



U.S. Clothing Imports from Vietnam: Trade Policies and Performance

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Summary

U.S. clothing imports from Vietnam grew from virtually nothing in 2000 to \$4.3 billion in 2007. Vietnam was the third largest source of clothing imports for the United States in 2006, behind (in order) China and Mexico.

Much of that growth was the result of the gradual liberalization of U.S. trade policy towards Vietnam. Although the United States terminated its trade embargo on Vietnam in 1994, trade initially remained low because Vietnam did not have “normal trade relations” (NTR) status. The signing of a bilateral trade agreement in July 2000 allowed President Clinton to grant Vietnam temporary NTR status (effective December 2001), leading to a sharp increase in U.S. imports from Vietnam, including clothing. The rise in Vietnamese clothing imports led to the United States to push Vietnam into a bilateral textile agreement in 2003 that set quantity quotas on the import of selected clothing items. The bilateral textile agreement remained in effect until the United States granted Vietnam permanent NTR status on December 20, 2006, as part of its accession into the World Trade Organization (WTO).

The liberalization of U.S. trade policy towards Vietnam raised concerns about possible dumping by Vietnamese clothing exporters. Some Members of Congress and U.S. clothing and textile companies argued that a surge in Vietnamese imports may harm the U.S. clothing and textile industry. In part to secure Senate passage of permanent NTR status for Vietnam, the Bush Administration agreed to establish a “monitoring program” for selected clothing imports from Vietnam. From its inception, there have been questions about the legality and effectiveness of the monitoring program.

On October 26, 2007, the Department of Commerce (DOC) announced the completion of its first six-month review of the monitoring data, finding that there was insufficient evidence to warrant the self-initiation of an antidumping investigation. On May 6, 2008, the DOC announced its second six-month review of the monitoring data had come to the same conclusion.

There are a range of actions that Congress might take with regard to U.S. trade policy towards Vietnam. Congress could take no action. Alternatively, Congress could revisit the question of the DOC’s legal authority to establish the monitoring program, as well as examine the issue of the compatibility of the monitoring program with existing WTO agreements and commitments. Congress could investigate Vietnam’s compliance with its promise to terminate all WTO-prohibited subsidies. Congress could also enact legislation designed to counteract perceived unfair Vietnamese trade practices. Congress could examine the design and conduct of the monitoring program to ascertain if it provides a reasonable basis for determining the need for an antidumping investigation and/or examine claims that the monitoring program has adversely affected trade with and investments in Vietnam. This report will be updated as circumstances warrant.

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Introduction

In the relatively short period of time since the United States resumed “normal trade relations” (NTR) with Vietnam in 2001, there have been several controversies regarding the importation of clothing from Vietnam into the United States.¹ The controversies surrounding U.S. clothing imports from Vietnam include allegations of dumping, illegal transshipments, violations of the World Trade Organization (WTO) agreements, and a controversial import monitoring program. In addition, U.S. trade policy governing the import of Vietnamese clothing has changed course several times, leading to claims of significant market disruption and regulatory uncertainty. These claims are bolstered by the volatility of U.S. import data for Vietnamese clothing over the last seven years.

There have been several shifts in U.S. trade policy with Vietnam since it was first granted NTR status in 2001 that have possibly affected U.S. clothing imports from Vietnam. A bilateral trade agreement concluded on July 13, 2000, significantly lowered tariff rates on clothing imported from Vietnam. A bilateral textile agreement that ran from May 1, 2003, until January 11, 2007, imposed quantity quotas on the import of certain categories of clothing imported from Vietnam. Also, as part of its accession into the WTO, Vietnam entered into an agreement with the United States that, among other provisions, requires that Vietnam terminate various non-WTO compliant subsidy programs for its clothing and textiles industries. Finally, on December 8, 2006, Congress passed legislation granting Vietnam permanent NTR status as of December 29, 2006.

Much of the recent contention about Vietnamese clothing exports to the United States has focused on the U.S. Department of Commerce’s (DOC) implementation of an “import monitoring program” for selected categories of Vietnamese clothing on the day Vietnam joined the WTO—January 11, 2007. The announced import monitoring program began on the same day Vietnam joined the WTO and is to expire with the end of the Bush Administration (taken to be January 19, 2008, by the DOC).² Under the program, the DOC will collect monthly data on the quantity and unit values of five categories of clothing imported from Vietnam—shirts, sweaters, swimwear, trousers, and underwear—to determine if there is sufficient evidence to warrant the self-initiation of an anti-dumping investigation.

While acknowledging that the program would have “an impact on a broad array of parties,”³ the DOC maintained that the monitoring of some Vietnamese clothing imports “is not meant to inhibit legitimate trade.”⁴ Supporters of the program—principally U.S. textile manufacturers—maintain that the monitoring is necessary because the Vietnamese government is “illegally” subsidizing its clothing industry and that Vietnamese exporters are dumping their products in the United States.⁵ According to the program’s backers, the data being collected by the monitoring

¹ For purposes of this report, clothing will include products imported under chapters 61 and 62 of the U.S. Harmonized Tariff Schedule (HTS). As such, it excludes textiles, headgear and footwear.

² “Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments,” International Trade Administration, U.S. Department of Commerce, *Federal Register*, Volume 71, Number 232, December 4, 2006.

³ Opening remarks by David M. Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce at a public hearing on the Vietnam Textile and Apparel Import Monitoring Program held on April 24, 2007, in Washington, DC.

⁴ “Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments,” International Trade Administration, U.S. Department of Commerce, *Federal Register*, Volume 72, Number 14, January 23, 2007.

⁵ The United States generally responds to subsidies that violate WTO agreements by the imposition of countervailing (continued...)

program will provide the necessary evidence to initiate an anti-dumping action against Vietnamese clothing exports. Opponents of the program—a mixture of clothing manufacturers, retailers and importers—assert that the collection of the data violates various provisions of the WTO agreement, runs counter to past anti-dumping practices, and has already had a negative effect on Vietnam’s exports to the United States.

Interest in the monitoring program was heightened by expectations of the DOC’s first formal review of the Vietnamese clothing imports being monitored. According to the Federal Register announcement of the program, the DOC “intends to conduct its formal evaluations of the information gathered under the monitoring program on a biannual basis.”⁶ The DOC has also indicated that the categories of products covered by the monitoring program (shirts, sweaters, swimwear, trousers, and underwear) are not “static,” and may be changed “in response to input received from interested parties, changes in the trade, or as the Department [of Commerce] broadens its understanding of the composition and structure of the domestic textile and apparel industry.”

Trade statistics for the first six months of 2007 provided some support to both supporters and opponents of the monitoring program (see **Table 1**). U.S. imports of sweaters made in Vietnam from January to June 2007 increased by over 85% when compared to the same period last year. Meanwhile, the volume of shirts and trousers imported from Vietnam—the two largest imported categories being monitored in the DOC program—during the first six months of 2007 rose by 28.1% and 25.8% respectively, when compared to the first half of 2006. However, the amount of swimwear imported by the United States from Vietnam from January to June 2007 was virtually unchanged from a year ago, and the amount of underwear imported declined by over 20% when compared to last year.

Table 1. Year-on-Year Increase in Monitored Clothing Imports from Vietnam
(in dozens)

Clothing Category	January - June 2006	January - June 2007	Percentage Change
Shirts	13,669,138	17,506,785	28.1%
Sweaters	14,803	27,399	85.1%
Swimwear	660,628	661,362	0.1%
Trousers	7,551,943	9,501,229	25.8%
Underwear	1,208,117	962,012	-20.4%

Source: Office of Textiles and Apparel, International Trade Administration, U.S. Department of Commerce.

However, evaluating the growth in clothing imports from Vietnam using year-on-year data may be potentially misleading for various reasons. First, under the terms of the U.S.-Vietnam bilateral textile agreement, the United States was permitted to set quotas on the volume of clothing imported from Vietnam in the years 2003 to 2006. As a result, the import figures for the last four

(...continued)

duties, not anti-dumping measures. Anti-dumping measures are utilized when imported products are being sold in the United States at below fair market value and cause demonstrable harm to U.S. manufacturers of similar products.

⁶ “Textile and Apparel Products from Vietnam: Import Monitoring Program; Request for Comments,” International Trade Administration, U.S. Department of Commerce, *Federal Register*, Volume 72, Number 14, January 23, 2007.

years may have been kept artificially low, and the ensuing growth in 2007 artificially enhanced. Second, the international trade in clothing is comparatively seasonal, so comparisons based on data from only part of a year may be biased. Third, because there is an approximately six month lead time in the contracting of clothing, the trade volumes for January to June 2007 supposedly reflect arrangements made prior to the announcement of the monitoring program, and therefore will not reflect the alleged negative impact the monitoring program has had on Vietnam's clothing exports to the United States.

On October 26, 2007, the DOC issued a press release stating that it had concluded its first review of Vietnamese clothing imports and determined that, "There is insufficient evidence to warrant self-initiating an anti-dumping investigation."⁷ According to the press release, there were no imports from Vietnam for 317 of the 486 clothing items being monitored, and unit prices had increased for many of the items where there had been imports from Vietnam. Comparisons of imports from Vietnam to imports from other nations also failed to provide sufficient evidence to warrant self-initiating an anti-dumping investigation. Assistant Secretary for Import Administration David Spooner said that, despite the lack of evidence of dumping, "The Department will continue to monitor apparel imports from Vietnam until the end of the Administration and work with all stakeholders to ensure an open and transparent monitoring process."⁸

On May 6, 2008, the DOC completed its second six-month review of the monitoring data, and once again decided that "there is insufficient evidence to warrant self-initiating an antidumping investigation."⁹ According to the DOC, there were no clothing imports from Vietnam for 208 of the "nearly 500 ten-digit Harmonized Tariff System (HTS) lines" covered by the monitoring program.¹⁰ As was done in the first review, the DOC compared trends in unit values and import levels to other nations supplying these products to the United States, and concluded that the data did not support an antidumping investigation. The DOC also announced that a third six-month review was to be done in September 2008.

While there was no requirement that the DOC take any action following the evaluations of the trade data, the program's continuation arguably will keep the monitoring program an issue of concern for the U.S. clothing manufacturers, the U.S. textile industry, major clothing importers, and large retail outlets in the United States. Among the possible Administration actions that could have been taken were the self-initiation of an anti-dumping investigation on select clothing imports from Vietnam, the opening of negotiations for a new bilateral textile agreement, and/or the termination of the monitoring program. For the next six months, it appears that the Administration has decided to take none of these options, but it is to continue to monitor clothing imports from Vietnam.

⁷ "Commerce Completes First Review of Vietnam Import Data," press release, U.S. Department of Commerce, October 26, 2007.

⁸ Ibid.

