

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Interim Procedures for Considering Requests From the Public for Textile and Apparel Safeguard Actions on Imports From Korea and Estimate of Burden for Collection of Information

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Notice of Interim Procedures and Request for Comments; Estimate of Information Collection Burden.

SUMMARY: This notice sets forth the procedures the Committee for the Implementation of Textile Agreements (“CITA” or “the Committee”) will follow in considering requests from the public for textile and apparel safeguard actions as provided for in the United States-Korea Free Trade Agreement Implementation Act (“the Act”). The President has directed CITA to establish procedures that govern the submission of a request and provide the opportunity for interested entities to submit comments and supporting evidence in any such determination pursuant to the Act. CITA hereby gives notice to interested entities of the procedure CITA will follow in considering such requests and solicits public written comments on these interim procedures.

In accordance with the Paperwork Reduction Act, this notice further provides an estimate of the burden to the public to collect and submit information as 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.

DATES: As of [insert date of publication of the FR], CITA intends to use these interim procedures to process requests from the public. CITA solicits public written comments on the interim procedures. Comments must be received no later than [insert 30 days after FR publication date] in either hard copy or electronically.

ADDRESSES: If submitting comments in hard copy, an original, signed document must be submitted to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. If submitting comments electronically, an electronic copy, via electronic mail (“email”) must be submitted to OTEXA.KOREA@trade.gov. All submitted comments will be posted for public review on the website dedicated to U.S.-Korea FTA textile and apparel safeguard proceedings. The website is located on the U.S. Department of Commerce’s Office of Textile and Apparel website (www.otexa.ita.doc.gov), under “Korea FTA”/”Safeguards” Additional instructions regarding the submission of comments may be found at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Maria D’Andrea, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-1550.

SUPPLEMENTARY INFORMATION: Title III, Subtitle C, Section 331 through Section 338 of the United States-Korea Free Trade Agreement Implementation Act (the “Act”) [Public Law 112-41] implements the textile and apparel safeguard provision, provided for in Article 4.1 of the

United States -Korea Free Trade Agreement (the “Agreement”). The 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 4.1.1(b) 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. In Presidential Proclamation 8783 (77 FR 14265, March 9, 2012), the President delegated to the Committee certain functions under Subtitle C of Title III of the Act.

The import tariff relief is effective beginning on the date that the Committee determines that a Korean textile or apparel article as defined in section 301(3) of the Act, 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. Consistent with Section 333(a) of the Act, the initial period of import tariff relief, as set forth in section 3 of this notice, shall be two years. The Committee may extend the period of import relief for a period not more than two years if the Committee determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be applied to the same article under these procedures if (1) relief previously has been granted with respect to that article under these provisions, or (2) the article is subject to relief under (a) Subtitle A of Title III of the Act (Chapter Ten (Trade Remedies of the Agreement), or (B) Chapter 1 of Title III of the Trade Act of 1974 (19 U.S.C. 2133).

Authority to provide import tariff relief with respect to a Korean textile or apparel article will expire ten years after duties on the article are eliminated pursuant to the Agreement.

Under Article 4.1.6 of the Agreement, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Korea "mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action." Such concessions shall be limited to textile and apparel products, unless the United States and Korea agree otherwise. If the United States and Korea are unable to agree on trade liberalizing compensation, Korea may increase customs duties equivalently on U.S. products. The obligation to provide compensation terminates upon termination of the safeguard relief. Section 337 of the Act extends the President's authority to provide compensation under Section 123 of the Trade Act of 1974, as amended, to measures taken pursuant to the Agreement's textile and apparel safeguard provision.

