

Supporting Statement
U.S. Department of Commerce
International Trade Administration
Interim Procedures for Considering Requests and Comments
from the Public under the Textile and Apparel Safeguard Provision
of the United States – Korea Free Trade Agreement
OMB CONTROL NO. 0625-XXXX

A. JUSTIFICATION

This is an emergency review request for a new information collection. The requested approval date is March 16, 2012.

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

The United States and Korea negotiated the U.S.-Korea Free Trade Agreement (the Agreement), effective March 15, 2012. Article 4.1 of the Agreement provides for a textile and apparel safeguard mechanism. This safeguard mechanism applies when, as a result of the reduction or elimination of a customs duty under the Agreement, a Korean 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 4.1 permits the United States to (a) suspend any further reduction in the rate of duty provided for under Annex 2-B of the Agreement in the duty imposed on the article; or (b) increase duties on the imported article from Korea 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 effect on the day before the Agreement enters into force. This right becomes effective when the Agreement enters into force on March 15, 2012.

The Statement of Administrative Action accompanying the U.S.-Korea Free Trade Agreement Implementation Act (the "Act") provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under section 332(a) of the Act, and for providing relief under section 332(b) of the Act. This emergency review request is needed in order for these procedures to be published as soon as possible after March 15, 2012. The publication of the procedures will allow the U.S. to honor its international obligations and address the litigation risk it may face by not publishing these procedures promptly.

In Proclamation No. 8783 (77 FR 14265, March 9, 2012), the President delegated to CITA his authority under Subtitle C of Title III of the Act with respect to textile and apparel safeguard measures.

The textile and apparel safeguard mechanism 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 preferential duty or duty-free imports of textiles and apparel from Korea.

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 Korea, thereby allowing CITA to take corrective action to protect the viability of the domestic textile and apparel industry, subject to section 332(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 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 Korean 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 Korean 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 Korea 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 a Korean 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 Korea 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 Korea 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 332(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 US-Korea Free Trade Agreement textile and apparel safeguard proceedings 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 Korea do not provide for the collection of information through automated, electronic, mechanical, or other technological techniques. All requests and comments must be delivered by electronic mail or in hard copy to OTEXA.

4. Describe efforts to identify duplication.

The information provided by participants in a textile and apparel safeguard proceeding is unique in that it relates to the impact of imported textile and apparel products from Korea 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 and apparel from Korea are adversely affecting the domestic textile and apparel 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 Act.

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.

A copy of the Federal Register Notice (FRN) notifying the public of this emergency review submission and requesting comments is in ROCIS, and will be processed. The comment period will conclude on April 16, 2012. Additionally, when the interim procedures are implemented, CITA will publish a Federal Register notice requesting comments from interested U.S. entities. Any comments received will be addressed when CITA publishes its final procedures.

The basic framework for the textile and apparel safeguard mechanism was established by the U.S. and Korean governments during the negotiation process for the Agreement and was thereafter written into the Act. CITA's procedures follow this framework.

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 4 Requests 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 16 hours.

<u>Activity</u>	<u>Time Required</u>
Preparing Request	3 hours
Preparing Supporting Documentation	1 hour
Total Time per Request	4 hours
Times 4 Request per Year	16 hours

It is estimated that 10 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 40 hours.

<u>Activity</u>	<u>Time Required</u>
Preparing Comments	3 hours
Preparing Supporting Documentation	1 hour
Total Time per Comment	4 hours
Times 10 Comments per Year	40 hours

TOTAL RESPONSES: 14 TOTAL BURDEN HOURS: 56

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).

It is nearly impossible to estimate exact cost figures because there is such a wide variation in the number of pages per submission, due diligence methods (i.e., telephone calls vs. emails), and shipping costs. However, some private sector entities may choose to engage legal counsel or other consultants to assist in the due diligence process, which would add an additional cost.

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

The average amount of time to review and process Requests is estimated at an average annual total of 32 hours (8 hours per Request for an average of 4 Requests per year). 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 \$1,280.

<u>Activity</u>	<u>Time Required</u>	<u>Cost</u>
Initial Processing of Request: Review and Ensure Compliance with CITA’s Procedures, Post to OTEXA website.	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)	30 minutes	\$20

Draft and publish FR for CITA (if affirmative determination) and Obtain Proper Clearances	1 hour	\$40
Publish Decision on OTEXA's Website	30 minutes	\$20
Total Cost per Request	8 hours	\$320
Times 4 Requests per year	32 hours	\$1,280

The average time to review and process Comments is estimated at an average annual total of 70 hours (7 hours per Comment for an average of 10 Comments per year). The estimated average public sector salary for persons processing the Comments is \$40 per hour. The total annual cost to the government is estimated at \$2,800 per year.

<u>Activity</u>	<u>Time Required</u>	<u>Cost</u>
Ensure Compliance with CITA's Procedures, Post to OTEXA website.	2 hours	\$80
Review confidential/non-confidential comments (60 calendar days)	5 hours	\$200
Total Cost per Comment	7 hours	\$280
Times 10 Comments per year	70 hours	\$2,800

TOTAL ANNUAL GOVERNMENT COST: \$4,080

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

This is a new collection related to the implementation of the US-KOREA 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.