⁹ "Commerce Completes Second Review of Vietnam Import Data," press release, U.S. Department of Commerce, May 6, 2008.

¹⁰ Ibid.

Summary of U.S.-Vietnamese Clothing Trade

The recent conduct of clothing trade between the United States and Vietnam has been relatively short in duration, but varied in practice. After President Clinton terminated a U.S. trade embargo against Vietnam on February 3, 1994, trade between the United States and Vietnam grew rather slowly, in part because of the nonpreferential treatment Vietnam received under U.S. trade laws. Vietnam was not a member of the World Trade Organization (WTO) so it was not eligible for “normal trade relations” (NTR) status via that mechanism.¹¹ Also, under U.S. law, Vietnam could only be granted permanent NTR status by the passage of legislation, or granted temporary NTR status by the conclusion of a bilateral trade agreement and compliance with the “freedom of emigration” requirements of the Jackson-Vanik amendment.¹²

Lacking NTR status, Vietnam’s exports to the United States were subject to higher tariff rates than products from almost all other nations. For clothing imports, products from Vietnam faced tariff rates two to nine times higher than goods imported from countries with NTR status.¹³ As a result, while U.S. imports from Vietnam steadily increased from virtually nothing in 1993 to just over \$1 billion in 2001, U.S. clothing imports from Vietnam rose from zero to \$48 million over the same period (see **Figure 1**).

The U.S.-Vietnam Bilateral Trade Agreement

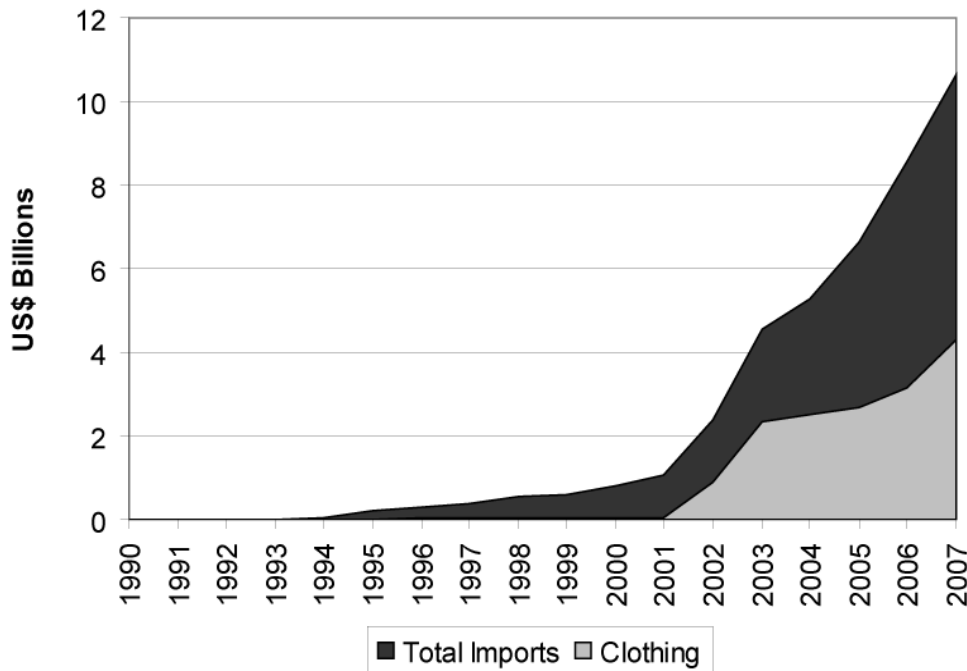
After nearly five years of negotiations, the United States and Vietnam concluded a bilateral trade agreement on July 13, 2000—the first of two steps for Vietnam to receive temporary NTR status.¹⁴ President Clinton exercised the authority granted to him under the Trade Act of 1974 (P.L. 93-618) to waive the Jackson-Vanik amendment. Enabling legislation in the U.S. Congress and Vietnam’s National Assembly were subsequently passed, formally extending temporary “normal trade relations” (NTR) status to Vietnam as of December 10, 2001.

¹¹ Under the terms of WTO membership, any WTO member must grant NTR status to all other WTO members.

¹² For more information on NTR status for nonmarket economies, see CRS Report RS22398, *The Jackson-Vanik Amendment and Candidate Countries for WTO Accession: Issues for Congress*, by (name redacted).

¹³ For a more detailed discussion of the different tariff rates for NTR and non-NTR imported clothing products, see CRS Report RL31470, *The Vietnam-U.S. Textile Agreement*, by (name redacted).

¹⁴ For more information on the negotiations and terms of the Vietnam-U.S. Bilateral Trade Agreement, see CRS Report RL30416, *The Vietnam-U.S. Bilateral Trade Agreement*, by (name redacted).

Figure 1. U.S. Imports from Vietnam, 1990-2007

Source: World Trade Atlas.

Having secured temporary NTR status, Vietnam's exports to the United States accelerated, rising from just over \$1 billion in 2001 to \$4.6 billion in 2003 (see **Figure 1**). One of the main beneficiaries of Vietnam's temporary NTR status was its clothing industry, which saw its exports to the United States jump from \$48 million in 2001 to \$876 million in 2002 and \$2.3 billion in 2003. By 2003, clothing was 51.3% of Vietnam's total exports to the United States.

Although the temporary NTR status stimulated imports from Vietnam, its impact was mitigated by its impermanent nature. Under U.S. law, the President had to reconfirm the waiver of the Jackson-Vanik amendment every year, and Congress had the authority to override the President's reconfirmation via a joint resolution passed by both the House and the Senate. From 1998 to 2002, such a joint resolution failed in the House. No resolutions were introduced between 2003 and 2005.

For the international clothing market, the theoretical risk of Vietnam losing temporary NTR status created two potential barriers to trade. First, major retailers and importers supposedly shied away from purchasing clothing manufactured in Vietnam as the date for the waiver renewal neared or when a joint resolution for disapproval was introduced in Congress. Second, given the long-term uncertainty of Vietnam's NTR status, both domestic and foreign investors in Vietnam's clothing and textiles industry allegedly curtailed or postponed potential investment projects, restricting the nation's clothing and textile production capacity.

During the congressional debate over the bilateral trade agreement with Vietnam, many Members of Congress urged President Bush to negotiate a separate bilateral textile agreement with Vietnam. Because Vietnam was not a WTO member at the time, its clothing exports were not covered by the Agreement on Textiles and Clothing (ATC) and therefore there were no quotas on

Vietnam's clothing exports to the United States.¹⁵ Several Members of Congress, and in particular Members with significant clothing and textile manufacturing in their districts or states, voiced concern that a "surge" in Vietnamese clothing exports to the United States could cause damage to U.S. clothing and textile companies and workers. In their opinion, it was important that the United States conclude a bilateral textile agreement with Vietnam that ensured fair competition and/or restricted the growth of Vietnamese clothing exports to the United States.

The Vietnam-U.S. Textile Agreement: 2003-2006

Negotiations of a separate bilateral textile agreement began soon after the bilateral trade agreement went into effect. On April 25, 2003, the two nations agreed to the terms of a bilateral textile agreement that placed quantity quotas on 38 categories of clothing imports from Vietnam starting on May 1, 2003, until December 31, 2004. The quotas would automatically roll over in subsequent years—with the inclusion of annual quantity increases of 2% for wool products and 7% for all other products—unless the two nations terminated or renegotiated the agreement by December 1. In addition, both nations pledged to "investigate and punish" circumvention of U.S. import quotas, a provision added to the agreement in part due to a U.S. Custom Service allegation that some Chinese clothing products had illegally entered the United States by being mislabeled as products of Vietnam. The agreement also lowered Vietnam's tariffs on U.S. clothing and textiles exports to 7% for yarn, 12% for fabric, and 20% for clothing.

Following the implementation of the bilateral textile agreement, Vietnam's total exports to the United States continued their rapid climb, but the growth in clothing exports slowed dramatically (see **Figure 1**). Total U.S. imports from Vietnam rose from \$4.6 billion in 2003 to \$5.3 billion in 2004, \$6.6 billion in 2005, and \$8.6 billion in 2006. Meanwhile, U.S. clothing imports from Vietnam crept up from \$2.3 billion in 2003 to \$2.5 billion in 2004, \$2.7 billion in 2005, and \$3.2 billion in 2006. The share of clothing in Vietnam's total exports to the United States declined from 51.3% in 2003 to 36.9% in 2006.

The imposition of import quotas on Vietnamese clothing also altered the composition of Vietnam's clothing exports to the United States. In 2003, 78.1% of Vietnam's clothing exports to the United States were in categories subject to quotas. However, over the next three years, the value of Vietnam's clothing exports subject to quotas increased by 17.8% while clothing exports not subject to exports grew by 104.5%. As a result, Vietnamese clothing exports subject to quotas contributed 67.2% of the total bilateral clothing exports to the United States.

Table 2. Quota Utilization Rate for Clothing Imported from Vietnam, 2003-2006

(in percent)

Product Type	Category #	2003	2004	2005	2006	Average
Men & Boys and Women & Girls Knit Cotton Shirts	338/339	91.2	99.4	86.4	91.8	92.2
Men & Boys Coats and Women & Girls Cotton Coats	334/335	100.0	88.2	86.2	92.1	91.6
Men & Boys and Women & Girls Man-made Fiber Trousers	647/648	99.8	82.3	88.9	92.5	90.9

¹⁵ For more information on the WTO's ATC, see CRS Report RL34106, *U.S. Clothing and Textile Trade with China and the World: Trends Since the End of Quotas*, by (name redacted).

