's accession to the WTO in January
15 and is in effect until the end of this administration.

16 Recognizing that the monitoring program has an impact
17 on a broad range of parties, the Department committed
18 to conducting extensive outreach efforts, including
19 soliciting public comments, meeting with stakeholders,
20 creation of an electronic hotline, an e-mail
21 notification list, and the development of a monitoring
22 website. In addition, the Department has conducted
23 several outreach sessions in New York, L.A., South
24 Carolina, and in Vietnam in Ho Chi Minh City and
25 Hanoi. And indeed, I was in Hanoi last Thursday and

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1 Friday to meet with stakeholders and Government
2 officials.

3 Today's public hearing is part of our
4 continued outreach efforts. We received a number of
5 requests that this hearing be taped or simulcast on
6 the web so that those unable to attend today would be
7 able to observe. While we are unable to simulcast the
8 hearing, it is being taped, as you can see, for future
9 posting on the website, along with a transcript of the
10 hearing. And we expect those items to be available
11 within two to three weeks.

12 We have a broad array of witnesses here
13 today, representing the spectrum of stakeholders
14 involved in this issue, including domestic producers,
15 retailers, importers, exporters, and the Government of
16 Vietnam. Each witness will have five minutes for the
17 presentation, followed by five minutes for questions
18 from the panel. I won't have a vaudeville hook, which
19 will come off of the sidelines and grab you off stage
20 if you go over your five minutes. But we'll try to
21 roughly keep to the time limit.

22 A reminder that this is a public hearing.
23 There is no protection for business proprietary
24 information. I look forward to the presentations.
25 Our first witness will be Steve Lamar of AAFA. And

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1 perhaps I'll ask the succeeding three witness to also
2 come up and just sit at the table in front of us. The
3 second witness I have on my list is Jeff Meier of the
4 Hampshire Group. Wilbur Ross, if he's here, the
5 Chairman of ITG, and Ron Shulman, the President of
6 JCPenney Purchasing Corporation. If you all can come
7 on down? Go ahead and begin, Steve.

8 MR. LAMAR: Good morning. Thank you
9 Assistant Secretary Spooner for providing me this
10 opportunity to testify at this important hearing.

11 As you know, the AAFA, the National Trade
12 Association for the Apparel and Footwear Industries,
13 makes, markets, and sells apparel all around the
14 world, including the United States and in Vietnam. We
15 appreciate that the Department is holding this hearing
16 and conducting an open and transparent process
17 involving all stakeholders. This is critically
18 important because considerable confusion and
19 misperception over this program persists.

20 Recently, you reaffirmed that the
21 Administration's commitment is to self-initiate anti-
22 dumping actions against Vietnamese textile and apparel
23 products only if the facts warrant. In other words,
24 it is not an unconditional commitment to self-initiate
25 such actions, despite the claims of some over the past

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1 several months.

2 We believe such statements should be
3 restated more often, more forcefully, and with greater
4 precision. Specifically, there should be no doubt
5 that self-initiation of an AD investigation would only
6 occur if the Department determined a) that there is
7 dumping of a particular product from Vietnam, b) that
8 U.S. Domestic production of that same product is being
9 harmed by that dumping, and c) that those U.S.
10 domestic producers support self-initiation of an
11 investigation. So how do we get there?

12 First, the Department needs to provide
13 more context and meaning for the data it is currently
14 posting on the internet. What are we supposed to make
15 of this trade data, which the Department has itself
16 noted is too broad to serve as an effective monitoring
17 tool? Is the data that's currently placed there a
18 place holder? Or does it represent articles that are
19 the target of a possible AD investigation? Although
20 we are pleased that the Department has established a
21 special monitoring website, we find the data currently
22 published on the site to be unacceptable.

23 Our concern is that the publication of
24 unclear trade statistics for just these categories
25 from Vietnam without any context, discussion, or

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1 methodology, will only contribute to confusion and
2 uncertainty and generate false expectations. For
3 example, like most of the categories currently being
4 "monitored" category 352/652 encompasses a range of
5 products from men's t-shirts for screen prints to
6 girl's cotton panties. The products selected must be
7 distinct enough so that monitoring or action against
8 one product does not cause disruption in another
9 product in the same category. The China Safeguard
10 process disrupted many individual product sub-
11 categories because it relied upon broad categories.
12 With the AD process equipped to handle more precision,
13 we should avoid that same mistake.

14 Second, the Department should only monitor
15 the imports of those articles where the Department can
16 first demonstrate a) there is domestic production --
17 and again, by this I'm not including production
18 sharing; b) U.S. producers of those goods actively
19 support such monitoring; and c) those U.S. producers
20 can demonstrate that they have the ability to be
21 injured by imports from Vietnam, if such imports are
22 found to be dumped.

23 In other words, monitoring should occur
24 only in those products where all the ingredients of a
25 possible successful investigation could exist. For

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1 example, it makes no sense to monitor the import of a
2 product a) the products are not even made in the
3 United States, such as the articles that will be
4 discussed by Jeff Meier of the Hampshire Group or
5 things like performance outerwear or ski pants; b) it
6 makes no sense to monitor the import of a product if
7 the products are made in the United States, but cannot
8 be injured by Vietnamese imports, such as products
9 made for the military under the Berry Amendment; and
10 c) it also makes no sense to monitor those products if
11 the domestic producers do not support an
12 investigation, should one be initiated. Yet the
13 Department has announced that monitoring has begun,
14 suggesting that any or all of these circumstances
15 could be occurring. We find this to be unacceptable,
16 as well.

17 Third, the Department should articulate
18 the time line it will use in making decision pursuant
19 to any monitoring, the thresholds that must be crossed
20 before any investigations can commence, and benchmarks
21 so the trade can understand how the data must appear
22 for an AD investigation to be imminent. Specifically,
23 that time line should identify now the specific dates
24 over the next 21 months when the Department will make
25 its six-month evaluations. Once we have passed a six-

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1 month evaluation date, we should not hear a possible AD
2 initiation until the next six-month date.

3 The thresholds must identify how the
4 public can comment should the Administration find
5 itself in the unlikely position of having sufficient
6 facts to support initiation of an investigation.,
7 Specifically, this should involve hearings so
8 interested parties have an opportunity to present
9 additional data before a decision is made.

10 Benchmarks are critical so companies can
11 understand what specific data sets might mean. One of
12 the positive elements of the old quota system was the
13 daily publication of "fill rates", which let companies
14 know when they were in danger of shipping into an
15 embargo. We believe this monitoring program should
16 incorporate some similar concept so companies will
17 have an adequate warning of any potential
18 investigations.

19 The process should identify whether
20 products from additional categories can be added for
21 monitoring and, if so, what the time line for that
22 would be. And, for the record, we believe that you
23 shouldn't go with an addition to the five categories
24 that you've already identified. Finally, the process
25 should clarify the application of critical

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1 circumstances and, specifically, that critical
2 circumstances do not reach back to before the
3 initiation of an AD safeguard.

4 In conclusion, because AAFA represents
5 both domestic producers and importers of apparel, we
6 offer a unique perspective. We believe there is
7 little support or interest in this monitoring program
8 among domestic apparel producers because much of what
9 is produced domestically does not compete against
10 Vietnamese imports. Moreover, discouraging apparel
11 sourcing in Vietnam, through either the threat or
12 initiation of an AD investigation, provides no
13 guarantee or even likelihood that apparel production
14 will migrate back to the United States.

15 Among importer members, there is strong
16 opposition to this program. Nevertheless, there is a
17 high priority interest in ensuring that the monitoring
18 program be conducted pursuant to U.S. anti-dumping
19 code, in a manner consistent with the WTO, and in a
20 manner that is fully transparent and predictable.

21 Yet, three months after monitoring has
22 begun, it is unclear exactly what is being monitored,
23 what methodology is being used, and how these trade
24 statistics factor into that monitoring. We need you
25 to provide firm answers and create a fully transparent

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1 process, so that all interested parties can understand
2 the rules and plan accordingly. Our hope is that this
3 hearing will help generate some of these answers and
4 provide some members our members with enough
5 information so they can make those informed decisions.

6 Thank you.

7 FACILITATOR SPOONER: Thanks, Steve. I
8 think our format, as originally announced, had us
9 asking each witness five questions after their
10 statement. But it might sort of facilitate questions
11 if we just have all four witnesses provide their
12 testimony and then have a Q&A period. So Ron, if you
13 want to go?

14 MR. SHULMAN: Good morning. I am Ron
15 Shulman, the President of JCPenney Purchasing
16 Corporation. We are the international sourcing
17 subsidiary of JCPenney Corporation for its private
18 label products.

19 JCPenney employs 155,000 people in the
20 United States and another 400 people outside the
21 country. We operate 1,037 JCPenney Department Stores
22 throughout the United States and Puerto Rico and we
23 are the largest retailer of apparel on the internet at
24 JCPenney.com. JCPenney's customers are America's
25 working families, and they want reasonably priced,

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1 high quality, fashionable merchandise. To meet our
2 customers' needs, we offer a blend of national and
3 private label merchandise.

4 In the hyper-competitive world of retail,
5 JCPenney must develop and offer a constant flow of
6 fashionable inventory while eliminating waste and
7 keeping costs in line. JCPenney's private brands
8 allow us to distinguish ourselves from the competition
9 and are vital to JCPenney's success. These products
10 are the culmination of collaboration between our in
11 house design teams and our suppliers. The products
12 for our private brands are produced overseas.

13 I am here today because Vietnam is one of
14 our most important source countries for apparel and
15 because JCPenney believes it is urgent that the
16 Department reconsider this program. My testimony will
17 focus on four key points. First, the mere existence
18 of the Import Monitoring Program has already resulted
19 in serious negative consequences in Vietnam. Second,
20 no monitoring and no anti-dumping investigation is
21 going to bring one apparel manufacturing job back to
22 the U.S. Third, apparel retail employment in the U.S.
23 is valuable to the U.S. economy and to American
24 families and must not be viewed as less important or
25 more expendable than apparel manufacturing jobs. And

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1 fourth, the availability of regionally priced, high
2 quality, fashionable merchandise is important to every
3 working American.

4 Based upon Vietnam's commitment to join
5 the WTO, JCPenney started sourcing there in 2000. Our
6 level of sourcing gradually increased because our
7 suppliers who are major international apparel
8 producers invested in and build state of the art
9 factories in Vietnam with high technology equipment,
10 using the latest manufacturing techniques and work
11 methods. These suppliers are privately owned
12 enterprises.