Procedures for Requesting Textile and Apparel Safeguard Actions

1. Requirements for Requests. Pursuant to Section 331(a) of the Act and Section 7 of Presidential Proclamation 8783, an interested party may file a request for a textile and apparel safeguard action with the Committee. The Committee will review requests from the interested

party sent to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230. Ten copies of any such request must be provided. As provided in Section 338 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 331(a) of the Act, the Committee will review a request initially to determine whether to commence consideration of the request on its merits. Within 15 business days of receipt of a request, the Committee will determine whether the request provides the information necessary for the Committee to consider the request in light of the considerations set forth below. If the request does not, the Committee will promptly notify the requester of the reasons for this determination and the request will not be considered. However, the Committee will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding Committee practice in considering textile and apparel safeguard actions, the Committee 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. See "Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from Peru", 76 FR 9556 (February 18, 2011).

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 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.

A. Product description. Name and description of the imported article concerned, including the Harmonized Tariff Schedule of the United States subheading(s) (HTSUS) (<http://www.usitc.gov/tata/hts>) 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 HTSUS, on total imports of the subject article into the United States and imports from Korea 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 2011, April-June 2011 and January-March 2010, April-June 2010).

The data should demonstrate 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.

C. *Production data.* The following data, in quantity, 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 2011, April-June 2011 and January-March 2010, April-June 2010).

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 Korean 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, on imports from Korea 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) for the previous year (e.g. January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

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 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:

*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) for the previous year (e.g. January-March 2011, April-June 2011 and January-March 2010, April-June 2010).

2. *Consideration of Requests.* Consistent with Section 331(b) of the Act, if the Committee determines that the request provides the information necessary for it to be considered, the Committee 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.

If business confidential information is submitted, a non-confidential version must also be provided, in which business confidential information is summarized or, if necessary, deleted. At

the conclusion of all such 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 also be on the Internet (<http://otexa.ita.doc.gov>) 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, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive articles. The Committee will fully consider all requests, including those submitted by entities that are not the actual producers of a like or directly competitive article, however the Committee will give particular consideration 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.

With respect to any request considered by the Committee, the Committee will make a determination within 60 calendar days of the close of the comment period. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published in a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**.

3. Determination and Provision of Relief. The Committee shall determine whether, as a result of the reduction or elimination of a 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 domestic industry producing an article that is like, or directly competitive with, the imported article. In making a determination, the Committee: (1) Shall examine the effect of increased imports on the domestic industry as reflected in such relevant economic factors as output, productivity, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and (2) shall not consider changes in technology or consumer preferences as factors supporting a determination of serious damage or actual threat thereof. The Committee, without delay, will provide written notice of its decision to the Government of Korea and will consult with said party upon its request.

If a determination under this section is affirmative, the Committee may provide import tariff relief to a U.S. industry to the extent necessary to remedy or prevent the serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. Such relief may consist of (a) suspension of 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) an increase in duties to the lower of: (1) The NTR/MFN duty rate in place for the textile or apparel article at the time the relief is granted; or (2) the NTR/MFN duty rate for that article on the day before the Agreement enters into force.

The import tariff relief is effective beginning on the date that the Committee's affirmative determination is published in the Federal Register. The maximum period of import tariff relief shall not exceed two years. However, the Committee may extend the period of import relief to the maximum four years if the Committee determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be imposed for an aggregate period greater than four years. Import tariff relief may not be applied to the same article under these procedures if (1) relief previously has been granted with respect to that article under these provisions, or (2) the article is subject to relief under (A) Subtitle A of Title III of the Act, or (B) Chapter 1 of Title III of the Trade Act of 1974.

Authority to provide import tariff relief for a textile or apparel article from Korea that 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, will expire ten years after duties on the article are eliminated pursuant to this Agreement.

4. Self Initiation. The Committee may, on its own initiative, consider whether imports of a textile or apparel article from Korea are 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 such considerations, the Committee will follow procedures consistent with those set forth in section 2 of this notice, including causing to be published in the **Federal Register** a notice seeking public comment regarding the action it is considering.

