

**SUPPORTING STATEMENT FOR
UNITED STATES INTERNATIONAL TRADE COMMISSION QUESTIONNAIRES
*CERTAIN TEXTILE ARTICLES: PERFORMANCE OUTERWEAR***

A. Justification

1. Request– On November 16, 2007, the U.S. International Trade Commission (Commission), at the request of the Chairman of the House Committee on Ways and Means (attachment 1), instituted investigation No. 332-479, *Certain Textile Articles: Performance Outerwear*, to provide information on U.S. production and shipments of performance outerwear jackets and pants and U.S. production and shipments of fabrics intended for use in performance outerwear jackets and pants.

The Commission has the responsibility of providing reports on issues affecting trade under Section 332 of the Tariff Act of 1930. Section 333(a) of the Act authorizes the Commission to obtain information. Copies of the sections of the statute that authorize the provision of reports and the collection of information are attached to the supporting statement (attachments 2 and 3).

2. Purpose– The information collected will be consolidated by the Commission in a public report and sent to the House Committee on Ways and Means by July 25, 2007. The information to be collected is critical to the Commission's task, as it will provide the requested data on U.S. production and shipments of performance outerwear jackets and pants and U.S. production and shipments of fabrics intended for use in performance outerwear jackets and pants for the calendar years 2005 and 2006.

3. Technology– All available information technology has been incorporated into the questionnaire design and processing to reduce the reporting burden.

4. Non-duplication– The Commission investigation has been designed to rely to the greatest extent possible on existing publicly available data collections by other government agencies and private sources. After a thorough search of data sources for this investigation, it has been determined that no other industry, government, or academic organizations collect or publish data that are duplicative of the data requested in the questionnaires.

Although the U.S. Census Bureau (Census) collects and publishes certain data on production and shipments of textile and apparel articles, these data are only available at a highly aggregated level and do not include the product-specific data required for the study.

5. Small businesses– Some of the companies that will receive a producer questionnaire are likely to be "small businesses," as specified under the Small Business Administration Rules (13 CFR Part 121). Many of the small producers are members of the Outdoor Industry Association, which is cooperating with the Commission on this investigation. To minimize the reporting burden, the producer questionnaires were designed to be as brief as possible, consistent with information requirements. Check-in type questions are used where appropriate to simplify questionnaire response. Also, the questionnaires indicate that carefully prepared estimates are acceptable; this should further reduce the potential burden on smaller firms that may not have the administrative resources or automated record systems of larger firms in the industry.

6. Consequences of non-collection– Due to the lack of suitable data from other sources, without this information collection, the Commission would be unable to fulfill the request of the House

Committee on Ways and Means, and therefore would not be able to satisfactorily discharge its responsibility under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

7. Special circumstances– Not applicable. This is a nonrecurring data collection.

8a. Consistency with 5 CFR 1320.6 guidelines– No special circumstances exist that require the collection to be conducted in a manner inconsistent with the guidelines of 5 CFR 1320.6. If any respondents do not maintain information in the format requested by the questionnaires, they are permitted to submit carefully prepared estimates based upon available information and their best estimates.

8b. Consultations–The Commission’s notice of submission to OMB requesting clearance under emergency approval provisions will be submitted to the Federal Register on March 2, 2007 and is expected to be published March 6, 2007. The notice will be posted on the Commission’s Internet site (<http://www.usitc.gov>) on March 2, 2007.

Performance Outerwear Jackets and Pants

From January 24 - February 15, 2007, the Commission field-tested the producers’ questionnaire for performance outerwear jackets and pants with regard to the availability of data, reporting burden, product coverage and definitions, clarity of instructions, disclosure, and reporting format. The following representatives of associations and companies were consulted on the content of the questionnaires and all received copies of the questionnaire.

1. Alex Boian, Outdoor Industry Association (represents many of the firms that either produce or contract for production of performance outerwear), (303-327-3509)
2. David Ingemie, Snowsports Industry of America, (703-556-9020)
3. Jeff Tooze, Columbia Sportswear Company, (503-985-4039)
4. Brian Cousins, Cloudveil, (307-739-3901)
5. Susan M. DeDominic, Marmot Mountain Ltd., (707-541-2145)
6. Robin Hashem, Kokatat, Inc., (707-822-7621, ext. 245)
7. Maggie Lippert, GoLite LLC, (303-339-2307)
8. Tucker Hacking, Ground LLC, (510-547-9370)
9. Jean Kissner, Isis, (802-862-3330, ext.104)
10. Walter Allen, Patagonia, (800-543-5522)
11. Peter Sutherland, REI, (253-437-7407)
12. Loren White, Royal Robbins, (209-529-6913, ext.129)
13. Greg Paquin, Scent-Lok, (231-220-1619)
14. Lisa Leffler, The Quicksilver Rossignol Group, (435-252-3342)
15. Brian Murphy, W.L. Gore & Associates, (410-506-2885)
16. Teddie Pachecho, VF Outdoor Group (North Face), (510-347-2548)

The following table provides comments from industry sources and actions taken during preparation of the questionnaire for producers of performance outerwear.