13 Vietnam also has a highly educated, well
14 trained, and motivated work force with excellent
15 productivity levels. Factory management is market
16 sensitive, flexible, and willing and able to meet
17 consumer specific product and volume requirements
18 within short lead times.

19 Until recently, sourcing with Vietnam
20 suppliers was an important component of our strategy.

21 However, the uncertainty created by the announcement
22 of the monitoring program last September has led us to
23 rethink this. We aren't leaving yet. But we aren't
24 growing either. And that is a significant change in
25 our strategic plan.

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1 The benefits we had hoped to enjoy after
2 quota elimination are now being compromised. The
3 threat of anti-dumping cases means we have to think
4 carefully about which orders and how many of those
5 orders we place with Vietnamese suppliers. This is an
6 unfair way to reward Vietnam for agreeing to comply
7 with international trading rules and becoming a member
8 of the WTO.

9 If you go to Vietnam today, you will see
10 some unfinished factories and workers who have been
11 laid off because of the decline in orders, especially
12 for shipments in the third and fourth quarter of this
13 year. We are well aware that a number of other U.S.
14 importers and retailers have already reduced or pulled
15 orders out of Vietnam all together. We understand
16 why.

17 The competitive nature of the retail
18 business requires certainty of pricing in order for
19 retailers to remain competitive. The monitoring,
20 coupled with the potential for dumping case, with its
21 unknown costs, means that Vietnam will no longer be an
22 attractive source country for many retailers and
23 importers.

24 Some of us lived through the man-made
25 fiber sweater dumping investigation which was

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1 initiated in 1989 against Taiwan, Hong Cong, and
2 Korea, and initially resulted in an anti-dumping
3 order. While the respondents and importers eventually
4 won that battle five years later, the companies that
5 had to initially pay out those duties and wait years
6 for refunds simply don't have the stomach to risk that
7 again. For retailers, not knowing your costs is not
8 an option.

9 What is really troubling about the Import
10 Monitoring Program is that, while it is directed at
11 apparel, there are no U.S. apparel makers clamoring
12 for it. This is no surprise to us. This program was
13 created at the behest of yarn and fabric makers, while
14 looking to protect their market in the Caribbean,
15 Central America, and Mexico. And we all know that
16 yarn and fabric makers have no right to complain about
17 apparel imports because they don't have standing.
18 They don't make a like product.

19 From a logistics and business convenience
20 point of view, it would be easier for JCPenney and
21 other U.S. retailers to purchase apparel made in
22 America. However, the reality is that option does not
23 exist. The U.S. apparel manufacturing industry today
24 is small and primarily serves niche markets. It is
25 unable to meet the product, volume, and lead time

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1 needs of U.S. national retailers. On the other hand,
2 apparel manufactures in countries like Vietnam meet
3 the demands of the U.S. marketplace by continuous
4 product innovation at smart pricing with consistently
5 reliable quality in the volume necessary to supply a
6 national retailer.

7 No amount of monitoring, threats of anti-
8 dumping investigations or initiation of investigations
9 will bring orders for apparel back here. Instead,
10 Vietnam production is simply being shifted to other
11 countries in Asia. So while our business has been
12 thrown into unjustified uncertainty, there is no
13 upside for any U.S. industry.

14 Department stores in America, including
15 JCPenney and other apparel retailers contribute
16 substantially to the strength of the U.S. economy and
17 provide good jobs. Total retail trade employment is
18 over 15 million people, or over 11 percent of total
19 U.S. employment. Apparel retailers account for over
20 four million U.S. jobs. In contrast, there were only
21 253,000 apparel manufacturing jobs, according to the
22 latest available data. And the entire textile sector,
23 including textile and yarn manufacturing, accounted
24 for less than one half of one percent of total U.S.
25 employment.

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1 The textile industry consistently points
2 to apparel imports as the reason for the decline in
3 the U.S. yarn and fabric industries. They argue that
4 if apparel imports are restricted, their industry will
5 have a resurgence. The argument is false. The
6 chilling effect in Vietnam caused by the monitoring
7 did not and will not accomplish bringing back any
8 business to U.S. or Central America. The only impact
9 the program will have is to hurt apparel retailers, an
10 important segment of our economy.

11 The internationally manufactured products
12 JCPenney purchases and sells to our customers
13 represent the benefits of globalization, making
14 fashionable products affordable for middle America's
15 working families. The monitoring program will hurt
16 U.S. consumers without benefiting any U.S. industry.

17 The Department can and should act
18 immediately to limit the damage created to date by the
19 program. As currently structured, the monitoring
20 program has put the proverbial cart before the horse,
21 looking at a broad array of all the basic apparel
22 products, without identifying whether there would be
23 any basis for acting if the import data provided any
24 telling information.

25 JCPenney strongly urges Commerce to act

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1 promptly to limit the scope of monitoring to only
2 those products it first identifies as also made in the
3 U.S. for other commercial markets for which those
4 domestic producers have expressly stated their support
5 for the monitoring and for which there is data
6 demonstrating material injury or threat thereof. In
7 other words, identify the hurt before imposing a
8 remedy. Doing so would mean that the Administration
9 recognizes its responsibility to preserve the health
10 and viability of the retail sector of our economy,
11 meaningful choices for American consumers, and
12 America's place in the global community as a
13 responsible trade partner. Thank you.

14 FACILITATOR SPOONER: Thank Ron. Mr.
15 Ross?

16 MR. ROSS: I'm Wilbur Ross, Chairman of
17 International Textile Group (ITG) and owner of the
18 majority of the majority of the shares in it.

19 ITG is the majority owner of a cotton
20 twill mill under construction in Danang, Vietnam. We
21 also have 10 mills in the states of North Carolina,
22 South Carolina, and Virginia which employ a total of
23 3,540 Americans.

24 I am not a lawyer, but I've been advised
25 that the proposed monitoring program has no statutory

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1 authority and is inconsistent with the WTO rules
2 against discrimination and is also inconsistent with
3 the Bilateral Agreement signed with Vietnam on May 31,
4 2006. It is particularly dishonorable that, after
5 negotiating an agreement with a foreign government, it
6 was subsequently and unilaterally modified by
7 correspondence between the Executive Branch and
8 individual senators. Such a bizarre event must make
9 every nation with whom the United States has a
10 bilateral or multilateral agreement question our
11 reliability as a counter party. It also sets a
12 terrible precedent by encouraging individual members
13 of Congress to negotiate side deals.

14 There is also the practical question as to
15 who the monitoring is meant to protect. To the best
16 of my knowledge, there are no American apparel
17 producers whose output is truly characterized as
18 competitive in Vietnam's exports to this country and I
19 note that no U.S. company has come forward claiming
20 to make such items, despite repeated publication of
21 hearing notices in the Federal Register and in other
22 media.

23 The voices heard are solely those of
24 traditionally protectionist fabric and yarn
25 manufactures who are not appropriate parties to

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1 complain about apparel matters. Even if they had
2 standing, which I believe they do not, does anyone
3 really believe there is any prospect that they would
4 be helped by anti-dumping duties on Vietnam apparel?
5 Surely not. And if not, then who is the party whose
6 interests are potentially adversely affected by
7 Vietnamese exports to the U.S.? I believe that, at
8 best, the yarn and textile nay sayers are trying to
9 protect commercial interests that they have in other
10 low cost countries outside the United States. It is
11 clearly inappropriate for the Department of commerce
12 to engage in discriminatory monitoring of Vietnam
13 because of such foreign interests.

14 If there are any U.s. producers whose U.S.
15 interests are at risk, they should come forward and
16 announce themselves. If any were to exist, it would
17 represent such a small market share that it would be
18 impossible to determine the causality between
19 Vietnamese exports and their volume decline because
20 there would be other imports of competitive products
21 that also grew during the monitored period. As a
22 result, how would you know who took the volume away
23 from the Americans? Was it Vietnam or another low
24 cost country? Also, why would you conclude that if
25 vietnam did not make the sale, it would revert to the

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1 U.S. rather than some other lower cost country?

2 The proposed monitoring has neither a
3 legal nor a practical basis, but has inadvertently
4 harmed Vietnamese businesses because it has created
5 great uncertainty on the part of potential customers
6 for Vietnamese apparel. If there is one thing a buyer
7 needs in making sourcing decisions, it is certainly
8 that the product will be delivered at the agreed price
9 and on the agreed date. Monitoring has created
10 uncertainty which damages Vietnamese operations but
11 has neither created nor saved one American job. It
12 has merely diverted volume away from Vietnam to other
13 low cost countries. This is not an appropriate role
14 for the U.S. Department of Commerce. If
15 monitoring continues and adversely affects ITG's
16 operations in Vietnam, the program will likely cost
17 some of our 3,640 American employees their jobs
18 because we need the cash flow from all of ITG's
19 international activities in order to maintain our U.S.
20 factories. If, notwithstanding all of these
21 objections to the discriminatory monitoring, the
22 Government decides to go forward, the Department needs
23 to have an analytical process to determine whether
24 these companies do have enough market share in truly
25 competitive products so that cause and effect could be

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1 determined with any meaningful degree of validity.
2 If so, then those precise products and only those
3 should be monitored.

4 ITG's Vietnamese affiliate is, of course,
5 majority owned by Americans and there are other
6 American controlled entities operating in the textile
7 and apparel industry operating in Vietnam. These
8 companies are obviously operating already in a free
9 market environment without subsidy by the Vietnamese
10 government. Thus, they actually would be among the
11 principal victims if the state-owned companies were
12 unfairly subsidized. Yet there are no complaints from
13 any of them.

14 I would respectfully request that the
15 Department confirm that the output of ITG's joint
16 venture and the other U.S. owned entities in Vietnam
17 would not be included in any discriminatory monitoring
18 program. This would help somewhat to alleviate the
19 uncertainty that otherwise will adversely affect
20 customer decisions to source products from us. The
21 vast majority of apparel producers in Vietnam are
22 privately owned and there is no reason to believe
23 inappropriate subsidies are being provided to them.
24 In addition, the Vietnamese government will complete
25 privatization of the apparel sector within the next

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1 year. Therefore, the textile and apparel segments of
2 the Vietnamese economy will soon be in a totally free
3 market condition. This should invalidate any worries
4 about ongoing subsidy.

5 If, despite the fundamentally private
6 sector venture of this industry in Vietnam, the
7 Department continues to regard it as a non-market
8 economy, there should be hearings to determine which
9 country will serve as the proxy for Vietnam. It will
10 not be easy to find a country with similar per capita
11 income producing comparable items from an industry at
12 an analogous stage of development.