Product Type	Category #	2003	2004	2005	2006	Average
Men & Boys and Women & Girls Man-made Fiber Knit Shirts	638/639	96.8	73.1	89.5	93.0	88.1
Men & Boys and Women & Girls Cotton Trousers	347/348	98.9	84.3	77.5	91.3	88.0
Men & Boys Non-knit Cotton and Man-made Fiber Shirts	340/640	79.9	89.2	88.4	91.9	87.4
Cotton and Man-made Fiber Skirts	342/642	100.0	77.2	78.0	80.6	84.0
Women & Girls Non-knit Cotton and Man-made Fiber Shirts	341/641	88.4	65.5	93.4	88.2	83.9
Cotton & Man-made Fiber Underwear	352/652	99.8	68.8	61.2	96.4	81.6
Other Cotton and Man-made Fiber Apparel	359-S/659-S ^a	56.6	85.4	85.6	86.3	78.5
Cotton and Man-made Fiber Nightwear and Pajamas	351/651	99.6	43.2	65.8	78.5	71.8
Men & Boys and Women & Girls Man-made Fiber Sweaters	645/646	100.0	42.3	57.9	86.4	71.7
Women & Girls Wool Coats	435	82.9	52.1	53.1	91.3	69.9
Cotton & Man-made Fiber Yarn	200	78.6	49.6	59.2	79.7	66.8
Other Synthetic Filament Fabric	620	82.4	30.4	67.9	79.4	65.0
Men & Boys Wool Coats	434	69.0	22.2	64.3	96.9	63.1
Combed Cotton Yarn	301	94.0	63.9	17.9	75.5	62.8
Men & Boys Wool Trousers	447	88.3	14.4	47.7	85.5	59.0
Women & Girls Wool Trousers	448	84.5	29.7	29.4	73.0	54.2
Cotton Sweaters	345	94.7	28.9	46.2	40.0	52.5
Other Cotton and Man-made Fiber Apparel	359-C/659-C ^a	76.4	21.1	18.3	57.1	43.2
Non-cotton Hosiery	632	42.2	9.9	21.5	66.8	35.1
Men & Boys Suit-type Coats	333	28.2	4.4	34.3	73.2	35.0
Women & Girls Non-knit Wool Shirts	440	0.0	2.9	83.4	14.1	25.1
Cotton Hosiery	332	7.5	0.7	20.8	28.9	14.5

Source: Office of Textiles and Apparel (OTEXA), International Trade Administration, U.S. Department of Commerce.

a. Quota covered only selected items in category.

Only part of the sharp decrease in the growth of Vietnam's clothing exports to the United States can be attributed to the actual cap on imports created by the quantity quotas. **Table 2** reveals that the quantity quotas were potentially binding on about a dozen of the 38 categories subject to import restrictions. For another dozen categories, Vietnam used between half and three-quarters of the available quota. For six categories, an average of less than half of the quota was used over the four years the import restrictions were in place. On three occasions, and only in 2003, did U.S. imports fully use the available quota for a category of Vietnamese clothing imports.

The less than full utilization of import quotas does not necessarily mean that the import constraints had no impact on trade. According to industry sources,¹⁶ major retailers and importers may shift where they source products in response to the implementation of quotas. According to these market experts, importers do not want to risk exceeding the import cap and be unable to import the products they desire, and therefore turn to an alternative location to obtain the products. As a result, the creation of an import quota on Vietnamese clothing may have diverted trade to other nations even in cases where there was still available import capacity.

Vietnam's WTO Accession and Permanent NTR Status

Congressional interest in U.S. clothing imports from Vietnam reemerged during the negotiations over the terms of Vietnam's WTO accession.¹⁷ U.S. textiles and clothing manufacturers sought to extend the import quotas on Vietnamese clothing products as part of Vietnam's accession agreement, or to include in the agreement safeguard measures similar to those included in China's WTO accession agreement.¹⁸ However, neither provision was included in Vietnam's WTO accession agreement.

What was included in the agreement were requirements that Vietnam terminate various non-WTO compliant subsidy programs supporting its domestic clothing and textile industry and allegedly benefitting its exports of clothing. The agreement includes an enforcement mechanism during the first 12 months after Vietnam's accession that would permit the United States—or any other WTO member—to impose import quotas if, after consultation and third-party arbitration, it was determined that Vietnam had not terminated its non-WTO compliant subsidies.

Although Congress had no direct role in Vietnam's accession to the WTO, congressional approval was necessary to extend to Vietnam permanent NTR status. As a member of the WTO, the United States was required to extend permanent NTR status to Vietnam once it became a member.

Opposition to extending permanent NTR status to Vietnam focused on a number of different issues, including alleged human rights abuses, claims of discrimination against foreign-owned companies operating in Vietnam, and charges of inadequate intellectual property rights protection. In addition, Senator Elizabeth Dole and Senator Lindsey Graham objected to the lack of safeguard measures in the WTO accession agreement to protect the U.S. clothing and textile industry from a potential surge in imports from Vietnam. They reportedly decided to place a “hold” on the bill before the Senate to grant Vietnam permanent NTR status.¹⁹

In a joint letter to U.S. Trade Representative (USTR) Susan Schwab, Senators Dole and Graham explained their “concerns regarding Vietnam's WTO accession terms and the recently concluded U.S.-Vietnam bilateral agreement.”²⁰ The two Senators wrote, “We believe that unless the

¹⁶ Information from telephone interviews with industry sources who wish to remain anonymous.

¹⁷ For a general discussion of Vietnam's WTO accession, see CRS Report RL33490, *Vietnam PNTR Status and WTO Accession: Issues and Implications for the United States*, by (name redacted), (name redacted), and (name redacted).

¹⁸ For a description of the Chinese safeguard measures, see CRS Report RL34106, *U.S. Clothing and Textile Trade with China and the World: Trends Since the End of Quotas*, by (name redacted).

¹⁹ “Vietnam Measure Facing Difficult Path,” *Congress Daily*, August 4, 2006.

²⁰ Letter from Senator Elizabeth Dole and Senator Lindsey O. Graham to USTR Schwab, September 18, 2006. Copy of the letter available online at the web page of the American Chamber of Commerce in Vietnam, Ho Chi Minh City (continued...)

government takes specific steps to ensure that the U.S. textile industry can be defended against a communist country that heavily subsidizes its textile and apparel sector, this agreement is likely to cause large-scale job losses in both of our states.” In the letter, Senators Dole and Graham specifically express concern about Vietnam’s ability “to artificially lower prices through its state sponsored system,” and state that it would be “unreasonable to ask U.S. workers to compete with products manufactured under a state-run economy without at least providing an adequate mechanism for the industry to defend itself.”

On September 28, 2006, USTR Schwab and U.S. Commerce Secretary Carlos Gutierrez sent a letter to Senator Dole and Senator Graham pledging to initiate a monitoring program for Vietnamese selected clothing imports immediately upon Vietnam’s WTO accession. In addition, USTR Schwab and Secretary Gutierrez stated in the letter, “If this monitoring process indicates that dumping exists and the domestic industry fully cooperates in supplying data available to the domestic industry indicating the existence of material injury caused by such imports, the Department [of Commerce] will self-initiate anti-dumping investigations with respect to the relevant products.”²¹ Based on this commitment, media sources report, Senator Dole and Senator Graham removed their hold on the permanent NTR for Vietnam legislation.

Although the pledged monitoring program removed one barrier to Vietnam’s permanent NTR status, other issues delayed final passage of pending legislation. On December 8, 2006, the House of Representatives passed H.R. 6406, a larger bill containing provisions granting Vietnam permanent NTR status by a vote of 212-184. H.R. 6406 was then coupled with H.R. 6111 (a tax extension bill) and sent to the Senate, where it passed by a vote of 79-9. On December 20, 2006, President Bush signed the bill into law (P.L. 109-432) and, as provided under the law, the United States formally extended permanent NTR status to Vietnam on December 29, 2006—less than two weeks before Vietnam officially became the 150th member of the WTO.

Monitoring Program: 2007-2009

With the passage of P.L. 109-432 and Vietnam’s membership in the WTO, U.S. trade relations with Vietnam entered into a new phase of formally agreed free trade. As part of its agreement with Vietnam, the United States discontinued the quantity restrictions on clothing imports from Vietnam that had been in effect since May 2003. Also, clothing imports from Vietnam were now permanently eligible for the lower NTR tariff rates, ending the annual temporary NTR renewal process. For its part, Vietnam had pledged to cease any non-WTO compliant subsidies to its clothing and textile industries or face the possible reimposition of import quotas by the United States or any other WTO member.

The only nonmarket action by the United States available to influence the import of clothing from Vietnam was the promised monitoring program mentioned in the letter by USTR Schwab and Secretary Gutierrez. On December 4, 2006, the Import Administration of the U.S. Department of Commerce’s International Trade Administration (ITA) published a request for public comment in the *Federal Register* which laid out the basic outline of the proposed monitoring program.

(...continued)

Chapter—<http://www.amchamvietnam.com/>.

²¹ Letter from USTR Susan Schwab and U.S. Commerce Secretary Carlos Gutierrez to Senator Elizabeth Dole and Senator Lindsey Graham, September 28, 2006. Copy of the letter available online at the web page of the American Chamber of Commerce in Vietnam, Ho Chi Minh City Chapter—<http://www.amchamvietnam.com/>.

According to the *Federal Register* announcement, the monitoring program would begin upon Vietnam's accession to the WTO and will expire at the end of the current administration (taken by DOC to be January 19, 2009). The initial list of products to be monitored—trousers, shirts, underwear, swimwear, and sweaters—had been “identified as being of special sensitivity.”²² The monitoring program would collect data on the quantity, value, and unit price of goods imported from Vietnam in the selected categories. Comments on the monitoring program—including comments on the product coverage, the creation of “production templates,” and information on the U.S. textile and apparel industry—were to be submitted to the Import Administration by December 27, 2006. The announcement also indicated that there would be a public hearing on the program, which was subsequently scheduled for April 24, 2007, in Washington, DC.

However, in a second request for public comment published in the *Federal Register* on January 23, 2007, the Import Administration stated that “the Department [of Commerce] recognizes that these five product categories are too broad for effective monitoring.”²³ So, it indicated it would “focus on those traditional three-digit textile and apparel categories of greatest significance based on trade trends, composition of the U.S. industry and input from parties, as appropriate.”²⁴ The announcement also stated that the product coverage “is not intended by the Department [of Commerce] necessarily to be static,” and that changes in product coverage may occur in response to changes in trade, input from interested parties, or “as the Department [of Commerce] broadens its understanding of the composition and structure of the domestic textile and apparel industry.”²⁵ The Department also indicated that the monitoring program “is not meant to inhibit legitimate trade.”²⁶ The deadline for comments for this second request was January 31, 2007.

Both announcements also stated that there would be biannual evaluations of the data collected by the monitoring program “to determine whether sufficient evidence exists to initiate an anti-dumping investigation consistent with U.S. law and our international obligations under the WTO.”²⁷ No set dates were given for the biannual evaluations.

Congressional Comments on the Proposed Monitoring Program

From its inception, the monitoring program has been the subject of some controversy within Congress. While Senator Dole and Senator Graham supported the program, other members of Congress questioned its legality and economic merits. In a May 2, 2007 letter to Secretary Gutierrez, six members of the House Ways and Means Committee—Representatives Earl Blumenauer, Jim Ramstad, Mike Thompson, Jim McDermott, Joseph Crowley, and Ron Kind—stated they were “deeply concerned that the disruption in trade caused by the import monitoring program is cutting away at many of the benefits of granting PNTR to Vietnam” and that “these negative impacts come at no benefit to U.S. apparel producers.”²⁸ In addition, the Representatives

²² *Federal Register*, December 4, 2006, page 70365.

²³ *Federal Register*, January 23, 2007, page 2861.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Federal Register*, December 6, 2006, page 70365.