Page Number(s)	Comments/Suggestions	Adjustments to Questionnaire
pp. 1-11	Broaden definition to include performance outerwear jackets and pants of all fiber types, rather than just of synthetic fibers.	Eliminate reference to “synthetic” in every reference to performance outerwear. Instead of “ synthetic performance outerwear” the reference is now “performance outerwear.”
pp. 3 and 4	Change “padded” to “padding” in jacket definition.	Suggestion adopted.
p. 3-4	In the definition for knit performance outerwear jackets, change the number of options from 5 to 6.	Suggestion adopted.
p. 3-4	Combine bulleted options for “multi-adjustable hood and/or collar” with “elastic, drawcord or other means of tightening around the waist, and/or bottom hem and/or wrists.” Eliminate reference to wrists.	Suggestions adopted.
p. 5	Add “welding” to definition for critically sealed seams.	Suggestion adopted.
pp. 3- 5	Add “and/or inner protective” to bulleted option and definition for powder skirts.	Suggestion adopted.
p. 5	Add language to definition for venting to exclude front, primary zipper closures.	Inserted suggested language as follows: “(excludes front, primary zipper closures.)”
p. 5	Add “gussets” to the definition for articulated elbows or knees.	Suggestion adopted.
p. 5	Suggested new definition for weatherproof closures as follows: “Zippers that have a construction eliminating water penetration via a coating to reduce or eliminate water absorption into the zipper tape, overlapping securable fabric flaps over the zipper, or flaps under the zipper that aid in keeping water passing through.”	Suggestion adopted.
pp. 3, 4 and 6	Change bulleted option and definition from “laser cut or welding technology” to “laser cutting technology” and change the beginning of the definition to the following: “The functional (not decorative) use of a laser in the construction process. . .”	Changed the bulleted option and definition to “Laser cut technology” and adopted proposed language for the beginning of the definition.

Page Number(s)	Comments/Suggestions	Adjustments to Questionnaire
p. 4	Add language in bold to the following bullets for knit and woven pants: “Elastic, drawcord or other means of tightening around the waist and/or leg hems, including hidden leg sleeves with a means of tightening at the ankle. ”	Suggestion adopted.
p. 5	Add the following language to the end of the definition for insulation for cold weather protection: “and/or other lining for extreme protection from external elements.”	Added “and/or other lining for protection from external elements.” Did not add the term “extreme” because extreme is not defined.
p. 13	Suggested asking for more detail on the coating and construction of fabric in the column labeled “Fabric Description.”	Under the term “Fabric Description” added the following: “(Include construction, such as knit or woven, fiber type, and any coating applied to the fabric. If the fabric is bonded or laminated, describe the component layers.)”

Fabrics for use in Performance Outerwear Jackets and Pants

From January 24 - February 15, 2007, the Commission field-tested the producers’ questionnaire for fabrics for use in performance outerwear jackets and pants with regard to the availability of data, reporting burden, product coverage and definitions, clarity of instructions, disclosure, and reporting format. The following representatives of associations and companies were consulted on the content of the questionnaires and all received copies of the questionnaire. Please note suggestions and adjustments to the definitions for ‘performance outerwear jackets and pants’ listed above; such changes were also adopted for use in the fabric questionnaire.

1. Alex Boian, Outdoor Industry Association (represents many of the firms that either produce or contract for production of performance outerwear), (303-327-3509)
2. Sara Ormand, American Manufacturing Trade Action Coalition (represents many of the domestic firms that produce fabrics), (202-452-0866)
3. David Trumbell, National Textile Association, (represents many of the domestic firms that produce fabrics) (617-542-8220)
4. Mike Hubbard, National Council of Textile Organizations (represents many of the domestic firms that produce fabrics) (704-824-3522)
5. Jeff Harris, Brookwood Companies Inc., (212-551-0133)
6. Karen Edwards, Milliken & Company, (864-503-2269)
7. Chris Sentementes, Malden Mills, (978-659-5194)
8. Nelson Bebo, Burlington Industries (part of the International Textile Group), 212-621-4046
9. Brian Murphy, W.L. Gore & Associates, (410-506-2885)
10. Jeff Tooze, Columbia Sportswear Company, (503-985-4039)

The following table provides comments from industry sources and actions taken during preparation of the questionnaire for producers of fabrics for use in performance outerwear.