13 In view of the serious legal, diplomatic,
14 ethical, precedential, and practical issue inherent in
15 the proposed discriminatory monitoring and of the
16 severe impediments to implementing any punitive action
17 that may arise from it, I seriously question whether
18 this exercise is a justifiable expenditure of
19 taxpayers' money. Thank you.

20 FACILITATOR SPOONER: Thank you, Mr. Ross.

21 Jeff?

22 MR. MEIER: Good morning. I'm Jeff Meier,
23 the Senior Vice President of Global Sourcing and
24 Hampshire Group, Ltd. First of all, thank you very
25 much for having me. It's a privilege to be here.

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1 I'm going to change direction a little bit
2 and be very specific with regard to two of the product
3 categories that are in the monitoring program. The
4 first will be basically synthetic women's trousers and
5 the second will be synthetic and cotton women's knit
6 pullovers or shirts.

7 Let me just say that I had the opportunity
8 of working with CITA a year ago on the China
9 Lightweight Knit to Shape Sweaters Initiative and the
10 agreement, which we subsequently reached. And I see
11 quite a parallel again here today to what I'm going to
12 be talking about.

13 In the case of the Knit to Shape
14 Lightweight Sweater Agreement we had with China on
15 lightweight sweaters we were, as the importers here in
16 the United States and the industry here in the United
17 States, able to convince CITA that there was no
18 industry, either in the United States and/or Central
19 or South America or the NAFTA or CAFTA countries.
20 China obviously felt it was also very meaningful to
21 them to be able to reach this agreement because it
22 recognized, I think clearly, that there was an
23 industry here in the United States that did not exist
24 where there was certainly a very good argument for
25 lack of quota. The import data, to date, shows that

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1 millions of dozens of previously classified 338 and
2 638 sweaters are now coming in quota free.

3 But it's also interesting to see that, in
4 spite of millions and millions of dozens of previously
5 338 and 638 garments coming in that now are quota
6 free, as light weight sweaters, the quota prices in
7 China are still for these categories, 338 and 638,
8 remarkably high. Frankly, it's bewildering to
9 everyone and I think the previous testimony alluded to
10 the uncertainties created by the monitoring program
11 with Vietnam. And most -- my feeling is that a lot of
12 the inflation that we're seeing in the China quota
13 price is directly related, in this category, to the
14 uncertainties with regard to the monitoring program in
15 Vietnam on knit pullovers or knit shirts.

16 The second category that I want to talk
17 about, and I have samples I'll show you, will be
18 women's synthetic trousers. These fabrics, in fact,
19 are produced today in China. They are short supply
20 fabrics that cannot be purchased not only in the
21 United States but also in Central America. So again,
22 the quota prices, given the uncertainties in Vietnam
23 with regard to the monitoring of the second category,
24 has resulted in China quota prices also remaining
25 quite high. And again, the overhang of uncertainty.

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1 So we have moved a substantial amount of
2 production to Vietnam over the last several years.
3 And, as a result, we've been able to replicate in
4 Vietnam everything we've been able to achieve in these
5 two products from China previously, at lower costs,
6 equal lead times, and at very high quality levels.

7 I think what makes Vietnam very unique is
8 the fact that it's -- they have a very highly and
9 work-oriented labor force that can be trained to very
10 high skill levels that equate what we can achieve in
11 China, from a quality point of view, a productivity
12 point of view, and at a lower cost. The supply chain
13 from Vietnam is equally competitive because it's
14 proximate to China. So we can move all the raw
15 materials that come from China into Vietnam, produce
16 the product there, and get it to the United States
17 retail customers very quickly, competitive to China
18 and the rest of Asia.

19 In the case of the trousers, I think, when
20 you look at the product you'll see that it may look
21 like something very common to you. But the fabric
22 itself is very unique and this is what the American
23 consumer is demanding. So it's not something that we
24 arbitrarily, you know, created. It's something that
25 the American consumer is demanding from us. And I

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1 think, you know, as the industry trying to service the
2 retail customers in the United States and the ultimate
3 U.S. consumers, our job is to really make what people
4 want at high value and very high quality. So let me
5 just show you the samples at this point.

6 I think, back to the monitoring program,
7 the lesson to be gleaned from this is that we have to
8 go beyond the ten digit HTS numbers. And I think if
9 we just take product groupings, as we're currently
10 monitoring, we're going to do a tremendous disservice
11 ultimately to the U.S. consumer. And again, this
12 harks back to what I think the work we did in the
13 knit-to-shape light weight sweaters.

14 Ultimately, where are we going to buy this
15 product? Where can we get it for our U.S. customers
16 who are demanding it? These are growing businesses.
17 The consumers want them because the synthetic trousers
18 serve a tremendous purpose for the working women in
19 the United States today. It's easy care, low cost
20 product that they can wear for a variety of uses. And
21 the highly embellished t-shirts that you see here for
22 women are extremely popular. These are items that
23 there is a strong demand for, for the holiday seasons
24 as well as throughout the year. And the Vietnam
25 workers today have been able to replicate all the

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1 handwork that traditionally gets done in China. And
2 we have no other option of where to go for this.

3 So, to simply say we're going to use a
4 ten-digit HTS number for this import monitoring
5 program doesn't get to the level of detail that we
6 need to really distinguish what is it that we're
7 protecting here. At the end of the day, neither of
8 these products can be made in the United States. They
9 just can't. There's no industry here.

10 And back to the previous remarks in the
11 panel, these two specific products, I think, show that
12 we have to be very diligent in recognizing that, if
13 we're going to try and protect a domestic industry
14 with these five product categories, in these two cases
15 we have to go and be very specific beyond the ten-
16 digit HTS number in defining specific products that
17 should be exempt.

18 So I would hope that these samples can
19 serve as an example to provoke us to consider looking
20 at the monitoring program again and being product
21 specific. Okay. Thank you, very much.

22 FACILITATOR SPOONER: Thank you, Jeff. We
23 should now have about 15-20 minutes for Q&A of the
24 panel. And I will not begin. I'll turn to Gary
25 Taverman of our Operations Office. I should ask you

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1 if you have any questions.

2 MR. TAVERMAN: I don't have any questions.

3 FACILITATOR SPOONER: All right. It's up
4 to you guys.

5 MR. PRIEST: One of the themes that we've
6 heard with this program is that it's impeding trade,
7 it's chilling of trade, which is kind of a common
8 phrase that's used. The data shows that, as we begin
9 this year, that that's not actually occurring. Can
10 you explain?

11 MR. SHULMAN: We at JCPenney are -- we're
12 very, very concerned and working very diligently on
13 speed to market. But even with speed to market, we
14 hope to get our lead times down to 25/26 weeks.
15 That's six months. Right now we're at about 40 weeks,
16 which is closer to probably seven or eight months. So
17 what you're seeing today is stuff that was done last
18 year.

19 Right now, we're working on Spring '08.
20 And we're finishing that up and planning -- and we're
21 designing Fall '08. So what you're seeing today is
22 stuff that was developed even before this monitoring
23 program was thought of. Okay.

24 FACILITATOR SPOONER: I have a question
25 perhaps for Steve, but also perhaps for Mr. Ross. You

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1 both, I think, touched on surrogate countries. Right
2 now, on the web, we're not posting any possible
3 surrogate country information. We're just posting
4 basic information about imports from Vietnam. And I
5 wonder whether you all would find it helpful for us to
6 post at least per unit value from perhaps a basket of
7 countries that might be surrogate -- be used at a
8 surrogate? Or whether that would be unhelpful because
9 it might chill trade from other countries or just
10 confuse folks.

11 MR. LAMAR: I'd take a shot of that. I
12 actually think it would be very unhelpful at this
13 point. I think that right now you're focusing on
14 imports without knowing where there's domestic
15 production that might potentially be harmed or that
16 it's harmable by such imports. I think that the focus
17 really should be on if there is a domestic producer,
18 period. And then once you've identified that, then
19 you can start looking at what kind of import data, how
20 that import data should look, and what should be on t
21 here. Because I think once -- once you start putting
22 in other countries, I think that the trade is going to
23 interpret that to mean that you're moving forward on
24 all of those categories -- all of the products in all
25 those categories. And I think it would just compound

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1 problems.

2 FACILITATOR SPOONER: I should say --
3 that's helpful, of course. But I should say what
4 prompted my question was when we were in Hanoi last
5 week, several companies I met with in the Trade
6 Association made the case that if you compare the per
7 unit value from Vietnam with countries that may be
8 used as a surrogate country, the per unit value from
9 Vietnam was much higher. And they were asking us to
10 post that information. They thought it might help
11 investment come back to Vietnam.

12 MR. MEIER: In that regard, I think again,
13 not to sound like, you know, a whining person but I
14 think there's no question we have to keep going back
15 to the product. For example, when we look at the
16 import data and the unit value year to date in these
17 categories, and specifically if we look at the t-
18 shirts up on the table and we compare, you know,
19 import statistics on women's cotton t-shirts from a
20 variety of countries, surrogate or otherwise, we'll
21 find that Vietnam's unit value is, in fact, quite
22 high. And the reason is because, as I said earlier,
23 is that a lot of the traditional high end production
24 that was in China has moved to Vietnam. So Vietnam is
25 really now focusing on high end fabrics; specifically

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1 high quality combed cotton, long staple ring spun
2 fabrics that are not made, for example, in this part
3 of the world at all, and in many parts of the world.
4 And then, on top of it, they're doing a lot of high
5 needle, a lot of tailoring, and lot of embellished
6 hand work.

7 So in -- I was just there three or four
8 weeks ago, and this is what we're finding, you know,
9 throughout the market in Vietnam. So in a unit value,
10 they've traded up. And they're still somewhat below
11 China. But when we take out the unit value -- the
12 quota cost in China, so if you look at the unit value
13 from China today and you back out the quota cost,
14 Vietnam and China are remarkably similar on the actual
15 unit value netted out for the quota cost. So I think
16 it's very important to recognize that. And again, we
17 have to be product specific when we look at unit
18 value.

19 FACILITATOR SPOONER: Thanks. Actually,
20 this is more of a comment than a question. But Jeff,
21 you're right when you say when we negotiated the China
22 Quota Agreement, I think one of the success stories in
23 that agreement was our light weight sweater exemption.
24 And, if I recall correctly, we didn't even have a 12-
25 digit HTS number to describe that product.

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1 MR. MEIER: Correct.

2 FACILITATOR SPOONER: And -- but there was
3 a significant amount of import volume of the product
4 and it was a -- you know, that portion of the
5 agreement was, I think everyone agrees, a win-win. I
6 mean, domestic folks who were clamoring for that
7 exemption freely admitted that we didn't have domestic
8 production. And -- and obviously, it helped take
9 care of the type of goods that you import.