²⁸ Letter to Secretary Gutierrez from members of the House Ways and Means Committee, May 2, 2007. Copy of the letter available online at the web page of the American Chamber of Commerce in Vietnam, Ho Chi Minh City Chapter—<http://www.amchamvietnam.com/>.

wrote “the Department of Commerce must demonstrate the specific statutory authority for this unprecedented type of program.”²⁹ They also expressed concern that the program may violate “a number of agreements under the World Trade Organization.”

Having questioned the legitimacy and economic benefits of the monitoring program, the Representatives suggested that the scope of the monitoring program “should be limited to those apparel products, defined at the ten-digit HTS level, produced in a commercially viable fashion in the United States, for which producers of those products have asked for monitoring, and for which there is evidence of material injury to those producers being caused by imports from Vietnam.”³⁰

Senators Dianne Feinstein and Gordon Smith also expressed their concerns about the monitoring programs in separate letters to Secretary Gutierrez.³¹ In her letter of December 26, 2006, Senator Feinstein wrote, “I request that the Department [of Commerce] submit any proposed program to public comment through a Notice of Proposed Rulemaking; [and] demonstrate in such notice how the proposed program is consistent with applicable statutory requirements and international obligations of the United States....” In his letter of January 31, 2007, Senator Smith echoed Senator Feinstein’s comments, writing, “it is important for the Department [of Commerce] to outline in detail the statutory authority it believes it has to implement the announced monitoring program and to self-initiate anti-dumping measures under these circumstances.” Senator Smith also suggested that the proposed program should undergo the usual “Notice of Proposed Rulemaking” process.³²

Criticism from U.S. and Korean Business Communities

Opposition to the monitoring program also came from various segments of the U.S. business community. A coalition of eight trade associations and 29 separate U.S. companies sent a letter to Secretary Gutierrez and USTR Schwab on October 11, 2006 expressing their “extreme disappointment at the agreement the Administration negotiated with Senators Elizabeth Dole and Lindsey Graham.”³³ According to the letter, “implementing this ill-considered and damaging agreement places at risk the ability for us and all other U.S. companies to continue current business and generate new business in Vietnam.” The letter also voices their displeasure at the lack of consultation with interested U.S. companies, leading Members of Congress, and the Vietnamese government during the time the Bush Administration was discussing the matter with Senators Dole and Graham.

Overall, most of the responses to the Import Administration’s requests for public comments were generally critical of the monitoring program.³⁴ In addition to the concerns raised by Members of

²⁹ Ibid.

³⁰ Ibid.

³¹ Copies of the Senators’ letters are available online under the “requests for public comment” at <http://ia.ita.doc.gov/download/vietnam-textile-monitoring/vtm-index.html>.

³² For an explanation of the federal rulemaking process, see CRS Report RL32240, *The Federal Rulemaking Process: An Overview*, by (name redacted).

³³ Letter to Secretary Gutierrez and USTR Schwab, October 11, 2006. Copy of the letter available at the web page of the American Chamber of Commerce in Vietnam, Ho Chi Minh City Chapter—<http://www.amchamvietnam.com/>.

³⁴ A complete set of the comments submitted to the Import Administration is available at <http://ia.ita.doc.gov/download/vietnam-textile-monitoring/vtm-index.html>.

Congress about the statutory authority for the monitoring program, its consistency with existing international obligations, and the lack of a period of public commentary for a proposed rulemaking,³⁵ another major criticism of the program was the apparent lack of a U.S. clothing manufacturing industry that might be materially injured by the Vietnamese imports.

In its written comments to the Import Administration, the U.S. Association of Importers of Textiles and Apparel (USA-ITA) urged the Department of Commerce drop the monitoring program because no U.S. apparel manufacturers supported it. In his testimony at the public hearing about the monitoring program, Chairman of the International Textile Group, Wilbur L. Ross, Jr. questioned whom the monitoring program was meant to protect: “To the best of my knowledge, there are no American apparel producers whose output is truly characterized as competitive to Vietnam’s exports to this country.”³⁶ The lack of competitive U.S. clothing manufacturers was reiterated by Stephanie Lester, Vice President for International Trade at the Retail Industry Leaders Association (RILA). According to Ms. Lester, “most of the products that RILA members purchase from Vietnam could not be supplied by domestic [U.S.] production.”³⁷

The monitoring program was also challenged on its potential negative effects on U.S. companies considering sourcing clothing from Vietnam. In his oral testimony at the public hearing on April 24, 2007, Gary Ross of the USA-ITA said:

The monitoring program has very real consequences. By targeting broad categories of products made in Vietnam, it forces USA-ITA member companies to reconsider Vietnam as a sourcing option. At the very least, importers and retailers are looking at the calendar and mapping out worst-case scenarios, deciding what the earliest possible point in time is when Vietnamese products brought into the U.S. market could be subject to an additional bonding requirement or dumping duty.³⁸

In its written comments on the proposed program, the National Retail Federation (NRF), stated:

In response to the greater unpredictability and risk to their sourcing operations created as a result of the commitment [to implement the monitoring program], a number of NRF members have decided to limit their exposure to Vietnam, either by substantially cutting their orders in the second half of 2007, or to terminate them entirely.³⁹

The NRF goes on to state that its members have indicated that the cancelled orders will “move to other Asian countries, not the United States or other Western Hemisphere countries.”

Several of the commentators pointed to the biannual review mechanism as heightening the market uncertainty created by the program. In the words of the American Apparel and Footwear

³⁵ A group of 6 trade associations and 15 individual companies filed a joint comment on December 27, 2006 that included a relatively detailed critique of the proposed monitoring program on all three of these issues. A copy of their submitted comments is available at <http://ia.ita.doc.gov/download/vietnam-textile-monitoring/cmts-20061227/vietnam-textile-monitoring-index.html>.

³⁶ Testimony of Wilbur L. Ross, Jr., Chairman, International Textile Group, at the Textile and Apparel Products from Vietnam Import Monitoring Program Public Hearing, April 24, 2007.

³⁷ Testimony of Stephanie Lester, Vice President for International Trade, Retail Industry Leaders Association, at the Textile and Apparel Products from Vietnam Import Monitoring Program Public Hearing, April 24, 2007.

³⁸ Ross, op. cit.

³⁹ Written comments by the National Retail Federation, submitted to the Import Administration on December 27, 2006.

Association (AAFA), “A decision every six months about potential anti-dumping cases can be very unsettling and will no doubt have a chilling effect on trade.”⁴⁰

A third common comment from U.S. businesses critical of the proposed monitoring program was the potential burden it would place on U.S. companies importing clothing from Vietnam. In its written comments, the AAFA stated, “We are concerned that the program could result in significant new paperwork or import entry requirements, which would create an unfair burden on U.S. apparel importers.”⁴¹

A fourth general category of criticism focused on the seemingly vague and fluid methodology being used in the monitoring program. Several commentators indicated that it was unclear how the data being collected could be used to evaluate the alleged presence of dumping.⁴² Some argued that the three-digit categories of imports being monitored were too broad for use in anti-dumping investigations.⁴³ Others pointed out that U.S. manufacturing data was apparently not available using the same categories as the import data being monitored, making impact assessment difficult.⁴⁴ Virtually all of these commentators maintained that the Import Administration needed to clarify their methodology prior to implementing the program and to make the methodology more transparent.

In addition to critical comments from U.S. businesses, the Import Administration also received joint submissions from two Korean trade associations—the Korea International Trade Association (KITA) and the Korean Apparel Industry Association (KAIA).⁴⁵ The criticism contained in the two submissions made by KITA and KAIA were consistent with the categories described above, with one additional concern. KITA and KAIA maintain that the monitoring program would deny benefits to other WTO members by undermining the value of investments made by other WTO members in Vietnam’s clothing industry.

Support from the U.S. Business Community

Although most of the comments received by the Import Administration were critical of the proposed monitoring program, there were some that supported its implementation. The supportive comments generally focused on four issues: (1) The potential threat of a surge in Vietnamese clothing imports causing harm to U.S. clothing and textile manufacturers; (2) the dominance of state-owned manufacturers in Vietnam’s clothing industry; (3) the alleged subsidies received by the Vietnamese clothing industry from its government; and (4) the ability to easily shift production from one clothing category to another, which makes it vital to monitor a broad range

⁴⁰ Written comments by the American Apparel and Footwear Association, submitted to the Import Administration on December 27, 2006.

⁴¹ Ibid.

⁴² For example, in its comments submitted on behalf of Hanesbrands, Inc. on January 31, 2007, Sandler, Travis and Rosenberg, P.A. wrote, “[P]roduct categories used for collecting data, the traditional three-digit textile category and the 10-digit Harmonized Tariff System (HTS) code, are too broad to permit accurate analysis.”

⁴³ For example, the Retail Industry Leaders Association (RILA) wrote in their comments of December 27, 2007, “While the three-digit category system ... may be familiar lexicon to the industry, these categories are overly broad and could not be used for purposes of either an anti-dumping investigation or Commerce’s proposed monitoring program.”

⁴⁴ Comments submitted by Sandler, Travis and Rosenberg, P.A. on behalf of Hanesbrands, Inc. on January 31, 2007.

⁴⁵ The law firm of Vinson and Elkins submitted comments on behalf of KITA and KAIA on December 27, 2006, and January 31, 2007.

of clothing products. For most of the supporters of the monitoring program, the perceived risk inherent in these four issues was sufficiently grave that it was vital for the monitoring program to begin as soon as possible.

In the words of the National Council of Textile Organizations (NCTO), “The concerns of the U.S. textile industry about surges of imports from Vietnam are based on recent experience, not mere speculations.”⁴⁶ According to the NCTO, imports from Vietnam rose by 220% between 2002 and 2006. The American Manufacturing Trade Action Coalition (AMTAC)⁴⁷ writes in its January 31, 2007 comments, “Since Vietnam was given ‘normal trade relations’ access to the U.S. textile and apparel market on December 10, 2001, its exports have increased by 6,849% and now total \$3.4 billion.”⁴⁸ The implication is that Vietnam’s past rapid increase in clothing exports to the United States indicates an ability to rapidly increase exports in the future.