Page Number(s)	Comments/Suggestions	Adjustments to Questionnaire
p. 6	Clarify whether export shipments should be included as exports or as domestic shipments if the customer is U.S.-based.	Changed the definition on exports to the following (new text in bold): Shipments to destinations outside of the United States, regardless of the location of the customer , including shipments to related firms.
p. 10	Suggest asking if the fabric is coated, laminated, or bonded.	Suggestion adopted in table II-1d, in the question that asks whether the fabric is water resistant.
p. 10	Suggest asking if a fabric is purchased from another firm for laminating, bonding, or coating, and the share of any such fabrics that are imported.	Suggestion adopted. Added a question in table II-1d.

9. Payments or gifts– Not applicable. Questionnaire recipients will not be provided with any payments or gifts for their responses.

10. Confidentiality– The first page of both producer questionnaires states: “The commercial and financial data furnished in response to this questionnaire that reveal the individual operations of your firm will be treated as confidential by the Commission to the extent that such data are not otherwise available to the public and will not be disclosed except as described in the certification paragraph below, and as may be required by law.” On page 2 of the instructions for the questionnaires, confidentiality is further addressed under “Nondisclosure of confidential business information.” Submissions of information as confidential are accepted under 19 CFR 201.6.

11. Sensitive information– Information on issues of a sensitive nature involving persons is not being sought.

12. Response burden– The Commission attempted to reduce burden on respondents by designing the questionnaires so that firms can easily identify those sections which apply to their operations. Some of the requested data being collected are largely qualitative in nature and should require relatively little time to complete.

The Commission estimates the following burden will be placed on respondents:

<u>U.S. performance outerwear producers’ questionnaire</u>		
Number of respondents	(No.)	116
Frequency of response:	(No.)	1
Annual burden per respondent:	(hours)	6
Total burden:	(hours)	696

U.S. fabric producers' questionnaire

Number of respondents	(No.)	17
Frequency of response:	(No.)	1
Annual burden per respondent:	(hours)	8
Total burden:	(hours)	136

These estimates are based on past Commission experience with similar questionnaires and from consulting with potential respondents. The burden on individual respondents may vary widely. The variance is due to the following reason:

The questionnaires are constructed so that meaningful data can be obtained from firms with complex business operations; many sections of the questionnaires may not apply to respondents with comparatively simple operations.

The Commission included a notice of the above response burden averages in the questionnaires, along with a request that respondents send comments to the Commission and to OMB. The Commission used the standard format recommended by OMB.

The combined annualized cost to all respondents for the estimated hour burdens identified above is as follows:

$$\text{Cost} = 832 \text{ hours} \times \$53.43^* \text{ per hour} = \$44,454$$

*This is the same hourly cost used in item 14 below. The Commission projects that this is an accurate cost estimate of personnel who will likely complete the questionnaires.

13. Estimated Annual Cost Burden to Respondents and Recordkeepers– The total annual cost burden is zero, as explained below.

a. Total capital and start-up cost component.–The Commission does not expect any capital and start-up costs because all information already exists in records storage facilities in office and resides with the firms' personnel.

b. Total operation and maintenance and purchase of service component.–The Commission does not expect respondents will need to purchase any services in completing the questionnaires.

14. Annualized Cost to the Federal Government– The estimated total cost to the Federal Government is \$183,973 as detailed below. No new equipment will be purchased because existing equipment will be used to process the questionnaires.

The estimated number of work hours includes designing the questionnaires, soliciting field test comments, editing results (i.e., contacting respondents after completion of the questionnaires to clarify responses), and compiling and tabulating questionnaire responses.

$$\text{Cost} = 3,380 \text{ hours} \times \$53.43^* \text{ per hour} = \$180,593$$

*The hourly figure was approximated by dividing the Commission's average salary level (\$111,135) by the number of work hours per year (2,080).