10 So it's probably far easier said than
11 done. But if we were able to replicate that in the
12 monitoring program, it would be a very good thing.
13 So, the more information that you and others can
14 provide us about like product; what's exactly made in
15 Vietnam, the better. I think it would help us perhaps
16 replicate that in the monitoring here.

17 MR. SHULMAN: David, I just want to add a
18 few things to this comment. As a sourcing executive,
19 you know, obviously cost is very important. And we
20 look at unit cost throughout the world. We have a
21 service that -- who helps us monitor costs throughout
22 the world. But today's world, you know, speed to
23 market is becoming hugely important to retailers
24 today. And so, yes, you want a low cost producer.
25 But I think Jeff said it in his remarks, the one --

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1 the very one thing that a retailer wants to know when
2 they place an order is that they're going to get it,
3 and they're going to get it at the cost. Because the
4 buyer is going to give you a price and they're not
5 going to go up in price.

6 The other thing is -- is their ability to
7 put the package together; their ability to source the
8 fabric and the findings, work with your design team
9 and, in the logistics side, their ability to do
10 replenishment and flow. Because you want to be able
11 to chase your winners. When the American working
12 families go into our store and vote every day at our
13 cash registers, you want to chase those winners and
14 you want to get rid of the losers pretty quickly. So
15 you want partner with friends like Wilbur here and --
16 and position grey goods or even yarn; color it up when
17 you know the right colors; then move it to the cutting
18 floor when you know the right styles.

19 But you look for somebody who is smart
20 enough and has the money enough to do -- to do all
21 those things. Cost is important, but it's not the
22 only thing in the equation.

23 FACILITATOR SPOONER: Thanks, Ron. Okay.

24 Thank you all.

25 (Whereupon, off the record from 9:49 a.m.)

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1 until 9:50 a.m.)

2 FACILITATOR SPOONER: Okay. With that, I'd
3 like to ask Mr. Khien of the Government of Vietnam to
4 come forward. And Mr. Khien, I should also apologize.

5 I -- the list I had in front of me -- I should have
6 had you on the first panel. And also, Matt Nicely of
7 Vinson & Elkins, Mike Hubbard of NCTO, and Erik Autor
8 of the NRF.

9 (Whereupon, off the record from 9:50 a.m.
10 until 9:52 a.m.)

11 FACILITATOR SPOONER: Mr. Khien, do you
12 want to begin?

13 MR. KHIEN: Good morning. I am Nguyen
14 Khien, Commercial Counselor at the Vietnam Embassy in
15 Washington, D.C. I represent the Ministry of Trade of
16 Vietnam.

17 The Ministry of Trade of the Socialist
18 Republic of Vietnam (Vietnam MOT) expresses our thanks
19 to the U.S. Department of Commerce for organizing the
20 hearing to gather the different opinions from
21 interested parties regarding the "Monitoring Program
22 on Textile and Apparel Import from Vietnam, initiated
23 by the DoC.

24 But, on this occasions, Vietnam MOT must
25 continue to reaffirm our clear and consistent view to

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1 strongly protest the "Monitoring Program on Textile
2 and Apparel Import from Vietnam". Our views remain
3 unchanged from our official diplomat notes of December
4 22, 2006 and January 29, 2007. MOT also notes that
5 the written comments submitted by interested parties
6 in response to the Department's requests for views
7 have proved that this monitoring program does not have
8 any support from most of the major interested parties.

9 Vietnam's MOT understands that to the
10 extent the present U.S. information system on all
11 imports of textiles and apparel from all countries
12 from the world including Vietnam is a transparent
13 system, and above all, a fair and equitable system
14 that treats alike all trading partners to the U.S. who
15 are the WTO members. However, there is neither legal
16 ground nor arguments convincing enough for an
17 additional monitoring system designed specifically for
18 textile and apparel import from Vietnam.

19 The U.S. has established a unique and
20 separate monitoring system on textiles and apparel
21 import from Vietnam only. It is clear that this
22 program is discriminatory, contrary to the most
23 important principle and the pillar of the WTO, GATT
24 Article 1. This program also runs contrary to Article
25 XXIII of the GATT Agreement as it causes nullification

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1 of the benefits of the WTO and seriously prejudices
2 the interests that Vietnam rightfully anticipates from
3 the WTO agreement.

4 To be clear, in the Bilateral Agreement on
5 Vietnam's Accession into the WTO between Vietnam and
6 the U.S., this program was never mentioned. Vietnam
7 did not agree to such discrimination or nullification
8 of the benefits of its accession. In addition, this
9 mechanism violates the Agreement on Anti-dumping of
10 WTO; among those are Article 18.1, which bars any
11 specific action except in accordance with the
12 requirements of the Anti-dumping Agreement, and other
13 articles.

14 Vietnam is being harmed by the
15 establishment of the monitoring system. In response
16 to this system, many of U.S. importers have reduced
17 their orders with apparel manufactures in Vietnam,
18 stating that they cannot predict the actions and
19 measures of the U.S. Government on the anti-dumping
20 issue and therefore they must divert their orders to
21 other countries that are not encumbered by the
22 monitoring system and therefore are now considered
23 more competitive than Vietnam.

24 Many foreign and Vietnam investors had to
25 suspend their expansion/construction of new facilities

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1 in Vietnam. As a result, that is having a severe
2 affect on jobs and employment in Vietnam, slowing down
3 Vietnam's process of poverty alleviation. This is the
4 first and clear loss for Vietnam upon becoming a WTO
5 member. Vietnam made many significant and difficult
6 concessions to the U.S. and to other WTO members in
7 all aspects of its trade rules, with the hope that the
8 people of Vietnam could enjoy the benefit of exporting
9 textiles and apparel products to the U.S. market
10 freely, with their goods being treated as all other
11 normal goods. But because of the monitoring system,
12 Vietnam is not realizing this expectation.

13 In fact, Vietnam textiles and apparel are
14 not so competitive with the U.S. Textile manufactures,
15 the manufacturers of cotton, yarn, fabrics and high
16 quality materials that Vietnam has to import billions
17 of dollar value. Among the product groups that are
18 considered as most sensitive by the U.S. and placed
19 under the monitoring system, Vietnam accounts for only
20 a modest share of the U.S. market, far behind the big
21 exporters such as China, Bangladesh, and Indonesia.

22 Vietnam supports all initiatives that are
23 in accordance with the WTO regulations and
24 nondiscrimination to protect the legal interests of
25 lawful behaviors of companies from both Vietnam and

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1 the U.S. That is why during the last few years of
2 implementing the bilateral agreement on apparel and
3 textiles, Vietnam closely, timely and effectively
4 coordinated with the related U.S. government
5 authorities. Among them are the U.S. Customs and
6 Border Protection (CBP), to ensure the strict
7 enforcement of the U.S. Customs' regulations.
8 Therefore, Vietnam strongly calls for any measures
9 taken on the textiles and apparel trade among the two
10 countries should guarantee nondiscrimination as
11 compared with the measures taken with respect to other
12 WTO members. Further, no measure should create damage
13 to Vietnam's manufacturers and workers or to U.S.
14 customers who are doing business in Vietnam.

15 The Ministry of Trade of the Socialist
16 Republic of Vietnam avails itself of this opportunity
17 to renew to the United States Department of Commerce
18 the assurance of its highest consideration. Thank
19 you.

20 FACILITATOR SPOONER: Thank you, Mr.
21 Khien. Mr. Nicely?

22 MR. NICELY: Good morning. I'm Matt
23 Nicely and I appear today on behalf of the Korea
24 International Trade Association or KITA. We
25 appreciate the opportunity to speak to the Department

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1 face to face on this important issue.

2 KITA submitted two sets of comments along
3 with the Korea Apparel Industry Association concerning
4 the Commerce Department's Vietnam Apparel Monitoring
5 Program. We did so because Korea's apparel industry's
6 investment in Vietnam is significant and is therefore
7 affected as much as anyone by any efforts to curtail
8 business opportunities in that country.

9 Our goal today is not simply to complain
10 that Korea's investments are at risk. After all,
11 unlike Vietnam, Korea is not new to trade remedy
12 disputes, having been subjected to plenty of anti-
13 dumping and countervailing duty cases over the years.

14 Koreans know that these cases come with the territory
15 of doing business with the United States and with our
16 other trading partners.

17 However, what the Department is doing with
18 respect to apparel from Vietnam is unlike anything
19 we've seen before. Korean businesses are facing
20 reduced trade with the United States for all the wrong
21 reasons. First and foremost, this program is unfairly
22 discriminatory, as you've already heard today, and
23 will most certainly chill trade in favor of imports
24 from other countries. Furthermore, in trade disputes
25 of this sort, exporters usually face a competitor.

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1 Even when USTR self-initiated the steel
2 safeguard investigations in 2001, everyone knew before
3 and after initiation who the interested parties in the
4 domestic industry were. Today there isn't a single
5 apparel company or association in sight. Indeed, the
6 only comment DOC received direct from a member of the
7 U.S. apparel industry in support of this new
8 monitoring program was filed by an association
9 representing hosiery manufacturers whose interests
10 were limited to certain kinds of socks and babies
11 booties; products that aren't even among those on the
12 Department's targeted list.

13 Rather, the driving force behind this
14 entire program is the U.S. textile industry,
15 represented by the National Council of Textile
16 Organizations; the only organization here today that
17 supports this program. Textile manufacturers are not
18 apparel manufacturers, as everyone has already said
19 today. The U.S. production of textiles does not
20 compete with apparel imports. So why are we here?

21 The best we can tell is that the U.S.
22 textile industry is trying to protect the importation
23 of apparel containing U.S. textiles. In other words,
24 imports from other countries that buy U.S. textiles,
25 incorporate them into their apparel products, and ship

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1 them back to the United States. Yet, the United
2 States Anti-dumping Law was not meant to protect
3 imports from other countries. Rather, this law exists
4 solely for the benefit of the producers of a domestic
5 like product.

6 Textile products are not like apparel
7 products. They are an input to apparel products.
8 They do not compete with each other. As such, as we
9 have made very clear in our written comments, if this
10 monitoring program must exist, it should not be
11 allowed to chill trade with respect to apparel
12 products for which there is not U.S. production,
13 defined as specifically as possible, at least at the
14 ten-digit HTS level.

15 If an industry is interested in protection
16 from imports, it should be willing to say so. And if
17 there is U.S. production, we must know whether
18 producers of such products even support the notion of
19 import protection. If not, then what is the point of
20 this program, other than to chill trade for the
21 benefit of other imports?

22 Once you have identified an interested
23 domestic industry, Commerce must then insure that if
24 and when the monitoring program turns to calculating
25 normal value, it must follow its long held practice

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1 for choosing surrogate countries.

