

SUPPORTING STATEMENT
International Trade Administration
Committee for the Implementation of Textile Agreements (CITA)
Procedures for Considering Requests and Comments from the Public under the Textile
Safeguard Provision of the United States – Peru Free Trade Agreement
OMB CONTROL NO. 0625-XXXX

A. JUSTIFICATION

This is to request the Office of Management and Budget approval of a newly proposed information collection.

1. Explain the circumstances that make the collection of information necessary

Article 3.1 of the United States-Peru Free Trade Agreement (the “Agreement”) provides for a textile safeguard mechanism. This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, an Peruvian textile or apparel article 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 a like or directly competitive article. In these circumstances, Article 3.1 permits the United States to increase duties on the imported article from Peru to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty rate for the article or the U.S. NTR/MFN duty rate in affect on the day before the Agreement entered into force.

The Statement of Administrative Action accompanying the U.S.-Peru Free Trade Agreement Implementation Act (the “Act”) provides that CITA will issue procedures for requesting such safeguard measures, for making its determinations under section 322(a) of the Act, and for providing relief under section 322(b) of the Act.

In Proclamation No. 8341 (74 FR 4103-4109, January 22, 2009), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

The textile safeguard provision will be of considerable benefit to firms manufacturing textile and apparel goods in the United States in the event that an industry finds itself to be adversely impacted by duty-free imports of textiles and apparel from Peru.

CITA has prepared, and transmitted to OMB for approval, interim procedures to implement these responsibilities.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Peru, thereby allowing CITA to take corrective action to protect the viability of the domestic textile industry, subject to section 322(b) of the Act.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

An interested party in the U.S. domestic textile and apparel industry may file a request for a textile and apparel safeguard action with CITA. Consistent with longstanding CITA practice in considering textile 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.

In order for a request to be considered, the requestor must provide the following information 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:

- 1) Name and description of the imported article concerned;
- 2) import data demonstrating 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;
- 3) 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, along with 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;
- 4) imports from Peru as a percentage of the domestic market of the like or directly competitive article; and
- 5) 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.

If CITA determines that the request provides the information necessary for it to be considered, CITA will publish a notice in the Federal Register seeking public comments regarding the request. The comment period shall be 30 calendar days. The notice will include a summary of

the request. Any interested party may submit information to rebut, clarify, or correct public comments submitted by any interested party.

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.

If a determination under section 322(b) of the Act is affirmative, CITA may provide tariff relief to a U.S. industry to the extent necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. The import tariff relief is effective beginning on the date that CITA's affirmative determination is published in the Federal Register.

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 Textile 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.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Procedures for considering requests and comments for textile and apparel safeguard actions on imports from Peru do not provide for the collection of information through automated, electronic, mechanical, or other technological techniques. All requests and comments must be delivered in hard copy to OTEXA's offices at the Department of Commerce.

4. Describe efforts to identify duplication.

The information provided by participants in a Peru FTA safeguard proceeding is unique in that it relates to the impact of imported textile and apparel products from Peru on the domestic industry. There is no chance for duplication as no other U.S. government agency collects this information.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Standardized criteria and instructions are utilized to help ensure that the burden on small businesses is minimized. In addition, the amount of information requested has been reduced to the minimum necessary to determine whether or not imported textiles from Peru are adversely affecting the domestic textile industry.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the collection of requests and comments were not conducted, CITA would be unable to determine if certain textile or apparel imports were having a negative impact on the domestic textile or apparel industry, and thus would not be able to take measures to protect the industry. Therefore, the United States would not be in compliance with its obligations under the US-Peru FTA.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

None.

8. Provide a copy of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Federal Register Notice soliciting public comments was published on June 1, 2010 ((75 FR 30368). No comments were received in response to the notice.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

None. CITA makes no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

This information is provided in the reporting requirements document: CITA 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.”

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide an estimate in hours of the burden of the collection of information.

It is estimated that 1 Request will be filed per year. The average amount of time required to prepare a Request is estimated at 4 hours. The total annual burden for Requests is estimated to be 4 hours. The estimated average private sector salary for persons responding is \$40 per hour. The total estimated annual labor cost for Requests is \$160.

Activity	Time Required
Preparing Request	3 hours
Preparing Supporting Documentation	1 hour
Total Time per Request	4 hours
Times 1 Request per Year	4 hours

It is estimated that 5 Comments will be filed per year in response to the Request. The average amount of time required to prepare each Comment is estimated at 4 hours. The total annual burden for Comments is estimated to be 20 hours X the estimated average private sector salary for persons responding is \$40 per hour = total estimated annual labor cost \$800.

Activity	Time Required
Preparing Comments	3 hours
Preparing Supporting Documentation	1 hour
Total Time per Request	4 hours
Times 5 Requests per Year	20 hours

Some private sector entities may choose to engage legal counsel or other consultants to assist in the due diligence process, which would incur additional cost.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Not Applicable.

14. Provide estimates of annualized cost to the Federal government.

The average amount of time to review and process Requests and Comments is estimated at an average annual total of 84 hours (14 hours x 6). The estimated average public sector salary for persons processing the Request and Comments is \$40 per hour. The total annual cost to the government is estimated at **\$3,360**.

<u>Activity</u>	<u>Time Required</u>	<u>Cost</u>
Initial Processing of Request: Review and Ensure Compliance with CITA's Procedures;	3 hours	\$120
Notify Interested Parties (if accepted); draft and publish FR Notice for CITA requesting public comments (30 calendar days); obtain proper clearances.	3 hours	\$120
Review confidential/non-confidential comments (60 calendar days)	4 hours	\$160
Draft and publish FR for CITA (if affirmative determination) and Obtain Proper Clearances	3 hours	\$120
Publish Decision on OTEXA's Website	1 hour	\$40
Total Cost per Request and Comments	14 hours	\$560
Times 1 Request and 5 Comments per year	84 hours	\$3,360

15. Explain the reasons for any program changes or adjustments.

This is a new collection related to the implementation of the US-PERU FTA, thus a program change.

16. For collections whose results will be published, outline the plans for tabulation and publication.

If CITA determines that the request provides the information necessary for it to be considered, CITA will publish a notice in the Federal Register seeking public comments regarding the request. The notice will include a summary of the request and the date by which comments must be received. Public comments will be available for review by the public.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not Applicable.

18. Explain each exception to the certification statement.

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methodologies.