15. Change in burden– Not applicable. This is a new information collection.

16. Project plan and schedule– After receiving the completed questionnaires, the Commission's staff will edit and review each response for accuracy, resolve any questions with the respondent, and tabulate the returns. Data will be analyzed, compiled in a form that will not reveal the individual operations of any respondent, and prepared for publication. The questionnaires are scheduled to be mailed on or before March 20, 2007. The respondents are requested to respond by April 20, 2007. The report incorporating the questionnaire information will be submitted to the House Ways and Means Committee by July 25, 2007.

17. Non-display of expiration date– Not applicable.

18. Exceptions to certification statement to form OMB 83-I– Not applicable.

B. Collections of Information Employing Statistical Methods

This proposed information collection does not employ statistical methods because the use of statistical methods would not reduce burden or improve the accuracy of results.

Attachment 1

The request letter is on the following page.

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

DOCKET NUMBER
2508
Office of the Secretary Int'l Trade Commission

October 24, 2006

The Honorable Daniel R. Pearson
Chairman
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

2006 OCT 25 AM 10:18

Dear Mr. Chairman:

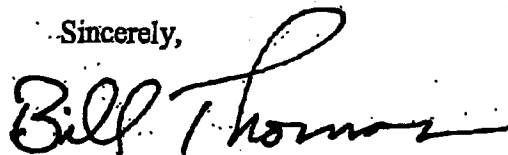
The Ways and Means Committee is interested in information related to the competitiveness of the domestic industry producing certain performance outerwear pants, performance jackets, and travel goods of textile materials. Accordingly, on behalf of the Ways and Means Committee, I am writing to request that the U.S. International Trade Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide information to the Committee related to these domestic industries. Specifically, to the extent possible, the investigation should provide data for 2005 and 2006 on the level of U.S. production and shipments of the following:

- certain performance outerwear pants and jackets and the fabrics used to make such pants and jackets; and,
- certain travel goods with an outer surface of textile materials and the textile materials used to make such goods.

The Commission should submit two separate reports under this investigation, and should, within the above descriptions, define the products that it is covering in each report. The first report, covering certain performance outerwear pants and jackets and fabrics used to make such pants and jackets, should be submitted as soon as possible, but no later than 9 months following receipt of this letter. The second report, covering the travel goods and textile materials to make such goods, should be submitted no later than 12 months following the receipt of this letter.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,



Bill Thomas
Chairman

Attachment 2

-CITE-

19 USC Sec. 1332

01/06/03

-EXPCITE-

TITLE 19 - CUSTOMS DUTIES
CHAPTER 4 - TARIFF ACT OF 1930
SUBTITLE II - SPECIAL PROVISIONS
Part II - United States International Trade Commission

-HEAD-

Sec. 1332. Investigations

-STATUTE-

(a) Investigations and reports

It shall be the duty of the commission to investigate the administration and fiscal and industrial effects of the customs laws of this country, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) Investigations of tariff relations

The commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) Investigation of Paris Economy Pact

The commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) Information for President and Congress

In order that the President and the Congress may secure information and assistance, it shall be the duty of the commission to -

(1) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) Definitions

When used in this subdivision and in subdivision (d) of this section -

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States.

(f) Omitted

(g) Reports to President and Congress The commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress. However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress on the first Monday of December of each year after June 17, 1930, a statement of the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting. Each such annual report shall include a list of all complaints filed under section 1337 of this title during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the commission under such section during such year and the date on which each such investigation was commenced.

-SOURCE-

(June 17, 1930, ch. 497, title III, Sec. 332, 46 Stat. 698; Pub. L. 93-618, title I, Sec. 173, title III, Sec. 341(b), Jan. 3, 1975, 88 Stat. 2010, 2056; Pub. L. 96-39, title II, Sec. 202(a)(1), July 26, 1979, 93 Stat. 201; Pub. L. 100-418, title I, Sec. 1613, Aug. 23, 1988, 102 Stat. 1262; Pub. L. 100-647, title IX, Sec. 9001(a)(16), Nov. 10, 1988, 102 Stat. 3808.)

-REFTEXT-

REFERENCES IN TEXT

The customs laws, referred to in subsec. (a), are classified generally to this title.

-COD-

CODIFICATION

Subsection (f) directed the Tariff Commission to ascertain the cost of crude petroleum during three years preceding 1930.

-MISC3-

PRIOR PROVISIONS

Provisions similar to subsections (a), (b), and (g) of this section were contained in act Sept. 8, 1916, ch. 463, Sec. 702 to 704, 39 Stat. 796. Those sections were superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to those in subdivision (c) of this section were contained in act Sept. 8, 1916, ch. 463, Sec. 708, 39 Stat. 798. That section was superseded by section 332 of act June 17, 1930, comprising this section.