2 Commerce has requested comments on this
3 issue, which were filed on Friday, last week. We
4 fear, however, that in this request for comments and
5 the proposed expansion of the pool from which
6 surrogate countries might be chose, it's specifically
7 aimed at providing a method by which the U.S. textile
8 industry's favorite surrogate countries, like
9 Honduras, might be used for any anti-dumping case
10 against apparel from Vietnam.

11 Under current rules, Honduras would never
12 be chosen as a surrogate country, as it's GNI is way
13 beyond the economically comparable window typically
14 considered by the Department. Before Commerce chooses
15 to expand that window, consider the pernicious effect
16 here. You would be choosing a country whose textile
17 input values would include the prices of the very
18 industry that is responsible for triggering this
19 entire program. That's hardly a fair result.

20 We encourage the Department to be fair in
21 choosing surrogate countries; to give us the
22 opportunity to comment on the list of countries it is
23 considering; and ultimately to tell us which country
24 it plans to use. Again, only for those products that
25 it deems -- for which it deems there is a domestic

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1 industry. It must do the same with respect to the so
2 called production templates and the specific sources
3 of surrogate values to construct the cost of
4 production, using those templates. It must do so
5 before it even thinks about self-initiating an anti-
6 dumping case. After all, if the U.S. anti-dumping
7 laws are to work correctly and if U.S. rhetoric about
8 unfair trade is to be taken seriously, then companies
9 must be able to tell when they are dumping, so they
10 can avoid doing so. Otherwise, how can we call it
11 unfair?

12 Finally, concerning injury, it's critical
13 that the Department obtain information from the
14 domestic industry, if one exists, to see if it's even
15 injured. If this information is not forthcoming, any
16 monitoring of competing imports should be halted. DOC
17 must also consider whether the volume of imports
18 relative to other imports is sufficient to warrant
19 monitoring. Even if monitoring continues, some
20 thresholds must be announced so that interested
21 parties can know what level of imports, relative to
22 other imports, would justify self-initiation of a
23 case. Again, only if you actually have a domestic
24 industry to protect.

25 Again, as a surrogate country, values,

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1 production templates, we want to have some say on how
2 the Department's injury analysis will be established.

3 So we urge the Department to issue its proposals and
4 subject them to public comment before implementing
5 them. We assume the Department recognizes the
6 importance of remaining transparent in this program.
7 The United States often brags about how much more
8 transparent its trade laws are compared with the rest
9 of the world, and it's true. It should continue that
10 tradition here. Thank you.

11 FACILITATOR SPOONER: Thanks, Matt. Mike?

12 MR. HUBBARD: Hi. I'm Mike Hubbard from
13 the National Council of Textile Organizations (NCTO)
14 and thank you for having us here today.

15 NCTO wants to comment on this monitoring
16 program for certain apparel items from Vietnam, which
17 is the ones you're monitoring. Our members are mainly
18 concerned about imports from Vietnam, due to its non-
19 market economy and its state owned enterprises, many
20 of which are involved in textile and apparel
21 manufacturing.

22 NCTO is highly supportive of this
23 monitoring program. We believe the new program can
24 provide a meaningful remedy to address subsidized
25 apparel imports from Vietnam that result in prices

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1 that are often below costs of production. Since
2 Vietnam is a non-market economy with state owned
3 production enterprises, it can rapidly increase its
4 production of apparel and offer it at prices clearly
5 aimed at market domination. This can materially
6 injure U.S. textile and apparel manufacturers.

7 U.S. textile manufacturers are extremely
8 interested in this program, since much of our
9 production is sold to apparel manufacturers. Massive
10 surges in apparel imports that displace our customer
11 base, including domestic customers, have a real and
12 dramatic impact.

13 The concerns of the U.S. textile industry
14 about surges of imports from Vietnam are based on
15 recent experience, not mere speculation. After
16 Vietnam joined the WTO in December of 2001, its
17 textile and apparel exports to the U.S. grew at such
18 an astonishing rate that the U.S. Government imposed
19 quotas on a number of product categories to stem some
20 of the injury inflicted on domestic textile producers.

21 From 2002 through 2006, imports from
22 Vietnam grew 220 percent, from 358 million square
23 meter equivalents to more than 1.1 billion square
24 meter equivalents. Vietnam alone accounted for 15
25 percent of the increase in imports last year, despite

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1 the fact that a number of categories were under quota.

2 Imports from Vietnam for the first two months of 2007
3 are 16 percent greater than the same period a year
4 ago. The quantitative restraints were a positive
5 development in that some balance was restored as a
6 result of artificial prices set by Government
7 intervention and control in Vietnam.

8 According to information that came to
9 light during Vietnam's WTO accession negotiations, it
10 was learned that Vietnam subsidizes its textile and
11 apparel sector in a number of ways, including export
12 subsidies, wage controls, preferential interest and
13 tax rates, rent holidays, and most significantly
14 direct investment from the Vietnamese government. The
15 most startling example of this investment largesse is
16 the \$891 million invested in Vinatex over a five year
17 period. The government of Vietnam plans to invest an
18 additional \$1 billion in the company from 2006-2010.
19 Vinatex is the tenth largest apparel producer in the
20 world and a wholly owned company of the Vietnamese
21 government.

22 It's highly unlikely, if not impossible
23 for Vietnam to shift from such a centrally controlled
24 and managed economy to a market based system in a
25 relatively short period of time. Combined with the

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1 fact that the U.S./Vietnam Bilateral Agreement
2 contains a safeguard mechanism that is extremely
3 limited in its scope and effectiveness, it's
4 imperative that U.S. anti-dumping law is available to
5 impacted U.S. companies and is applied in a meaningful
6 way.

7 Absent effective application of U.S. Trade
8 Remedy laws, support for trade liberalization among
9 American workers and companies will continue to erode.

10 Due to Vietnam's record in past years, we believe
11 there's a distinct possibility that dumping will
12 occur.

13 Therefore, Commerce must have a system in
14 place to monitor and react. However, it's important
15 that the system of monitoring and self-initiation does
16 not pre-determine the outcome. The decision to
17 proceed and to make a determination should be based on
18 the merits of the case in question. Importers and
19 domestic producers alike should be allowed every
20 opportunity to participate and the process should be
21 as transparent as possible. There is an agreement up
22 here amongst some things, anyway. The system has
23 always worked that way and we have every expectation
24 that it will continue under this monitoring program.

25 Since the Department of Commerce already

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1 monitors imports of textiles and apparel from every
2 supplier in the world, the monitoring program should
3 be build upon this existing infrastructure as it is
4 being done. The program should remain transparent and
5 provide a meaningful remedy where warranted.

6 In conducting this program, NCTO strongly
7 supports the continued use of the category system. If
8 critics argue that the system is too broad and
9 captures too many HTS lines for a given category
10 investigation, further scrutiny of imports will bear
11 this out. Data skewed by a few HTS lines will be
12 quickly exposed and surges in products not made in the
13 U.S. or supplied by U.S. textile manufacturers will
14 also be quickly identified. Case in point, we did not
15 object, for example, during the China Safeguard
16 Negotiations with the fine count sweaters when those
17 were pulled out. We recognized that.

18 Ideally, we would like the program to have
19 covered all the China Safeguard categories. But the
20 most sensitive of the apparel categories were
21 included. Knit and woven shirts and trousers,
22 underwear, swim wear, and sweaters are all extremely
23 important to U.S. manufacturers.

24 One final note on the scope of the
25 program: we strongly believe the textile and apparel

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1 items produced under the Berry Amendment absolutely
2 should be considered with other for domestic
3 production companies typically produce under the Berry
4 Amendment and for commercial use. This balances the
5 uncertainties posed by producing only for government
6 contracts. To exclude production by these companies
7 denies the realities of producing apparel in the U.S.
8 today and is discriminatory.

9 The U.S. Government has the legal
10 authority to conduct this program. It already
11 monitors imports and publishes the data through the
12 Major Shippers' Reports. The precedent has already
13 been established with similar monitoring programs for
14 other industries, such as steel. Collecting and
15 analyzing data is not something peculiar to this
16 program, but rather something the U.S. Government
17 already does across a broad spectrum of industries for
18 a variety of reasons. This is a reasonable and
19 equitable use of U.S. Government resources and it is
20 not outside the scope of the Government's legal
21 authority.

22 Internationally accepted policies and
23 rules of trade prohibit dumping and illegal subsidies.

24 This monitoring program and the U.S. trade laws it's
25 designed to support are clearly consistent with WTO

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1 rules. The program does not guarantee that a positive
2 determination of anti-dumping will be found, nor does
3 it threaten Vietnam, its manufacturers, or importers.

4 If Vietnam's economy reflected the same
5 transparency that is inherent in the U.S. Government's
6 anti-dumping process, then an import monitoring
7 program might not even be necessary. It's this lack
8 of transparency, coupled with Vietnam's non-market
9 economy that creates an environment where dumping is
10 likely to occur and which necessitates a closer
11 scrutiny and the ability for the Government to react
12 when it becomes apparent that the advantages offered
13 to companies in a non-market economy are negatively
14 impacting the global trading system, and most
15 importantly, the U.S. domestic market.

16 If Vietnam chooses to divest itself of its
17 state-owned enterprise and its comprehensive subsidies
18 programs immediately, then the U.S. Government
19 monitoring would not be necessary. Unfortunately,
20 Vietnam has given no indication that it's willing to
21 do this.

22 Hopefully, through the utilization of our
23 trade laws, the U.S. Government can help Vietnam move
24 towards a more market-based and transparent system.
25 Absent such action, however, there is little incentive

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1 for Vietnam to change its current structure because it
2 allows it to underprice its competitors in the global
3 textile and apparel market. This practice eliminates
4 its competition in the U.S. and in other countries by
5 forcing them out of business.

6 Invoking internationally accepted rules
7 and norms to correct such blatant market imbalances is
8 not protectionist, it's common sense. We applaud the
9 decision to proceed with the Import Monitoring
10 Program. Based on past experience, we fully expect
11 that should the Department decide to proceed with any
12 anti-dumping investigation, that the process will be
13 fair. We don't take it as a given that anything will
14 be handed to the domestic industry or importers as a
15 gift or a political decision. All we ask is that the
16 process be allowed to work the way it was intended.

17 Thank you for the opportunity to comment
18 today.

19 FACILITATOR SPOONER: Thank you, Mike.
20 Erik?

21 MR. AUTOR: Thank you and good morning,
22 I'm Erik Autor, Vice President and International Trade
23 Counsel of the National Retail Federation.