The supporters of the monitoring program maintain that this rapid growth in exports to the United States is in part due to the dominance of state-owned factories in the Vietnamese clothing industry. AMTAC states in its January 31, 2007 comments, “Aside from China, Vietnam is the only other country with a large, state-owned textile and apparel sector. Vinatex, fully owned by the Vietnamese government, is the 10th largest garment producer in the world.”⁴⁹

The alleged dominance of state-owned factories in Vietnam’s clothing industry becomes important when examining the third issue raised by supporters of the monitoring program. The supporters claim that state-owned factories receive significant indirect and direct subsidies from the Vietnamese government, thereby allowing them to export clothing at prices below “fair market value.” In the words of the NCTO, “Vietnam is one of two countries (the other being China) which has a large state-owned, state-subsidized textile and apparel sector. Governments in both countries have poured billions of dollars in subsidies into their respective sectors with the apparent goal being dominance of global apparel supply chains.”⁵⁰ According to AMTAC, the subsidies—which were revealed by Vietnam during its WTO negotiations—take the form of preferential interest rates, wage controls, rent holidays, export subsidies, preferential tax rates, and direct investments by the Vietnamese government.⁵¹

The fourth issue raised by supporters of the monitoring program has to do with the production conditions of Vietnam’s clothing industry. According to some of the commentators, Vietnam’s clothing manufacturing is relatively labor-intensive production using semi-skilled workers. As a result, these commentators maintain it is relatively easy for factories to shift production from one clothing product to another, and so it is vital that the monitoring program covers a wide range of apparel. In the words of the NCTO:

Apparel manufacturing is, in important ways, a simple process. A sewing machine operator can produce dozens of different types of garments from a single machine. To a significant

⁴⁶ Comments submitted by the NCTO on January 31, 2007.

⁴⁷ According to AMTAC’s web page <http://www.amtacdc.org>, its mission is “to preserve and create American manufacturing jobs through the establishment of trade policy and other measures necessary for the U.S. manufacturing sector to stabilize and grow.”

⁴⁸ Comments submitted by AMTAC on January 31, 2007.

⁴⁹ Ibid.

⁵⁰ Comments submitted by the NCTO on December 27, 2006.

⁵¹ AMTAC, op. cit.

extent, the operator does not become skilled in producing a specific type of garment.... Thus, a typical sewing plant can, and does, have the ability to assemble a woman's dress, a man's cotton pant, a child's sweatshirt and so on and so forth.... The reality of the production process therefore calls for monitoring on a broader rather than on a more specialized basis.⁵²

Comments from the Vietnamese Government and Companies

The response of the Vietnamese government and Vietnamese clothing manufacturers to the proposed monitoring program was muted in tone, but critical in content. In its submitted comments and testimony, Vietnam's Ministry of Trade focused on the program's possible violation of U.S. WTO obligations and the negative effect on legitimate trade. The Vietnam Textile and Apparel Association (VITAS) reiterated many of the criticisms raised by U.S. businesses, but also challenged characterizations of Vietnam's clothing industry as being state-owned and heavily subsidized.

In its December 22, 2006 letter to the U.S. Department of Commerce, Vietnam's Ministry of Trade focused on the program's possible violation of existing U.S. WTO obligations. After expressing "disappointment" about the Commerce Department's implied intent to initiate anti-dumping investigations against Vietnamese clothing exports, the letter asserted, "This program is a violation of Article 23 of the GATT 1994 as it causes nullification and serious prejudice to the interests of Vietnam as a WTO member."⁵³ The letter continued by stating, "Furthermore, this Program is also inconsistent with the Bilateral Agreement between Vietnam and the United States on Vietnam's accession to the WTO signed on 31 May 2006."⁵⁴

The Trade Ministry's second letter to the Commerce Department shifts its focus to the negative impact it argues the monitoring program has had and will have on legitimate trade between Vietnam and the United States:

Although the additional information in the second-round proposal mentions the fact that this Program does not aim at restraining legal trade, in fact it has created negative impacts—causing worries and unstable mentality for U.S. importers placing orders in Vietnam right from the very first month of 2007, and making it impossible for Vietnam textile and apparel manufacturers to pro-actively plan their production, and above all, creating instabilities for workers in Vietnam's textile and apparel industries.⁵⁵

Then, during its testimony at the April 24, 2007 hearings on the monitoring program, the spokesperson for the Trade Ministry said, "Vietnam's Ministry of Trade must continue to reaffirm our clear and consistent view to strongly protest the 'Monitoring Program on Textile and Apparel Import from Vietnam.'"⁵⁶ The representative continued, "It is clear that this program is

⁵² NCTO, op. cit.

⁵³ Letter for the Ministry of Trade, The Socialist Republic of Vietnam to the Department of Commerce of the United States, December 22, 2006. Available from the web page of *Inside Trade* at http://www.insidetrade.com/secure/pdf10/wto2007_0001s.pdf.

⁵⁴ Ibid.

⁵⁵ Letter for the Ministry of Trade, The Socialist Republic of Vietnam to the Department of Commerce of the United States, January 29, 2007. Copy of the letter available at the web page of the American Chamber of Commerce in Vietnam, Ho Chi Minh City Chapter—<http://ia.ita.doc.gov/download/vietnam-textile-monitoring/cmts-20070131/vietnam-gov-cmt-020107.pdf>.

⁵⁶ Statement of the Representative from the Ministry of Trade of Vietnam at the Hearing on the Department of Commerce's Monitoring Program on Textile and Apparel Import from Vietnam, April 24, 2007.

discriminatory, contrary to the most important principle and the pillar of the WTO—GATT Article 1.” The Trade Ministry’s testimony also claimed that monitoring program violates Article 23 of the GATT by nullifying the benefits of WTO membership, and Article 18.1, which governs anti-dumping actions between WTO members. The testimony also reasserted that the monitoring program was reducing legitimate trade between the two nations, and thereby “having a severe [e]ffect on jobs and employment in Vietnam.”

The response of VITAS to the proposed monitoring program was more detailed, diverse, and disapproving than that of the Trade Ministry. One important aspect of its comments was challenge to the assertions that Vietnam’s textile and garment industry was largely state-owned and heavily subsidized by the government. In its December 20, 2006 letter VITAS stated, “The Vietnam textile and garment industry consists of over 2,000 enterprises. Of these, only 50 are state-owned, while 1,400 are private and 450 are foreign direct investment (FDI) enterprises.”⁵⁷ The letter also contested claims that state-owned enterprises dominate Vietnam’s clothing exports to the United States, stating “In 2005, only 25 state-owned textile and garment enterprises exported their products to the United States, making up only 8.1% of total export turnover of textiles and garments to the United States.” According to VITAS, all of Vietnam’s state-owned clothing and textile enterprises will be privatized (“equitized”) by sometime in 2008.

On the issue of subsidization, VITAS wrote that it “takes strong exception to the unsupported—and unsupportable—allegation in the comments submitted by AMTAC and [the] NCTO, contending that Vietnam ‘heavily subsidizes their industry.’”⁵⁸ Calling AMTAC’s reference to Vietnam’s WTO disclosure “misleading,” VITAS maintained in its letters that the Vietnamese government has fulfilled its WTO accession obligations to terminate prohibited subsidies to its textile and apparel industries. In addition, VITAS pointed out that within its WTO accession agreement, there already exists a formal mechanism to resolve claims that Vietnam provides prohibited subsidies to its clothing and textile industry. If the United States has evidence that Vietnam is providing its clothing and textile industry with prohibited subsidies, VITAS argued that the United States should use the existing mechanism, rather than instituting a special monitoring program.

Commerce Decision to Proceed with the Monitoring Program

The U.S. Department of Commerce decided to implement the program as scheduled on January 19, 2007. The specific product coverage selected for the monitoring program included the following categories, organized by product type and including category number:

- Trousers—Men and boys cotton trousers (347); women and girls cotton trousers (348); men and boys wool trousers (447); women and girls wool trousers (448); men and boys man-made fiber trousers (647); women and girls man-made fiber trousers (648); and silk or vegetable fiber trousers (847);
- Shirts—Men and boys cotton knit shirts (338); women and girls cotton knit shirts (339); men and boys cotton non-knit shirts (340); women and girls cotton non-knit shirts (341); wool knit shirts (438); wool non-knit shirts (440); men and boys man-made fiber knit shirts (638); women and girls man-made fiber knit shirts

⁵⁷ Letter from VITAS to the U.S. Import Administration, December 20, 2006.

⁵⁸ Letter from VITAS to the U.S. Import Administration, January 29, 2007.

(639); men and boys man-made fiber non-knit shirts (640); women and girls man-made fiber non-knit shirts; silk or vegetable fiber knit shirts (838); and silk or vegetable fiber non-knit shirts (840);

- Underwear—cotton underwear (352); man-made fiber underwear (652); and silk or vegetable fiber underwear (852);
- Swimwear—selected items in categories 359 and 659; and
- Sweaters—cotton sweaters (345); men and boys wool sweaters (445); women and girls wool sweaters (446); men and boys man-made fiber sweaters (645); women and girls man-made fiber sweaters (646); and non-cotton vegetable fiber sweaters (845).

The responsibility to administer the monitoring program was assigned to the Import Administration of the U.S. Department of Commerce. However, the gathered data is being released to the public by Department of Commerce’s Office of Textiles and Apparel (OTEXA). Each month, OTEXA releases the quantity, unit value and total value of each three-digit category being monitored on its web page—<http://www.otexa.ita.doc.gov/vn.htm>. For each three-digit category, the web page also provides the data at the 10-digit HTS code level.

Commerce Department’s Reviews

In both its initial and subsequent request for comments, the DOC indicated that it intended to conduct biannual reviews of the import data gathered by the monitoring program.⁵⁹ These reviews would examine the trade data at the 10-digit HTS level to see if there is sufficient evidence to self-initiate an anti-dumping investigation. The completion of the first six-month review was announced on October 26, 2007; the completion of the second six-month review was announced on May 6, 2008. Both reviews determined that there was insufficient evidence to self-initiate an antidumping investigation of clothing imports from Vietnam. Despite these findings, the DOC also announced that it would continue to review the import monitoring program. The third—and possibly final—six-month review is scheduled to begin in September 2008. Below is a brief summary of findings of each of the six-month reviews, and the response of interested parties in the United States and Vietnam to the DOC’s announcements.

Results of the First Six-Month Review

On October 26, 2007, the DOC announced that a review of the first six months of data for selected categories of clothing imported from Vietnam “found insufficient evidence to warrant self-initiating an antidumping investigation.”⁶⁰ According to Assistant Secretary Spooner, “After a fair and objective analysis of the data, Commerce found insufficient evidence of dumping from Vietnam.”⁶¹ However, Assistant Secretary Spooner went on to say, “The Department will continue to monitor apparel imports from Vietnam until the end of the Administration and work with all stakeholders to ensure an open and transparent monitoring process.”

⁵⁹ *Federal Register*, December 6, 2006, page 70365, and *Federal Register*, January 23, 2007, page 2861.

⁶⁰ “Commerce Completes First Review of Vietnam Import Data,” press release, U.S. Department of Commerce, October 26, 2007.