Provisions similar to subdivisions (d) and (e) of this section were contained in act Sept. 21, 1922, ch. 356, title III, Sec. 318, 42 Stat. 947. Section 318 of act 1922 was superseded by section 332 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of said 1930 act.

Act Oct. 3, 1913, ch. 16, Sec. IV, R, 38 Stat. 201, directed President to ascertain certain facts and report to Congress when imports amounted to less than 5 per centum of domestic consumption, prior to repeal by act Sept. 21, 1922, ch. 356, title III, Sec. 321, 42 Stat. 947.

AMENDMENTS

1988 - Subsec. (g). Pub. L. 100-647 substituted "report to Congress on the first" for "report to Congress. on the first".

Pub. L. 100-418 substituted ". However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress." for ", and shall report to Congress".

1979 - Subsec. (e)(2). Pub. L. 96-39 substituted "the transaction value of the imported merchandise determined in accordance with section 1401a(b) of this title plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States" for "the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the United States".

1975 - Subsec. (g). Pub. L. 93-618 substituted "a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting" for "and a summary of all reports made during the year", and inserted last sentence relating to complaints included in annual reports.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective July 1, 1980, see section 204(a) of Pub. L. 96-39, set out as a note under section 1401a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-618 effective on 90th day after Jan. 3, 1975, see section 341(c) of Pub. L. 93-618, set out as a note under section 1337 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to an annual report to Congress on the first Monday of December of each year, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 194 of House Document No. 103-7.

-TRANS-

DELEGATION OF FUNCTIONS

Functions of President under subsec. (g) of this section regarding reports by United States International Trade Commission to President delegated to United States Trade Representative, see section 5-301 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of this title.

-MISC5-

CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS

Pub. L. 95-106, Sec. 5, Aug. 17, 1977, 91 Stat. 869, directed International Trade Commission to make, for each calendar year ending before Jan. 1, 1981, reports with respect to synthetic organic chemicals similar in scope to reports made with respect to such chemicals for calendar year 1976.

REVIEW OF CUSTOMS TARIFF SCHEDULES

Act Sept. 1, 1954, ch. 1213, title I, Sec. 101, 68 Stat. 1136, as amended Aug. 2, 1956, ch. 894, 70 Stat. 955; May 19, 1958, Pub. L. 85-418, Sec. 3, 72 Stat. 120, provided for a complete study by the Tariff Commission for the purpose of clarifying and simplifying the tariff classification, with a report to go to the President and to the chairmen of the appropriate committees of Congress no later than Jan. 1, 1959. See section 1332 of this title.

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2252, 2463, 3011, 3437 of this title; title 16 section 742h.

Attachment 3

-CITE-

19 USC Sec. 1333

01/06/03

-EXPCITE-

TITLE 19 - CUSTOMS DUTIES
CHAPTER 4 - TARIFF ACT OF 1930
SUBTITLE II - SPECIAL PROVISIONS
Part II - United States International Trade Commission

-HEAD-

Sec. 1333. Testimony and production of papers

-STATUTE-

(a) Authority to obtain information

For the purposes of carrying out its functions and duties in connection with any investigation authorized by law, the commission or its duly authorized agent or agents (1) shall have access to and the right to copy any document, paper, or record, pertinent to the subject matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation, (2) may summon witnesses, take testimony, and administer oaths, (3) may require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation, and (4) may require any person, firm, copartnership, corporation, or association, to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to such investigation. Any member of the commission may sign subpoenas, and members and agents of the commission, when authorized by the commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) Witnesses and evidence

Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Mandamus

At the request of the commission, any such court shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this part or any order of the commission made in pursuance thereof.

(d) Depositions

The commission may order testimony to be taken by deposition in any proceeding or investigation pending before the commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary

evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission, as hereinbefore provided.

(e) Fees and mileage of witnesses

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same, except employees of the commission, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States.

(f) Statements under oath

The commission is authorized, in order to ascertain any facts required by subdivision (d) of section 1332 of this title to require any importer and any American grower, producer, manufacturer, or seller to file with the commission a statement, under oath, giving his selling prices in the United States of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

(g) Representation in court proceedings

The Commission shall be represented in all judicial proceedings by attorneys who are employees of the Commission or, at the request of the Commission, by the Attorney General of the United States.