24 NRF is the world's largest retail trade
25 association with membership that comprises all retail

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1 formats and channels of distribution. NRF represents
2 an industry with more than 1.6 million U.S. retail
3 establishments; more than 24 million employees; about
4 one in five American workers; and in 2006 sales of
5 \$4.7 trillion.

6 Over the past seven years, apparel
7 retailers in NRF's membership have build large
8 sourcing operations in Vietnam and now import well
9 over \$1 billion worth of Vietnamese produced clothing,
10 a sizeable portion of the U.S./Vietnam bilateral
11 trade, which is sold to American consumers in their
12 U.S. stores. As a result, these retailers understand
13 very well the dynamics of apparel trade with Vietnam
14 and welcome the opportunity to provide these comments
15 to their trade association.

16 I want to concentrate my remarks on the
17 trade disruption the monitoring program has created in
18 the sourcing operations of U.S. apparel retailers.
19 But before proceeding on that subject, I want to
20 emphasize that we share the opinions and
21 recommendations offered by the other retail importing
22 and apparel manufacturing trade associations appearing
23 here today. I would also like to recognize
24 representatives from Gap, Inc., JCPenney, Inc., and
25 Liz Claiborne, Inc., members of the NRF on whose

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1 behalf, among others, I am speaking to you today.

2 We have been often told that it is not the
3 intent of the U.S. Government that the monitoring
4 program for apparel imports from Vietnam would disrupt
5 trade with Vietnam. Indeed, and Mr. Priest mentioned
6 this, indeed in response to a question on this point
7 in the form a few weeks ago here in Washington, Mr.
8 Spooner stated that current trade data do not show a
9 negative impact on trade because apparel imports from
10 Vietnam in January had increased.

11 But the implementation of the monitoring
12 program has, in fact, had a chilling effect on apparel
13 sourcing in Vietnam, as Mr. Shulman and others have
14 mentioned. Retail orders are typically placed six to
15 nine months before arrival on store shelves.
16 Therefore, the import data cited reflected orders
17 placed before the monitoring program was announced.
18 Since then, pending orders for apparel from Vietnam
19 have plummeted. You will see this impact reflected in
20 the trade data beginning most likely this summer.

21 I can tell you that, among NRF member
22 companies, major purchasers of apparel from around the
23 world, including Vietnam, at least one prominent
24 retailer has ceased all orders from Vietnam; another
25 has cut its orders by 80 percent; and many others have

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1 cut their orders substantially. NFR has been informed
2 that all of this business has moved to other Asian
3 countries.

4 Why should the monitoring of imports from
5 Vietnam, indeed from any country, have this impact?
6 As we have pointed out in previous submissions to
7 Commerce, trade remedy investigations inject a high
8 degree of unpredictability into the sourcing equation.

9 It's one thing to worry that a quota will fill early
10 and that goods that have been ordered cannot get into
11 the United States. The fill rates of quotas are
12 predictable. They can be monitored and sourcing
13 decisions can be adjusted accordingly. It's quite a
14 different matter with respect to the threat of anti-
15 dumping actions.

16 Retailers must worry every day whether the
17 Commerce Department may, at some point in the future,
18 deem that the price they paid for an order was at a
19 dumped price. Moreover, due to the nature of anti-
20 dumping proceedings, particularly against non-market
21 economies like Vietnam, it's simply impossible to
22 predict when an investigation may be launched, against
23 which products, and what its outcome may be. This is
24 the type of unpredictability that flows from U.S.
25 trade remedy investigations.

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1 So the mere threat that an anti-dumping
2 investigation could be undertaken on a wide range of
3 apparel products is a serious matter and one which is
4 forcing apparel retailers to shift sourcing elsewhere.

5 For this reason, we join with other associations to
6 suggest ways Commerce could proceed if it persists in
7 this courts, in order to mitigate this chilling effect
8 on trade due to this monitoring program.

9 To date, Commerce has ignored those
10 recommendations that would have had the most impact on
11 addressing the unpredictability the monitoring program
12 has injected into sourcing from Vietnam. If Commerce
13 is serious that it does not intend for the monitoring
14 program to disrupt trade, it must immediately narrow
15 the scope of monitoring to only those apparel products
16 defined at least at the 10-digit HTS level that are
17 made in the United States and for which most U.S.
18 apparel producers of that apparel product have asked
19 for monitoring and for which there is clear evidence
20 that imports from Vietnam are causing material injury
21 to those producers.

22 Were Commerce to self-initiate an anti-
23 dumping investigation on any apparel product imported
24 from Vietnam, it would first need to have made the
25 following determinations. One, the product is made in

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1 the United States. Two, U.S. producers complain that
2 imports from Vietnam are being sold at less than fair
3 value. And three, those producers are likely to
4 suffer material injury by reason of imports from
5 Vietnam. It makes little sense at all and serves only
6 to chill trade unreasonably for Commerce to monitor
7 imports of apparel products that are not made in the
8 United States or, if they are, are made by U.S.
9 apparel producers, the majority of which have no
10 complaint against imports from Vietnam. Or, if they
11 do, they're not materially injured by reason of these
12 imports.

13 Finally, I'd just suggest that the
14 monitoring system cannot be used as a means to
15 circumvent U.S. trade remedy law and the requirements
16 for standing injury and the circumstances under which
17 the statute lays out monitoring -- the circumstances
18 under which Commerce may monitor imports for the
19 purposes of an anti-dumping investigation.

20 So we ask Commerce to address our earlier
21 suggestions and to clarify that if this monitoring
22 program is going to proceed, its scope will be
23 narrowed to only those products for which imports from
24 Vietnam may be an issue. The chilling effect on trade
25 is real and it should be minimized as much as

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1 possible. Thank you.

2 FACILITATOR SPOONER: Thanks Erik. I
3 should ask my colleagues if they have any question.

4 MR. SPETRINI: Mr. Nicely, you picked up a
5 thread that Mr. Ross identified, in terms of surrogate
6 country selection. First, I'd like to point out that
7 this is a very important subject and we published a
8 notice in the Federal Register a couple of months ago,
9 generically inviting comment on how we could improve
10 and make more predictable surrogate country selection
11 process. It's a key element in non-market economy
12 anti-dumping investigations. And we have identified
13 it here too, in the Federal Register as being very
14 relevant.

15 So I invite both you gentlemen to continue
16 to work with us as this process evolves, which is the
17 reason we're having this hearing, to see if there are
18 ways we can improve it.

19 You mention, in particular, that we
20 shouldn't fall into using Honduras or, I guess, some
21 other countries. I was wondering if you had any
22 affirmative suggestions for any of the categories that
23 are under review or if you would be willing to
24 continue a conversation on that basis down the road?
25 Thank you.

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1 MR. NICELY: I'd certainly be willing to
2 continue the conversation. As far as the specific
3 countries, I guess part of my point generally, not
4 only in this context, would be that there needs to be
5 some predictability. And the fact is that it's --
6 I've found it slightly ironic that we were coming up
7 with a proposal possibly to expand the scope of
8 countries that might be considered, just at a time
9 when this monitoring program is going on, making it
10 all the more difficult to identify who would be used.

11 Up until today, we've mostly -- you all
12 have mostly used Bangladesh for Vietnam. Obviously,
13 it depends upon the availability of data. In any
14 case, it always depends upon the availability of data.

15 It depends upon the availability of similar products
16 being produced, or at least the inputs being
17 available.

18 We aren't proposing a specific country or
19 even a specific basket of countries. We're simply
20 proposing that you follow the approach you've taken
21 before, which is to abide by a relatively tight
22 grouping of companies to choose from, again assuming
23 that the data's available.

24 MR. SPETRINI: Thank you very much.
25 That's very constructive. Thanks.

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1 FACILITATOR SPOONER: I have a question
2 perhaps for both Erik and Mike. As you all know,
3 right now on the web, we're posting basic publicly
4 available information on import volume and value. Is
5 there any publicly available data that we're not
6 posting that we should be? And is there anything that
7 we're posting that we should take off?

8 MR. AUTOR: There's nothing that I'm aware
9 of -- other publicly available information that hasn't
10 already been, I guess, published.

11 MR. HUBBARD: Yes. I'm not aware of any
12 other publicly available information either.

13 FACILITATOR SPOONER: Okay. Thank you.

14 MR. PRIEST: Just real quickly, Matt and
15 Mr. Khien, this is directed to you. Matt, you have a
16 unique perspective representing Korean industry. Are
17 there other countries or other industries that you
18 know of, either of you, that have expressed similar
19 concerns or who have a large investment in Vietnam and
20 have, you know, expressed concerns over this?

21 MR. KHIEN: As far as I know, apart from
22 Korean companies investing in textiles industry in
23 Vietnam, there are also some companies from Taiwan.
24 So I am thinking Korea and Taiwan are the biggest
25 investors in the textiles industry in Vietnam.

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1 MR. PRIEST: Okay. Thank you.

2 FACILITATOR SPOONER: All right. Well,
3 thank you all. I think we'll take a two minute break,
4 only because I'm told our tape is about to run out and
5 we need to switch the tape before moving on to the
6 next panel. Although, while we're switching the tape,
7 I should probably convey that our next panel consists
8 of Stephanie Lester of the Retail Industry Leaders'
9 Association, Gary Ross of Liz Claiborne, testifying on
10 behalf of the U.S. Association of Importers of
11 Textiles and Apparel, Mr. Le of the Vietnam Trade
12 Center, testifying on behalf of the Vietnam Textile
13 Apparel Association, and Thomas -- and I hope I
14 pronounce this right Tom, Vakerics. I'm sure that's
15 wrong -- of Sandler, Travis, and Rosenberg. Thanks

16 (Whereupon, off the record from 10:24 a.m.
17 until 10:34 a.m.)

18 FACILITATOR SPOONER: All right, let's
19 begin. Sit down, Steve. All right. For the purpose
20 of posterity, our video tape had stopped rolling when
21 I asked people to come up a few minutes ago. I'll re-
22 introduce our panel. First we have Stephanie Lester
23 of the Retail Industry Leaders' Association; Gary Ross
24 of Liz Claiborne -- I'm sorry, Mr. Le from the Vietnam
25 Textile Apparel Association (VITAS); Gary Ross of Liz

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1 Claiborne, also testifying on behalf of the U.S.
2 Association of Importers of Textiles and Apparel; and
3 Tom Vakerics from Sandler Travis, also testifying on
4 behalf of the Vietnam Producers and Exporters Group.
5 Thank you. Stephanie?