⁶¹ *Ibid.*

In response to requests from CRS, the DOC has declined to release the details of their review, but it did provide some indications of its findings. According to the DOC press release, of the 486 10-digit HTS lines monitored during the first six months of the program, 317 lines had no imports from Vietnam. Of the 169 lines where there were imports from Vietnam, “many” had rising unit values. Falling unit values are often associated with evidence of dumping.

The press release also reported that DOC compared the unit values and import levels for Vietnam to other clothing suppliers for the United States, including a number of Asian suppliers (Bangladesh, Cambodia, India, Indonesia, Macau, Malaysia, Pakistan, the Philippines, and Thailand) and the DR-CAFTA nations (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua). Noticeably missing from the list of suppliers used for comparison were Canada, China, Hong Kong, and Mexico—historical major suppliers of U.S. clothing imports. However, the press release did not definitively state that the comparison was limited only to the countries mentioned.

The DOC also indicated that it “will continue to monitor trade in *these categories* [emphasis added] during the next six-month review that will begin in March 2008, after receipt of the January 2008 data.” This implies, but does not explicitly state, that the monitoring program will continue to cover the same five major categories of imports from Vietnam—shirts, sweaters, swimwear, trousers, and underwear—and possibly the same 486 10-digit HTS lines. Attempts to clarify this issue with DOC representatives were unsuccessful. The DOC will also continue to post the collected import data on its Vietnam Textile and Apparel Import Monitoring Program web page.⁶²

The initial response to the DOC’s review was comparatively muted. Vietnamese press coverage was limited to the scope of the press release, with no official statement from a representative of the Vietnamese government.⁶³ VITAS Chairman Le Quoc An was reportedly not surprised by the review’s finding, but he indicated that VITAS would continue to press the DOC to either terminate the monitoring program or narrow the number of items being monitored.⁶⁴

In the United States, only one of the various trade associations that testified at the December 2006 and April 2007 hearings issued a statement in the week following the DOC press release of October 26, 2007. The National Retail Federation (NRF) “expressed satisfaction” with the DOC’s decision, stating that it “confirms American retailers’ long-standing contention that there is no basis to launch antidumping investigations against Vietnamese-made apparel.”⁶⁵ NRF vice president Erik Autor also stated that the decision “vindicates the retail industry’s argument that there was no rationale for setting up the textile monitoring program in the first place, and certainly no reason for continuing it.”⁶⁶ None of the U.S. senators or representatives that commented on the proposed monitoring program issued statements after the announcement of the results of the DOC’s first biannual review.

⁶² <http://ia.ita.doc.gov/download/vietnam-textile-monitoring/vtm-index.html>.

⁶³ Comment based on review of major online press outlets (including *Thanhnieen News* and *Vietnam Economic Times*) and various Vietnamese governmental web pages.

⁶⁴ “DOC: No Evidence of Vietnam Dumping Apparel,” *Vietnam Economy*, October 30, 2007.

⁶⁵ “NRF Welcomes Decision Not to Self-Initiate Antidumping Investigations Against Apparel from Vietnam,” press release, National Retail Federation, October 30, 2007.

⁶⁶ *Ibid.*

Results of the Second Six-Month Review

On May 6, 2008, the DOC announced the results of its second six-month review of the Vietnamese import monitoring program, which covered the period August 2007 to January 2008.⁶⁷ For the second time, the DOC determined that “there is insufficient evidence to warrant self-initiating an antidumping investigation.” The DOC also stated that it intended to continue the monitoring program “to ensure that apparel is not dumped into the U.S. market and threatening American manufacturing competitiveness.”

As was the case with the first six-month review, the DOC did not release the details of its review. However, it did report, “Our investigation reveals that prices of Vietnamese apparel are in line with, and in most cases even exceed, other major suppliers, including Central America.” Trends in import prices and quantities for the selected clothing items were reportedly compared to data for Bangladesh, the CAFTA-DR nations,⁶⁸ Cambodia, India, Indonesia, Macau, Malaysia, Pakistan, and the Philippines. According to the DOC, there were no imports of Vietnamese clothing for 208 of the “nearly 500” items being monitored.

The response in Vietnam to the DOC’s announcement was more muted than after the first six-month review. The Embassy of Vietnam in Washington reported the results of the review, but made no comment on the DOC’s announcement.⁶⁹ Coverage of the DOC announcement in Vietnam’s government-run news agency, *Thanh Nien News*, similarly reported the review’s findings without any statement by a Vietnamese official.⁷⁰ The story did, however, include analysis by the American Chamber of Commerce, that showed that Vietnam had the most rapid growth rate in 2007 among the top five clothing exporters to the United States.⁷¹ *Thanh Nien News* also reported that Adam Sitkoff, the executive director of AmCham Vietnam in Hanoi said, “I see nothing in the way of Vietnam continuing to climb up that list.... Vietnam is a very competitive place to manufacture a wide variety of products, so export growth to the U.S. isn’t just tied to one sector.”⁷² VITAS reportedly again asked the United States to terminate the monitoring program.⁷³

There was virtually no response from the U.S. clothing and textile industry to the DOC’s announcement of the findings of its second six-month review. Two of the more prominent supporters of the monitoring program—NCTO and AMTAC—did not issue statements following the DOC’s announcement.

Despite the relative calm following the release of the results of the second DOC review, the debate over the impact of the monitoring program on Vietnamese clothing exports to the United States remains active. According to *Just-Style.com*, a major online clothing and textile industry news source which included the monitoring program as one of its top eight clothing trade issues

⁶⁷ “Commerce Completes Second Review of Vietnam Import Data,” press release, Department of Commerce, May 6, 2008. Quotations in this section are from this press release unless otherwise noted.

⁶⁸ Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua.

⁶⁹ “US Confirms No Proof of Dumping in Vietnam’s Apparel Exports,” Embassy of Vietnam, May 8, 2008, available at <http://www.vietnamembassy-usa.org/news/story.php?d=20080508103526&print=yes>.

⁷⁰ “US Acquits Vietnam for Apparel Dumping,” *Thanh Nien News*, May 8, 2008.

⁷¹ The other four leading exporters in 2007 were China, India, Indonesia, and Mexico.

⁷² “US Acquits Vietnam for Apparel Dumping,” *Thanh Nien News*, May 8, 2008.

⁷³ “U.S. Administration Will Not Investigate Apparel Imports from Vietnam,” *Emerging Textiles.com*, May 8, 2008.

for 2008, “Import monitoring has already been used successfully to control the growth of apparel shipments between the U.S. and Vietnam over the past 12 months, and is likely to do so for at least another year...”⁷⁴ The industry source goes on to report that “[f]ears of an anti-dumping investigation ... continue to hold a ‘false cloud over sourcing from Vietnam,’ and mean ‘U.S. importers and retailers are reluctant to place too many orders in Vietnam.’”⁷⁵ Other market observers point to the rapid growth of Vietnam’s clothing exports to the United States in 2007—up 36%, according to the Vietnam’s trade figures—as evidence that the monitoring program has had little effect on trade flows.⁷⁶

The Structure of Vietnam’s Clothing Industry

There are sharp differences of opinion regarding the current structure of Vietnam’s clothing industry. As was discussed above, some of the supporters of the monitoring program maintain that Vietnam’s clothing industry is dominated by state-owned and -operated enterprises that are heavily subsidized by the Vietnamese government, gaining unfair advantage in the global market. Many opponents to the monitoring program contend that Vietnam’s clothing industry consists of hundreds of small, privately-owned and -operated companies that receive little help from the central government when facing a highly competitive global market.

Issues of Ownership

The ownership structure of Vietnam’s clothing industry is a complex mix of typically larger, state-owned enterprises; smaller collectively-owned or private companies; and newer, foreign-owned manufacturers. Layered over this mix of ownership arrangements is a currently state-owned “holding company” called the Vietnam National Textile and Garment Group, or Vinatex, that oversees the operation and management of a number of state-owned, joint stock and joint venture enterprises in the clothing industry, plus provides an array of technical support services for Vietnam’s clothing and textile sectors.

Types of Ownership Arrangements

Starting in 1986, the Vietnamese government has been gradually restructuring its economy away from a predominantly centrally planned system into a market-oriented one. As part of its “Doi Moi” (renovations) process, the Vietnamese government has allowed the development of privately-owned clothing manufacturers that compete with the existing state-owned clothing companies. Over the last few years, the Vietnamese government has started to partially divest itself of some of the state-owned clothing companies in a process Vietnam calls “equitization.” Finally, the Vietnamese government has also allowed direct foreign investment in clothing companies, either wholly-owned or joint venture. As a result, there are several different ownership arrangements in Vietnam’s clothing industry.

⁷⁴ “Eight Apparel Industry Issues to Watch in 2008,” *Just-Style.com*, January 18, 2008; available at <http://www.just-style.com/article.aspx?ID=99618>.

⁷⁵ *Ibid.*

⁷⁶ “Vietnam Reaches List of Top 30 Exporters to the US,” *Thanh Nien News*, February 21, 2008.

Table 3. Types of Vietnamese Clothing Establishments, 1998

Ownership Type	Number of Establishments
State-Owned	97
* Centrally-Owned	20
* Locally-Owned	77
Cooperatives	39
Private	39
Limited Liability Companies	176
Joint Stock Companies	5
Household Establishments	68,073
TOTAL	68,429

Source: General Statistics Office of Vietnam.

According to a national survey of its industries, Vietnam had a total 68,429 clothing manufacturing establishments as of June 30, 1998 (see **Table 3**). The vast majority of those establishments—99.5%—were “household establishments,” families that were independently employed making clothes. Of the remaining 356 nonhousehold clothing establishments, about one in four were state-owned enterprises and about half were “limited companies.”

Since 1998, Vietnam has implemented a series of policy changes regarding the ownership of manufacturing establishments. In October 2005, Vietnam’s National Assembly passed a new Enterprise Law⁷⁷ that clarifies the distinction between different types of ownership, as well as specifies which types of enterprises are open to foreign equity participation. In addition, the Vietnamese government has also begun the process of divesting itself of full-ownership of clothing manufacturers. The purported goal is to transform the state-owned enterprises into joint shareholding (or stock) companies in which the state holds a controlling interest. The divesting process, or “equitization,” is to be completed in the clothing industry by 2010.⁷⁸

Table 4. Distribution of Real Output of Vietnam’s Clothing Industry, Base Year 1994
(in percent)

Type of Ownership	2000	2001	2002	2003	2004	2005	2006
State-Owned	31.9	28.3	26.4	25.4	25.3	22.6	24.6
* Centrally-Owned	15.2	13.5	12.6	15.4	17.5	16.5	17.6
* Locally-Owned	16.7	14.8	13.8	10.0	7.8	6.1	7.0
Privately-Owned	43.3	45.3	44.1	38.4	38.7	39.3	37.5
* Collective	0.7	0.8	0.4	0.4	0.5	0.4	N/A

⁷⁷ The law is referred to as “Enterprise Law (2005),” and is coded as “60/2005/QH11.” The full text of the law is available at <http://www.hepza.gov.vn/en/Document/Legal/>.

