

## **Requirements to Request Textile Safeguard Action Determination:**

### Procedures for Requesting Textile and Apparel Safeguard Action:

Pursuant to Section 321(a) of the Act and Section 7 of Presidential Proclamation 8341 on January 22, 2009), an interested party may file a request for a textile and apparel safeguard action with the Committee for the Implementation of Textile Agreements (CITA). CITA will review requests from the interested party sent to the Chairman, CITA, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230. Ten copies of any such request must be provided. As provided in Section 328 of the Act, the Committee will protect from disclosure any business confidential information that is marked "business confidential" to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. At the conclusion of the request, an interested party must attest that "all information contained in the request is complete and accurate and no false claims, statements, or representations have been made." Consistent with Section 321(a), CITA will review a request initially to determine whether to commence consideration of the request on its merits. Within 15 working days of receipt of a request, CITA will determine whether the request provides the information necessary for it to consider the request in light of the considerations set forth below. If the request does not, CITA will promptly notify the requester of the reasons for this determination and the request will not be considered. However, CITA will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding CITA practice in considering textile and apparel safeguard actions, CITA will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) a domestic producer or producers of an article that is like or directly competitive with the subject Peruvian textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like or directly competitive with the subject Peruvian textile or apparel article.

A request will only be considered if the request includes the specific information set forth below in support of a claim that a textile or apparel article from Peru is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article.

**A. Product description.** Name and description of the imported article concerned, including the category or categories or part thereof of the U.S. Textile and Apparel Category System (see "Textile Correlation" at <http://otexa.ita.doc.gov/corr.html>) under which such article is classified, the Harmonized Tariff Schedule of the United States subheading(s) under which such article is classified, and the name and description of the like or directly competitive domestic article concerned.

**B. Import data.** The following data, in quantity by category unit (see "Textile Correlation"), on total imports of the subject article into the United States and imports from Peru into the United States:

- \* Annual data for the most recent three full calendar years for which such data are available;
- \* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2008, April-June 2008 and January-March 2007, April-June 2007).

The data should demonstrate that imports of an Peruvian origin textile or apparel article that are like or directly competitive with the articles produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article.

**C. Production data.** The following data, in quantity by category unit (see “Textile Correlation”), on U.S. domestic production of the like or directly competitive articles of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof:

- \* Annual data for the most recent three full calendar years for which such data are available;
- \* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2008, April-June 2008 and January-March 2007, April-June 2007).

If the like or directly competitive article(s) of U.S. origin does not correspond to a category or categories of the U.S. Textile and Apparel Category system for which production data are available from official statistics of the U.S. Department of Commerce (see “U.S. Imports, Production, Markets, Import Production Ratios and Domestic Market Shares for Textile and Apparel Product Categories” at website <http://otexa.ita.doc.gov/ipbook.pdf>), the requester must provide a complete listing of all sources from which the data were obtained and an affirmation that to the best of the requester’s knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin. In such cases, data should be reported in the first unit of quantity in the Harmonized Tariff Schedule of the United States (<http://www.usitc.gov/tata/hts>) for the Peruvian origin textile and/or apparel articles and the like or directly competitive articles of U.S. origin.

**D. Market Share Data.** The following data, in quantity by category unit (see “Textile Correlation”), on imports from Peru as a percentage of the domestic market (defined as the sum of domestic production of the like or directly competitive article and total imports of the subject article); on total imports as a percentage of the domestic market; and on domestic production of like or directly competitive articles as a percentage of the domestic market:

- \* Annual data for the most recent three full calendar years for which such data are available;
- \* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2008, April-June 2008 and January-March 2007, April-June 2007).

**E. Additional data showing serious damage or actual threat thereof.** All data available to the requester showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits, and investment, and any other information, relating to the existence of serious damage or actual threat thereof caused by imports from Peru to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requester should provide best estimates and the basis therefore:

- \* Annual data for the most recent three full calendar years for which such data are available;
- \* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g. January-March 2008, April-June 2008 and January-March 2007, April-June 2007).

CITA will make a determination on any request it considers within 60 calendar days of the close of the comment period. If CITA is unable to make a determination within 60 calendar days, it will publish a notice in the **Federal Register**, including the date it will make a determination.

Consideration of Requests, Comments:

Consistent with Section 321(b) of the Act, if CITA determines that the request provides the information necessary for it to be considered, CITA will cause to be published in the **Federal Register** a notice seeking public comments regarding the request, which will include a summary of the request and the date by which comments must be received. The Federal Register notice and the request, with the exception of information marked “business confidential,” will be posted by the Department of Commerce’s Office of Textiles and Apparel (“OTEXA”) on the Internet (<http://otexa.ita.doc.gov>). The comment period shall be 30 calendar days. To the extent business confidential information is provided, a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. At the

conclusion of its submission of such public comments, an interested party must attest that “all information contained in the request is complete and accurate and no false claims, statements, or representations have been made.” Comments received, with the exception of information marked “business confidential,” will be available in the Department of Commerce’s Trade Information Center for review by the public. If a comment alleges that there is no serious damage or actual threat thereof, or that the subject imports are not the cause of the serious damage or actual threat thereof, CITA will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive articles. In the case of requests submitted by entities that are not the actual producers of a like or directly competitive article, particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive article.

Any interested party may submit information to rebut, clarify, or correct public comments submitted by any other interested party at any time prior to the deadline provided in this section for submission of such public comments. If public comments are submitted less than 10 days before, or on, the applicable deadline for submission of such public comments, an interested party may submit information to rebut, clarify, or correct the public comments no later than 10 days after the applicable deadline for submission of public comments.

Entities submitting requests, responses or rebuttals to CITA may submit both a public and confidential version of their submissions. If the request is accepted, the public version will be posted on the dedicated Peru Free Trade Agreement textile safeguards section of the Office of Textiles and Apparel (OTEXA) website. The confidential version of the request, responses or rebuttals will not be shared with the public as it may contain business confidential information. Entities submitting responses or rebuttals may use the public version of the request as a basis for responses.