6 MS. LESTER: Good morning. My name is
7 Stephanie Lester and I am the Vice President for
8 International Trade at the Retail Industry Leaders
9 Association or RILA. RILA members include the largest
10 and fastest growing companies in the retail industry
11 -- retailers, product manufacturers, and service
12 suppliers -- which together account for more than \$1.5
13 trillion in annual sales. Our members provide
14 millions of jobs and operate more than 100,000 stores,
15 manufacturing facilities, and distribution centers
16 domestically and abroad. RILA's membership consists
17 of some of the largest and most innovative apparel
18 retailers, including WalMart, Target, Nike, Gap Inc.,
19 and Limited Brands.

20 I appreciate the opportunity to appear
21 this morning to present RILA's views. First, while
22 RILA members strongly disagree with the Department's
23 decision to initiate this monitoring program, we do
24 appreciate the interaction with interested parties
25 that you have built into the process since that time,

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1 including this hearing today; and particularly since
2 this fundamental element of fairness and due process
3 was sorely lacking when the initial commitment was
4 made. I encourage Assistant Secretary Spooner and the
5 Import Administration team to be as forthcoming with
6 information as possible throughout the duration of
7 this monitoring.

8 I also emphasize that RILA members are
9 sensitive to the concerns of the domestic textile and
10 apparel industries. We support policies that promote
11 the well-being of the industry and its workers and we
12 understand the justification of measures which promote
13 U.S. production and jobs. But, at the same time, most
14 of the products that RILA members purchase from
15 Vietnam could not be supplied by domestic production.

16 From RILA's perspective, it is inappropriate and a
17 misuse of Government resources to monitor imports of
18 products to possibly self-initiate anti-dumping
19 proceedings where there are no domestic producers of
20 the products.

21 From the outset, the retail industry has
22 asked the Department to first identify domestic
23 producers of textile or apparel products who were
24 interested in import monitoring, and only after
25 identifying those producers and the products they

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1 make, should the Department initiate monitoring
2 imports of comparable products. Rather than honor
3 that request, the Department began monitoring five
4 broad categories of imported apparel -- shirts,
5 trousers, underwear, swim wear, and sweaters --
6 incorporating products imported under more than 140
7 10-digit tariff categories. Most of these products
8 are not produced in the United States, and for those
9 that are, many are not produced in significant
10 quantities for the commercial market. Monitoring
11 imports in product categories in which there is no
12 domestic production is harmful to trade and our
13 bilateral relationship with Vietnam and is a misuse of
14 Government resources. It also creates needless
15 uncertainty in the retailing community as to how
16 broadly the Department might cast its self-initiation
17 net.

18 Predictability and forecasting are
19 fundamental to retail operations and are core business
20 drivers. As a result, the uncertainty generated by
21 the Department's monitoring program is having a
22 significant chilling effect on textile and apparel
23 trade with Vietnam. The lead time required for
24 apparel sourcing decisions means that import levels
25 reported in data for early 2007 do not yet reflect

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1 this chilling effect, but RILA members expect that the
2 effect will be evidenced in the second half of this
3 year and next year. As every major apparel retailer
4 can tell you, the effect is already having a real,
5 meaningful, and significant impact on their
6 operations.

7 Rather than take advantage of the expanded
8 trading relationship with Vietnam that has been the
9 promise of its WTO accession, the uncertainty
10 generated by the Department has led retailers to
11 reevaluate their sourcing strategy. And let's be
12 clear -- the result has not been, nor will be, greater
13 domestic sourcing of any apparel because the
14 production capacity for these products does not exist
15 in the United States. Instead, the import monitoring
16 program simply causes sourcing shifts to countries
17 other than Vietnam. And, as a practical matter, once
18 a company pulls its sourcing out of a country, it
19 doesn't go back.

20 Import monitoring alone would not be as
21 problematic if it were not couched as a clear
22 precursor to self-initiated dumping cases. Unlike
23 other import monitoring, in this instance Commerce has
24 also committed to establish production templates and
25 surrogate country information. This would effectively

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1 start a dumping analysis without a formal proceeding
2 or legal authority to do so.

3 RILA is one of several organizations that
4 believe that this monitoring program is outside the
5 clearly circumscribed legal authority to institute
6 such programs. In December, detailed legal arguments
7 were submitted to the Department, in which we contend
8 that the Department lacks the legal basis to establish
9 and operate the monitoring program. RILA respectfully
10 urges the Department to clearly identify the legal
11 authority upon which it is conducting its program.
12 Moreover, the Department should not take any action to
13 establish production templates or surrogate countries,
14 or to self-initiate anti-dumping proceedings based
15 upon this questionable legal authority.

16 In closing, RILA urges the Department to
17 alleviate the serious and unnecessary uncertainty and
18 disruption that the import monitoring program is
19 having in the retail sector. RILA urges the
20 Department to limit monitoring to imports of products
21 actually produced in the United States for the
22 commercial market. The Department should also give
23 clear signals that it will not self-initiate anti-
24 dumping cases unless prices drop significantly and the
25 U.S. industry supplies data indicating material injury

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1 caused by Vietnamese imports, consistent with U.S. law
2 and international obligations. Such actions would
3 alleviate some of the uncertainty, lessen the negative
4 impact that the monitoring has had on all apparel
5 imports from Vietnam, and focus Government efforts and
6 resources on those products which are most important
7 to the domestic industry. Thank you for your time.

8 FACILITATOR SPOONER: Thank you,
9 Stephanie. Mr. Le?

10 MR. LE: Good morning. I am Le Xuan
11 Duong, here on behalf of the Vietnam Textile and
12 Apparel Association (VITAS). Vietnamese manufacturers
13 are experiencing the full and terrible impact of the
14 import monitoring program that's clearly a threat of
15 material injury to the Vietnam apparel industry. The
16 toll of the program is shown by the current lost
17 orders, lost for the investments into Vietnam, and
18 lost jobs in apparel at factories.

19 By year's end, VITAS expects that, instead
20 of the substantial growth that would have and should
21 have been seen, there will be minimal growth, if any.

22 The threat of anti-dumping investigations created by
23 the monitoring program has meant that many Vietnamese
24 and foreign enterprises have postponed or abandoned
25 all together their investments in Vietnam or have

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1 suspended plans for expansion.

2 The uncertainty caused by the unjustified
3 and unnecessary actions of the U.S. has caused some
4 big buyers to stop placing apparel orders and others
5 are advising that they will not expand orders to
6 Vietnam, all due to the monitoring program. Orders
7 post June have been decreased by major buyers. The
8 small and medium sized enterprises in Vietnam are
9 particularly hurting. Without orders, they must
10 reduce their production and lay off workers. The
11 situation is hardly what one would have expected as
12 the reward for becoming a member of the WTO.

13 It is particularly disturbing to see
14 orders and investment declining when it is clear that
15 the products made in Vietnam are neither subject to
16 prohibited subsidies nor dumped. Vietnam fully met
17 its commitment under its accession agreement with the
18 U.S. to eliminate prohibited subsidies effecting
19 textiles and apparel.

20 Importantly, it's not possible that
21 Vietnamese products are dumped in the U.S. market
22 because currently some 70 percent of the garments
23 produced in Vietnam are CMT production. That means
24 that they are only cut, sewn, and finished in Vietnam
25 with fabrics and accessories purchased by the buyer,

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1 with most sourced from outside of Vietnam. Most
2 Vietnamese factories do not own or control the cost of
3 these imports, which account for the vast majority of
4 the cost and price of the final products.

5 Vietnamese manufacturing enterprises earn
6 only the processing charge. That label costs accounts
7 for at most 25-30 percent of the FOB price. That
8 means that, of the \$5.85 billion in Vietnam's apparel
9 export worldwide in 2006, approximately \$4.5 billion
10 reflected the value of the fabrics and accessories.
11 The real earnings for Vietnam's apparel export
12 globally in 2006 was only \$1.35 billion.

13 VITAS strongly urges Commerce not to be
14 misled by declines in average unit values when quotas
15 are lifted and the administrative processes are
16 simplified. In the first place, the elimination of
17 quotas, rent and related costs does not constitute
18 dumping. Second, the minor decreases in average unit
19 values for Vietnamese apparel between 2006 and 2007
20 are actually in line with, and in many instances, less
21 than declines from other major Asian suppliers to the
22 U.S. market.

23 Third, product niches change both season
24 to season and from one fashion year to another. Saved
25 in average unit values have no relevance to dumping.

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1 Vietnam made very significant concessions to the U.S.
2 to all WTO members and pledged its commitment to the
3 rules of law. In the apparel sector, in particular,
4 Vietnam did present a glowing example of transparency
5 and fairness. Vietnam should be credited for its good
6 governance and WTO membership, winning more business
7 from U.S. buyers, rather than being subjected to
8 discrimination by the monitoring program.

9 Unless and until Commerce eliminates the
10 intolerable risk it has created, Vietnam will not
11 achieve the success it rightfully and fairly deserves.

12 If Commerce will not retract the program all
13 together, it must at least greatly reduce in scope.
14 Commerce should not monitor products that were not
15 even under quota because they are not sensitive. And
16 so there's no need for monitoring products where there
17 is no U.S. production.

18 Vietnam's factories are not competing with
19 producers in the U.S. But quantity, textile, and
20 clothing imports from Vietnam in 2006 were only 2.2
21 percent of total U.S. imports. And the orders being
22 lost by Vietnam producers are going to other Asian
23 suppliers, not to U.S. makers.

24 With each passing day, the negative
25 consequences of the decision to establish the

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1 monitoring program become more apparent. On behalf of
2 the two million workers in Vietnam's textile and
3 apparel industries, VITAS respectfully and urgently
4 urges the U.S. Administration to act promptly to
5 reconsider this program and prevent further harm to
6 the Vietnamese apparel industry. Thank you for your
7 time.

8 FACILITATOR SPOONER: Thank you. Gary?

9 MR. ROSS: Good morning. My name is Gary
10 Ross. I'm here appearing today on behalf of the
11 United States Association of Importers of Textiles and
12 Apparel (USA-ITA), of which my company, Liz Claiborne,
13 is an active member.

14 USA-ITA members include manufacturers,
15 distributors, retailers, importers, and related
16 service providers such as shipping lines and Customs
17 brokers. Member companies source from around the
18 world.

19 As a sourcing executive, who started my
20 career as a knitter in an apparel factory in
21 Philadelphia some 31 years ago, I know a thing or two
22 about making apparel here in the United States and
23 importing it. I personally witnessed the progression
24 from domestic production to 807 manufacturing, to pure
25 imports as the size of the U.S. consumer market

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1 expanded and the need to provide affordable product
2 created demand for alternative sourcing options.