⁷⁸ In the “equitization” of companies, the Vietnamese government frequently retains a majority share of the stocks and divides the minority share of the stocks between the workers of the company and private investors, including foreign owners. The shares allocated to private investors are typically auctioned off.

Type of Ownership	2000	2001	2002	2003	2004	2005	2006
* Private	17.5	20.9	21.2	18.6	21.6	21.9	N/A
* Household	25.1	23.6	22.5	19.4	16.7	15.7	N/A
Foreign-Invested	24.8	26.4	29.5	36.2	36.0	38.1	37.9

Source: General Statistics Office of Vietnam.

However, the “equitization” of Vietnam’s state-owned clothing companies does not insure that they will no longer be subject to government intervention in their operations or “free” of state subsidies. Also, unless there is a corresponding change in managerial behavior, the “equitization” of clothing companies does not automatically mean the new joint shareholding companies will be profit-motivated, responsive to market pressures, and free from political influence.

Although most of Vietnam’s clothing establishments are household operations, the value of the nation’s clothing production is more evenly divided between the state-owned enterprises, the domestic private sector, and foreign-invested companies (see **Table 4**). Plus, as the process of “equitization” continues and more overseas investors become partial owners of clothing manufacturing facilities in Vietnam, there has been a notable shift in the structure of production away from *locally-owned* state enterprises and household producers towards foreign-invested companies. The decline of locally-owned state enterprises is most likely due to their transformation into joint shareholding companies. The decline of household producers is probably attributable to increased competition from the joint shareholding companies and/or foreign-invested enterprises.

Role of Vinatex

While the shift in the ownership structure of Vietnam’s clothing industry continues, the structure and purpose of Vinatex is undergoing a concurrent transformation. Vinatex is currently a state-owned “general corporation” that oversees the operations of a mixture of 7 state-owned clothing and textile companies, 9 private clothing companies, 41 joint shareholding (stock) companies, 6 joint venture companies, and 7 clothing and textile research and educational institutions.⁷⁹ In the past, despite its official relations with the various clothing manufacturers, Vinatex’s authority over the manufacturers was limited, especially when it came to the distribution of profits. According to Le Quan An, chairman of Vinatex, “Before our state companies acted independently. If they made a profit, they kept it.”⁸⁰

In 2006, the Vietnamese government developed a restructuring plan for Vinatex—with the help of PricewaterhouseCoopers—that called for the “equitization” of Vinatex and its transformation into a “profit-oriented holding company.”⁸¹ According to Vietnam’s Ministry of Industry, Vinatex is to begin its “equitization” in 2007 with the goal of completing its transformation into a joint stock holding company by the end of 2008.⁸² As planned, the equitization will not reduce the value of the government’s capital holding in Vinatex, but instead will issue new shares for sale to private

⁷⁹ Figures based on Vinatex’s organizational chart, available at Vinatex’s web page: <http://www.vinatex.com>.

⁸⁰ “Dressed for International Success,” by Amy Kazmin, *Financial Times*, July 25, 2006, p. 8.

⁸¹ Ibid.

⁸² “Ministry of Industry Allowed to Decide Setting Steering Committee for Vinatex’s Equitisation,” press release of August 24, 2007, as reported and translated on Vinatex’s web page, <http://www.vinatex.com>.

investors to attract new capital. Also, as a result of its already completed restructuring, Vinatex now collects a portion of the profits of the joint stock companies and joint ventures in which it is a shareholder. In the words of Vinatex chairman An, “Now we act as a real owner.”⁸³

The restructured Vinatex is to focus its efforts in five major areas.⁸⁴ First, it will “invest, produce, supply, distribute, import and export in the field of textile and garment.” Second, it will set up joint ventures with domestic and foreign investors. Third, Vinatex will “develop and expand” both domestic and overseas markets, “as well as assign member companies to penetrate into potential markets.” Fourth, it will conduct research and improve technological applications in Vietnam’s clothing and textile industries. Fifth, Vinatex will provide technical training for the workers and management in Vietnam’s clothing and textile industry.

The equitization and restructuring of Vinatex complicates the emerging structure of Vietnam’s clothing industry. From an ownership perspective, a growing portion of clothing production in Vietnam is taking place outside of state-owned enterprises, and in theory, there will be no state-owned clothing factories in Vietnam by 2010. However, the transformation of Vinatex into a holding company holding shares in many of Vietnam’s largest clothing companies as well as a major commercial bank raises questions about the real extent to which the Vietnamese government is willing to release the clothing industry from state control.

Level of Subsidization

There are a number of direct and indirect ways by which Vietnam (or any nation) could subsidize its clothing industry. Among the direct ways are: 1. financing investments for the clothing industry; 2. offering incentive payments (such as tax rebates) for the achievement of export or production targets; and 3. guaranteeing government procurement contracts to domestic clothing manufacturers. Among the indirect ways are: 1. offering below market loans or credit to Vietnamese clothing companies; 2. lowering or eliminating tariffs on imported materials or equipment used by the clothing industry; 3. providing materials and/or labor at below market prices; and 4. erecting administrative barriers to foreign competition to Vietnam’s clothing industry in its domestic consumer market.

Vietnam’s past practice of providing its clothing industry with a variety of direct and indirect subsidies has been and continues to be of concern. As previously indicated, some U.S. textile manufacturers point to Vietnam’s subsidization of its clothing industry as evidence of unfair competitive practices and the need for safeguard measures. Also, during the negotiation of Vietnam’s accession to the WTO, the United States insisted on a commitment from Vietnam to cease its WTO-prohibited subsidies for the clothing industry.⁸⁵ Vietnam made such a commitment and asserts that it has fully complied with those commitments.

⁸³ Kazmin, op. cit.

⁸⁴ Information for the following paragraph extracted from Vinatex’s web page, <http://www.vinatex.com>.

⁸⁵ Under the WTO Agreement on Subsidies and Countervailing Measures defines two categories of subsidies—prohibited subsidies and actionable subsidies. As the name implies, the former are prohibited under the terms of the agreement because the subsidies are specifically designed to distort international trade. The prohibited subsidies consist of policies such as export targets or requirements to use domestic goods. Actionable subsidies consist of government policies that another WTO member argues are having an adverse effect on its interests. In the case of actionable subsidies, it is the responsibility of the complaining WTO member to demonstrate the adverse effect, and it is the responsibility of the subsidizing WTO member to either terminate the subsidy or eliminate the adverse effect, if the (continued...)

Decision 55

People and organizations who think that the Vietnamese government may still be subsidizing its clothing and textile industry often point to the events surrounding “Decision 55.” On April 23, 2001, the Vietnamese government released Decision 55/2001/QD-TTg, or “Decision 55,” which provided for the investment between 2001 and 2005 of 35 trillion dong—or approximately \$2.2 billion—in various projects designed to assist Vietnam’s textile and clothing industry. These projects included financial support for the cultivation of cotton, the development of infrastructure for Vietnam’s textile industry, and credit preferences for specific projects related to Vietnam’s clothing and textile industries. Decision 55 also called for the investment of 30 trillion dong (approximately \$1.9 billion) between 2006 and 2010.

As part of its WTO accession agreement, Vietnam pledged to end all WTO-prohibited subsidies to its clothing and textile industry, and on May 30, 2006, Decision 55 was revoked by Decision 126/2006/QD-TTg. According to Vietnamese officials, the United States “might have misunderstood the spirit” of Decision 55, and misconstrued it to provide for direct government financing of the projects.⁸⁶ Instead, much of the funding for the projects mentioned in Decision 55 were to be financed by the private sector and foreign investors.⁸⁷ According to Vinatex chairman Le Quoc An, government assistance to Vietnam’s clothing industry between 2002 and 2005 was limited to small loans from Vietnam’s Development Assistance Fund (DAF), totaling 1.9 trillion dong, or approximately \$118 million.⁸⁸ Following the revocation of Decision 55, the Vietnamese government has directed Vinatex to take the lead in raising funds to support the expansion of Vietnam’s clothing industry.⁸⁹

In response, Vinatex announced that “Vietnamese textile and garment companies are prepared to forgo subsidies” and “stand on [their] own feet.”⁹⁰ According to Le Quoc An, while the industry would face “serious difficulties” without the subsidies, it would “mobilize money from local and foreign investors” for investments in new facilities and technology.⁹¹ To that end, Vinatex announced on July 19, 2007, that it was talking with a group of investors—including the Vietnam International Bank, Vietnam Steel Corporation, and Hanoi Beer-Alcohol and Beverage Corporation—about opening a commercial joint-stock bank to provide financial services to Vietnam’s clothing and textile industries.⁹² The proposed bank’s initial capital is to total 1 trillion dong, or approximately \$63 million. In August 2007, Vinatex applied for a license from the State Bank of Vietnam to establish the Industrial Development Bank (IDB).⁹³ Vinatex is currently awaiting approval to open the proposed bank.

(...continued)

adverse effect has been proven to exist.

⁸⁶ “PM Repeals Textile Subsidy to Ease US Talks,” by Dong Hieu, *VietnamNet*, June 14, 2006.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ “Government Ends Support for Textile and Garment Industry,” *Thanh Nien News*, June 14, 2006.

⁹⁰ “Vietnam Textile Industry Ready to Stand on Its Own Feet,” *Thanh Nien News*, June 13, 2006.

⁹¹ Ibid.

⁹² “Textile Company to Open Bank,” *Thanh Nien News*, July 19, 2007.

⁹³ “Top Garment Maker Sews Up Diversified Portfolio,” *Vietnam News*, August 30, 2007.

Below Market Wages

One indirect means of subsidization of Vietnam's clothing industry frequently mentioned is the payment of below market wages to clothing workers. The claim is that by keeping clothing workers' wages down, Vietnam's clothing companies can either earn higher profits or lower their prices below market prices. Higher profits would allow the clothing companies to expand their operations and secure a larger share of the global clothing market, and below market clothing prices would help Vietnamese companies out-compete other clothing manufacturers.