(h) Administrative protective orders

Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protective orders issued by the Commission in connection with investigations or other proceedings under this subtitle shall be treated as information described in section 552(b)(3) of title 5.

-SOURCE-

(June 17, 1930, ch. 497, title III, Sec. 333, 46 Stat. 699; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, Sec. 32(b), 62 Stat. 991; May 24, 1949, ch. 139, Sec. 127, 63 Stat. 107; Pub. L. 85-686, Sec. 9(a), (b), Aug. 20, 1958, 72 Stat. 679; Pub. L. 91-452, title II, Sec. 229, Oct. 15, 1970, 84 Stat. 930; Pub. L. 93-618, title I, Sec. 174, Jan. 3, 1975, 88 Stat. 2011; Pub. L. 101-382, title I, Sec. 135(a), Aug. 20, 1990, 104 Stat. 651.)

-COD-

CODIFICATION

As originally enacted subsec. (b) contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia". However, the words "United States District Court for the District of Columbia" have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which states that "the District of Columbia constitutes one judicial district".

-MISC3-

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 8, 1916, ch. 463, Sec. 706, 39 Stat. 797, as amended by act Sept. 21, 1922, ch. 356, title III, Sec. 318(f), 42 Stat. 947. These acts were superseded by section 333 of act June 17, 1930, comprising this section, and section 318(f) of the 1922 act was repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1990 - Subsec. (h). Pub. L. 101-382 added subsec. (h).

1975 - Subsec. (c). Pub. L. 93-618, Sec. 174(1), substituted "At the request of" for "Upon application of the Attorney General of the United States, at the request of". Subsec. (g). Pub. L. 93-618, Sec. 174(2), added subsec. (g).

1970 - Subsec. (e). Pub. L. 91-452 struck out provisions relating to the immunity from prosecution of any natural person compelled to testify or produce evidence in obedience to the subpoena of the commission.

1958 - Subsec. (a). Pub. L. 85-686, Sec. 9(a), substituted "For the purposes of carrying out its functions and duties in connection with any investigation authorized by law" for "For the purposes of carrying Part II of this subtitle into effect", inserted provisions empowering the commission to require any person, firm, copartnership, corporation, or association to furnish in writing, in such detail and in such form as the commission may prescribe, information in their possession pertaining to an investigation.

Subsec. (d). Pub. L. 85-686, Sec. 9(b), substituted "pending before the commission" for "pending under Part II of this subtitle".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

AGENCY FORM SUBMITTED FOR OMB REVIEW

AGENCY: United States International Trade Commission

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a request for emergency processing for review and clearance of questionnaires to the Office of Management and Budget (OMB). The Commission has requested OMB approval of this submission by COB March 15, 2007.

EFFECTIVE DATE:

PURPOSE OF INFORMATION COLLECTION: The forms are for use by the Commission in connection with investigation No. 332-479, Certain Textile Articles: Performance Outerwear, instituted under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) at the request of the House Committee on Ways and Means. The Commission expects to deliver its report to the Committee by July 25, 2007.

SUMMARY OF PROPOSAL:

- (1) Number of forms submitted: two
- (2) Title of form: Questionnaire for U.S. Producers of Performance Outerwear Jackets and Pants; Questionnaire for U.S. Producers of Fabrics for Use in Performance Outerwear Jackets and Pants.
- (3) Type of request: New.
- (4) Frequency of use: Single data gathering, scheduled for 2007.
- (5) Description of respondents: U.S. firms that produce performance outerwear jackets and pants, and U.S. firms that produce the fabrics used in performance outerwear jackets and pants.
- (6) Estimated number of respondents: 116 (Producer outerwear questionnaire)
17 (Producer fabric questionnaire)
- (7) Estimated total number of hours for all respondents combined to complete the forms: 832 hours.
- (8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the forms and supporting documents may be obtained from the Commission's website at

http://www.usitc.gov/ind_econ_ana/research_ana/Ongoing_Inv.htm, or from Kimberlie Freund, Co-Project Leader (202-708-5402; kimberlie.freund@usitc.gov) or Heidi Colby-Oizumi, Co-Project Leader, (202-205-3391; heidi.colby@usitc.gov), of the Office of Industries. Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202-205-2000. Hearing impaired individuals are advised that information

on this matter can be obtained by contacting our TTD terminal (telephone no. 202-205-1810). General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

By order of the Commission.

Marilyn R. Abbott
Secretary

Issued: March xx, 2007