3 For over 40 years, our industry has been
4 protected and it has not stopped the migration of
5 production or helped the industry to compete.
6 Protectionism has failed. It has bred inefficiency.

7 The basic law of successful retailing is
8 to offer what the consumer wants. If the garments
9 American consumers wanted to buy were still made here
10 in the United States, USA-ITA member companies would
11 be buying those garments. We would not be spending
12 our time and resources crossing the Atlantic, the
13 Pacific, the Indian Ocean to reach factories thousands
14 of miles away. Yet the Administration has established
15 an import monitoring program covering all of pants,
16 shorts, knit shirts, woven shirts, sweaters,
17 underwear, and swim wear produced in Vietnam, with the
18 supposed purpose of identifying whether those imported
19 products might be unfairly traded and materially
20 harming the U.S. producers.

21 Clearly, this makes no sense. The
22 Administration has broadly identified the imports it
23 is targeting. But no one has identified U.S.
24 manufacturers or particular products an anti-dumping
25 investigation would supposedly help and protect.

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1 We need to turn this picture around. The
2 Commerce Department, which for decades has
3 administered the U.S. textile quota program and which
4 houses the Bureau of Census, surely has the basis to
5 survey U.S. producers of apparel and to identify the
6 specific products made for the commercial market. We
7 assume that you already have this at your fingertips,
8 based upon the agency's mandate as Chairman of the
9 Committee for the Implementation of Textile
10 Agreements, CITA. But, at the very least, that is
11 what it should be doing now. That should have been
12 the first step in developing a monitoring program. It
13 cannot be the last step; especially when the
14 implications for a monitoring program are so
15 significant.

16 The monitoring program has very real
17 consequences. By targeting broad categories of
18 products made in Vietnam, it forces USA-ITA member
19 companies to reconsider Vietnam as a viable sourcing
20 option. At the very least, importers and retailers
21 are looking at the calendar and mapping out worst case
22 scenarios, deciding what the earliest possible point
23 in time is when Vietnamese products brought into U.S.
24 market could be subject to additional bonding
25 requirements or dumping duty.

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1 It is not that any of us believe for one
2 minute that the prices we have negotiated with our
3 suppliers are dumped. Let's be clear. None of the
4 prices are dumped. Yet we also know that Vietnam was
5 targeted and the Administration will be the subject of
6 untold political pressure to take action. One of the
7 reasons such pressure can exist is that there is a
8 vacuum of meaningful facts regarding the U.S. apparel
9 industry. Instead, as a result of the import
10 monitoring program, there will be reams of information
11 about the imports from Vietnam. That is the
12 information that will be subject to analysis,
13 speculation, and allegation.

14 According to your website, you are
15 monitoring trade in 180 different tariff
16 classifications. That is a lot of different products.

17 Although, I'd have to note that in 22 of these
18 classifications, it is already obvious that the
19 monitoring is totally senseless for those lines less
20 than 100 dozen garments, in some instances, a lot
21 less, it's more like five dozen were imported from
22 Vietnam in January and February, making it a
23 particularly absurd use of resources.

24 USA-ITA strongly urges the Department to
25 act now to identify whether there is any basis for the

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1 monitoring program by focusing on what is produced in
2 the United States on a specific basis, namely on terms
3 that parallel the classifications that we're used to
4 working with under the harmonized tariff schedule.

5 Therefore, before proceeding with
6 monitoring imports, use your years of experience in
7 the apparel sector and your reference to determine who
8 makes what apparel products; how much each of those
9 entities makes; for which market does each entity
10 produce particular garments; what is the economic
11 condition of each of those entities; and whether any
12 company is experiencing material injury at any point
13 competes with products made in Vietnam and, if so,
14 whether they believe that monitoring products in
15 Vietnam or initiating anti-dumping investigation
16 against product from Vietnam will bring any benefits
17 to their business.

18 Only when we have that base of
19 information, can you determine whether there is even a
20 reason to conduct a monitoring program on a particular
21 apparel product made in Vietnam. Perhaps there is.
22 But if so, it is surely only a much, much smaller
23 universe of products than are currently being
24 monitored.

25 My final point is simple. Neither import

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1 monitoring nor anti-dumping duties will bring one
2 textile or apparel manufacturing job back to the
3 United States. Feudal measures that will only hurt
4 U.S. businesses and American consumers without
5 creating any benefits for U.S. manufacturers and
6 workers should not, indeed must not be pursued. To
7 head down the path of anti-dumping investigations
8 against apparel made in Vietnam would be a dangerous
9 step backward. Thank you.

10 FACILITATOR SPOONER: Thank you, Gary.
11 Tom?

12 MR. VAKERICS: Good morning. My name is
13 Tom Vakerics. I am a member of the law firm of
14 Sandler, Travis & Rosenberg and am appearing here
15 today on behalf of the Vietnam Producers/Exporters
16 Group (VPEG).

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

24 The Department's monitoring program, and
25 pledge to self-initiate, if available evidence

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1 warrants, has created a great deal of uncertainty in
2 U.S. Vietnam apparel trade. Our basic message today
3 to the Department is that the Department should do
4 everything within its power to increase the
5 transparency of this program in order to reduce
6 existing uncertainties to an absolute minimum.

7 There are unanswered questions on domestic
8 industry issues. To the best of our knowledge, and I
9 think this is really remarkable, not one single
10 American apparel company has stepped forward in this
11 proceeding to support the Department's monitoring and
12 self-initiation programs. Nevertheless, as the
13 Department is well aware, sales at less than normal
14 value alone will not support a dumping investigation
15 or a dumping order. The evidence must also establish
16 that there is a domestic industry and that the
17 domestic industry has been materially injured, or is
18 threatened with material injury, by reason of dumped
19 imports.

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

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

8 In order to ensure that the Department has
9 thoroughly vetted domestic industry issues, the
10 Department, at a minimum, should release a list of
11 domestic apparel producers, not textile and apparel
12 producers, a list of domestic apparel producers as
13 soon as possible, and provide the opportunity to all
14 interested parties to comment on important domestic
15 industry issues after that list is released. That
16 list should also include, in plain English narrative
17 descriptions, the apparel products manufactured by
18 domestic companies.

19 There are unanswered scope issues or scope
20 questions. Sandler, Travis & Rosenberg is currently
21 working with Vietnamese exporters to audit their
22 operations to ensure they are not dumping. In order
23 to do so, we are required now to work back from
24 identifying individual product lines that may be
25 targeted in a future dumping investigation.

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1 Assuming, arguendo, there is some
2 legitimate reason for not identifying domestic apparel
3 manufacturers, we urge the Department to release, at a
4 minimum and as soon as possible, a list of apparel
5 products manufactured by domestic companies. This
6 would enhance significantly the ability of VPEG member
7 companies to sort through product lines as needed to
8 conduct effective proactive anti-dumping duty audits.

9 That product list should be in plain English
10 narrative form, as one would expect to see in a
11 dumping investigation scope definition.

12 Finally, there are unanswered questions on
13 critical circumstances. Importers that continue to
14 source apparel products from Vietnam are, of course,
15 very concerned with what ought to be a fairly clear
16 question. What's the earliest date that apparel
17 entries from Vietnam could be subject to potential
18 anti-dumping duty liability? The Department's
19 regulations, on their face, appear to be fairly
20 straight forward. In order to find critical
21 circumstance, the Department must, among other things,
22 find that there have been massive imports of the
23 subject merchandise over a relatively short period of
24 time. In deciding whether imports have been massive,
25 the Department's regulations require an increase of at

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1 least 15 percent in imports over an immediately
2 preceding period of comparable duration. Now, while
3 the regulations appear to be fairly straight forward,
4 in actual application, the Department's application of
5 the Critical Circumstances Doctrine has been somewhat
6 convoluted and has caught -- it's almost a gotcha game
7 with importers because of the uncertainty as to when
8 that retroactivity is going to apply.

9 So in order to further reduce uncertainty,
10 VPEG urges the Department to use, at the earliest, the
11 date of self-initiation as the base point from which
12 periods of comparison will be made and to use the 15
13 percent bright line standard for gauging whether
14 import increases have been massive. This position
15 should be clearly stated in any notice of self-
16 initiation that may occur. This will, in turn, and
17 very rightly reduce the risks and uncertainties with
18 which importers are concerned and which create a
19 chilling effect with respect to possible retroactive
20 duty application.

21 On behalf of the Vietnam
22 Producers/Exporters Group, I would like to thank you
23 very much for the opportunity to present this
24 statement.

25 FACILITATOR SPOONER: Thank you, Tom. I

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1 should ask my colleagues if they have any questions.
2 I have a question. And it's -- I think it's one that
3 any one of the four of you could respond to. Mr. Le,
4 I think you made a very good point in your testimony
5 regarding the quota rent, the cost of the old quota
6 system. And you had asked us to take into account the
7 fact that prices may drop this year because of the
8 fact that there's no longer a quota cost. Do any of
9 the four of you have any more detailed information
10 about quota cost on individual product categories?
11 And, of course, it's probably a little unfair of me to
12 expect that to be at your fingertips right now. But,
13 if not, could you provide it in the future.

14 MR. ROSS: Quota costs, unfortunately,
15 artificially inflate the prices that American
16 consumers pay for apparel.

17 MR. VAKERICS: David, we'll supply some
18 comments after the hearing on quota costs.

19 FACILITATOR SPOONER: Okay. Thanks.

20 MS. LESTER: And I can check in with RILA
21 members and try and get back to you.

22 MR. LE: The cost in Vietnam means the
23 administration and the distribution of the quotas and
24 then there are many companies who want to do business,
25 so they have to pay a lot of costs for on this system.

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1 FACILITATOR SPOONER: Okay. Thank you.
2 Regardless, I agree that's something we have to take
3 account of. So any further detailed information you
4 can provide will be helpful to us. With that, I think
5 we have concluded our panels. I should briefly convey
6 that, as soon as possible, I believe the Department of
7 Commerce will put out another Federal Register notice
8 incorporating, to the extent possible, the comments
9 we've received today, as well as other public comments
10 that we've put on the record.

11 MR. ROSS: Can I make a comment regarding
12 -- there were questions asked regarding surrogate
13 countries?

14 FACILITATOR SPOONER: Yes.

15 MR. ROSS: Would that -- I believe that's
16 putting the cart before the horse; that it's premature
17 until we actually identify who a harmed party is
18 before we identify a surrogate country.

19 MS. LESTER: I very much concur with his
20 thoughts on that.

21 FACILITATOR SPOONER: Okay. Thank you.

22 (Whereupon, the hearing was concluded at
23 approximately 11:03 a.m.)
24
25

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