5. Record Keeping and Business Confidential Information. OTEXA will maintain an official record for each request on behalf of the Committee. The official record will include all factual information, written argument, or other material developed by, presented to, or obtained by OTEXA regarding the request as well as other material provided to the Department of Commerce by other government agencies for inclusion in the official record. The official record will include Committee memoranda pertaining to the request, memoranda of Committee meetings, meetings between OTEXA staff and the public, determinations, and notices published in the **Federal Register**. The official record will contain material which is public, business confidential, privileged, and classified, but will not include pre-decisional inter-agency or intra-agency communications. If the Committee decides it is appropriate to consider materials submitted in an untimely manner, such materials will be maintained in the official record. Otherwise, such material will be returned to the submitter and will not be maintained as part of the official record. OTEXA will make the official record public except for business confidential information, privileged information, classified information, and other information the disclosure of which is prohibited by U.S. law. The public record will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on business days.

Information designated by the submitter as business confidential will normally be considered to be business confidential unless it is publicly available. 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. The Committee will make available to the public non-confidential versions of the request that is being considered, non-confidential versions of any public comments received with respect to a request, and in the event consultations are requested, the statement of the reasons and justifications for the determination subsequent to the delivery of the statement to Korea.

Request for Comment on the Interim Procedures

Comments must be received no later than **[insert 30 days after FR publication date]** and in the following format:

(1) Comments must be in English.

(2) Comments must be submitted electronically or in hard copy, with original signatures.

(3) Comments submitted electronically, via email, must be either in PDF or Word format, and sent to the following email address: OTEXA.KOREA@trade.gov. The email version of the comments must include an original electronic signature. Further, the comments must have a bolded heading stating “Public Version”, and no business confidential information may be included. The email version of the comments will be posted for public review on the KOREA FTA Safeguard website.

(4) Comments submitted in hard copy must include original signatures and must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. All comments submitted in hard copy will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on business days. In addition, comments submitted in hard copy will also be posted for public review on the KOREA FTA Safeguard website.

(5) Any business confidential information upon which an interested person wishes to rely may only be included in a hard copy version of the comments. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating “Confidential Version.” Attachments considered business confidential information must have a heading stating “Business Confidential Information”. The Committee will protect from disclosure any business confidential information that is marked “Business Confidential Information” to the full extent permitted by law.

Estimate of Burden to the Public for Collection of Information and Request for Public Comment

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 or apparel industry, subject to section 332(b) of the Act. This information collection is subject to review and approval

by the Office of Management and Budget's ("OMB") OMB under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

OMB has approved under Control Number [REDACTED] the interim procedures requiring the collection of information under the emergency provisions of the PRA. In accordance with the PRA, CITA has estimated the "burden" (in number of hours) on the public to submit information required by CITA under its interim procedures. CITA hereby provides the public the opportunity to provide comment on its estimates of the burden on the public to submit information to CITA under the U.S.-Korea FTA textile and apparel safeguard mechanism.

Estimate of Burden as a Result of Information Collection: Based on the number of Requests and Comments filed per year, and the average amount of time required to submit a Request and Response, CITA estimates that a total annual burden to the public is 56 hours per year. A further breakdown of its estimates of the number of hours to collect and provide information to CITA for Requests and Comments is provided in detail below.

Requests: CITA estimates that 4 Requests will be filed per year under the U.S.-Korea FTA textile and apparel safeguard mechanism. Based on the following activities required to submit a request, CITA estimates that the total time to collect and present information in a Request is 4 hours, for a total of 16 hours per year.

<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

Comments: CITA estimates that 10 Comments will be filed per year in response to the Request under the U.S.-Korea FTA textile and apparel safeguard mechanism. Based on the following activities required to submit a comment, CITA estimates that the total time to collect and present information in a Comment is 4 hours, for a total of 40 hours per year.

<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

Combined, these three information collections represent an annual burden of 56 hours. Copies of the above estimate can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482-0336, Department of Commerce, Room 6616, 14th & Constitution Avenue, N.W., Washington, D.C. 20230 or via email at JJessup@doc.gov.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Kimberly Glas

Chairman, Committee for the Implementation of Textile Agreements