There is some circumstantial evidence to support the claim that Vietnam's clothing companies are paying their workers below market wages. Several studies of Vietnam's clothing and textile industry find that the average wage of clothing and textile workers in Vietnam is less than the average wage for other Vietnamese manufacturing workers.⁹⁴ However, it is argued that lower wages in the clothing and textile industries are not unusual in other nations (including the United States) because of the high level of global competition and the higher than average employment of women in these industries.⁹⁵

Wage data for the global clothing industry in 2008 reportedly indicates a general rise in labor costs, in part due to the weakening of the U.S. dollar.⁹⁶ According to the study, Vietnam's hourly wage rates are below those of China and much of Central America, but above those of Bangladesh, Cambodia, and Pakistan. Other sources indicate that Vietnam's high rate of inflation—19.4% year-on-year in March 2008—is driving up the cost of labor and raw materials, and hurting Vietnam's exports.⁹⁷ The Vietnam General Labor Union reported over 300 worker strikes during the first four months of 2008, generally over low wages and the effects of inflation.⁹⁸

The State Bank of Vietnam (SBV) is apparently unsure how to respond to the combined effects of inflation and the weakening U.S. dollar. Because most export contracts are denominated in U.S. dollars, the dollar's decline in value has cut into Vietnamese manufacturers' profit margins. At the same time, rising labor and raw material costs are undermining profits from the opposite direction. If the SBV devalues the Vietnamese dong, it may help exporters, but exacerbate domestic inflation. If the SBV revalues the dong, it might reduce inflation, but might potentially drive many exporters out of business. For the first six months of 2008, the dong had depreciated in value by over 3% against the U.S. dollar.

⁹⁴ Examples include Caroline Brassard, "Wage and Labour Regulations in Vietnam within the Poverty Reduction Agenda," revised draft, National University of Singapore, 2004; and John Thornburn, Nguyen Thi Thanh Ha, and Nguyen Thi Hoa, "Globalisation and the Textile Industry of Vietnam, Discussion Paper 10," paper presented at U.K. Department for International Development Workshop on Globalisation and Poverty, Hanoi, September 23 and 24, 2002.

⁹⁵ See Khalid Nadvi and John Thornburn, "Challenges to Vietnamese Firms in the World Garment and Textile Value Chain, and the Implications for Alleviating Poverty," *Journal of the Asia Pacific Economy*, Vol. 9, No. 2 (2004), pp. 249-267; and John Thornburn, Kirsten Sutherland, and Nguyen Thi Hoa, "Globalization and Poverty: Impacts on Households of Employment and Restructuring in the Textiles Industry of Vietnam," *Journal of the Asia Pacific Economy*, Vol. 12, No. 3 (2007), pp. 345-366.

⁹⁶ "Apparel Manufacturing Labor Costs in 2008," *Emerging Textiles.com*, May 23, 2008; available at <http://www.emergingtextiles.com/>.

⁹⁷ "Rising Inflation Hurting Vietnam's Exports, Says JPMorgan Chase," *Thanh Nien News*, April 18, 2008.

⁹⁸ "Impotent Labor Unions Don't Help Workers: Officials," *Thanh Nien News*, June 22, 2008.

Global Competition

Another important aspect of Vietnam's clothing industry is the nature of its participation in the competitive global clothing market. According to Professor Gary Gereffi, the global clothing market is a prime example of buyer-driven commodity chain, in which the "large retailers, marketers and branded manufacturers play the pivotal roles in setting up decentralized production networks."⁹⁹ In the analysis of Gereffi and others, buyer-driven commodity chains are characterized by highly competitive, decentralized manufacturing, frequently involving multiple countries. In addition, Gereffi and other scholars maintain that the retailers, marketers and branded manufacturers secure control over the actual clothing manufacturers and the suppliers of materials and equipment used in producing clothing by controlling product design and brand names. As a result, most of the profits in the clothing industry flows to the retailers, marketers, and branded manufacturers.

This analysis is based on a commodity chain approach that examines the production flow of clothing from raw materials to retail sale (see **Table 5**). In general, the major retailers control both the design and the marketing of the final clothing items. The wholesalers and exporters typically contract with the major retailers to source the clothing items from a network of manufacturers, who in turn subcontract the textile companies to provide the materials needed to produce the clothes. The textile companies similarly purchase the raw materials they need from suppliers of either natural or synthetic fibers. In general, this production chain is initiated by the decision of the retailers to procure clothing. Vietnam's clothing industry is by and large restricted to the center of this commodity chain, competing for contracts to produce some of the more competitive types of clothing such as women's clothing and cotton clothing. This market segment is often characterized by what some analysts call "triangle manufacturing."¹⁰⁰

Table 5. The Clothing Commodity Chain

	Raw Material Suppliers	Textile Companies	Clothing Manufacturers	Wholesalers and Exporters	Retailers
Natural Fibers	Cotton, Wool, Silk, Hemp	Thread, Yarn, Fabric	Cutting, Assembly, Finishing	Labeling, Packaging, Shipping	Marketing, Sales
Synthetic Fibers	Oil, Natural Gas	Polymers, Synthetic Fibers, Cloth			

Source: Modified from Gary Gereffi, "Outsourcing and Changing Patterns of International Competition in the Apparel Commodity Chain," 2002.

Triangle Manufacturing

Triangle manufacturing typically involves three key parties—a retailer, a sourcing company, and a manufacturer. The retailer contracts the sourcing company to procure clothing according to very detailed specifications. The sourcing company usually subcontracts the manufacturing of the

⁹⁹ Gary Gereffi, "Outsourcing and Changing Patterns of International Competition in the Apparel Commodity Chain," paper presented at the "Responding to Globalization: Societies, Groups, and Individuals" Conference, Boulder, Colorado, April 4-7, 2002.

¹⁰⁰ See Byoung-ho Jin, "Apparel Industry in East Asian New Industrialized Countries," *Journal of Fashion Marketing and Management*, Vol. 8, No. 2 (2004), pp. 230-244.

clothing items to a network of clothing manufacturers that it knows, trusts, and monitors. The clothing manufacturers produce the clothing items and then ship the products directly to the retailers. Once the clothing shipments are received and pass inspection, the retailer pays the sourcing company, who then pays the manufacturers.

Within the confines of triangle manufacturing, there is also a pattern of progression for the clothing manufacturers. At first, the manufacturers tend to operate under a “cut-make-trim” (CMT) arrangement with the sourcing company, where the manufacturer is provided all the materials for the production of the clothing item and only assembles the final product. Later on, the manufacturer may advance into an “original equipment manufacturing” (OEM) arrangement in which the sourcing company or the major retailer provides the manufacturer with the product design and it is up to the manufacturer to purchase the necessary materials to make the clothing items. In some cases, clothing manufacturers have been able to expand their activities further out in the commodity chain and undertake “original brand-name manufacturing” in which they may design the clothes to be sold either under their own brand name or under the brand name of a major retailer.

Because the sourcing company usually has a significant number of manufacturers able to supply the clothing items, competition for the subcontracts tends to be keen, and the manufacturers are often pushed to lower their prices and speed up their production in order to win the contract. In Vietnam, the state-owned companies and the foreign-invested companies are generally considered better able to compete for “triangle manufacturing” contracts than the smaller, private Vietnamese enterprises because they are larger in size and have easier access to operating capital.

To improve the overall profitability of Vietnam’s clothing industry and reduce its dependency on the major retailers and marketers, the Vietnamese government is attempting to follow in the footsteps of Hong Kong, Singapore, South Korea and Taiwan. The “four Asian dragons” were able to transform their manufacturing sectors in response to highly competitive global market conditions in various ways. In the clothing industry, Hong Kong, South Korea, and Taiwan not only diversified their manufacturing throughout Asia (including China), but also have moved up and down the clothing commodity chain into clothing design (up chain) and brand name development (down chain). Under the Decision 55, the Vietnamese government apparently had decided to focus its efforts on up chain development by increasing investments into its domestic textile industry and its production of raw materials used in the clothing industry. However, with the revocation of Decision 55, the focus seems to have shifted to down chain development.

Growth in Vietnam’s Clothing Exports

Vietnam’s exports of clothing have experienced rapid growth over the last 12 years, but this expansion has largely been in line with the overall increase in Vietnam’s total exports. What has changed is the mix of Vietnam’s major markets for its clothing exports, with the rapid rise in the importance of the U.S. market over the last few years.

Overall Growth

Over the last decade, Vietnam's textile and clothing exports have increased over five-fold, according to its General Statistics Office (see **Table 6**). In 1997, Vietnam's exports of textiles and clothing were worth \$1.5 billion, and contributed 14.1% of the nation's total export earnings.¹⁰¹ In 2002, textile and clothing exports reached \$2.73 billion, and 17.9% of total export value. Since then, while the value of textile and clothing exports have continued to rise, their share of total exports has declined. In 2007, the total value of Vietnam's textile and clothing exports was \$7.78 billion, but only 16.1% of total exports.

Table 6. Vietnam's Textile and Clothing Exports as a Share of Total Exports
(in U.S. \$ billions)

Year	Textile and Clothing Exports	Total Exports	Share of Total Exports
1997	1.50	9.19	16.4%
1998	1.45	9.36	15.5%
1999	1.75	11.54	15.1%
2000	1.90	14.48	13.1%
2001	1.98	15.03	16.4%
2002	2.73	16.71	17.9%
2003	3.61	20.15	16.7%
2004	4.43	26.49	16.7%
2005	4.77	32.45	14.7%
2006	5.84	39.83	14.7%
2007	7.78	48.39	16.1%

Source: General Statistics Office of Vietnam.

Major Markets

The U.S. decision to grant Vietnam normal trade relations (NTR) status in December 2001 apparently led to a dramatic shift in the structure of Vietnam's clothing exports (see **Table 7**).¹⁰² In 2001, Vietnam's leading export markets for its clothing were Japan and the 27 members of the European Union, or EU-27.¹⁰³ Vietnam's combined clothing exports to Japan and the EU-27 amounted to over two-thirds of its clothing exports in 2001. By contrast, Vietnam shipped 2.6% of its clothing exports to the United States in 2001.

¹⁰¹ The General Statistics Office of Vietnam does not report textile and clothing exports separately.

¹⁰² Data for 2006 and 2007 not currently available.

¹⁰³ Among the EU-27 members, the top two markets were Germany and the United Kingdom.

Table 7. Vietnam's Major Clothing Export Markets

(in U.S. \$ millions and percent)

Value	2001	2002	2003	2004	2005
World	1,819.7	2,562.3	3,386.3	4,135.8	4,558.0
USA	46.4	995.3	1,946.4	2,432.5	2,579.9
Japan	562.7	457.1	443.2	469.9	574.8
EU-27	652.8	591.3	554.0	718.4	860.8
Share					
USA	2.6%	38.8%	57.5%	58.8%	56.6%
Japan	30.9%	17.8%	13.1%	12.0%	12.6%
EU-27	35.9%	23.1%	16.4%	17.4%	18.9%

Source: Global Trade Atlas.

However, after receiving NTR status, Vietnam's clothing exports to the United States jumped to nearly \$1 billion in 2002, readily surpassing exports to both Japan and the EU-27, which declined slightly from the previous year. As a result, the United States became Vietnam's largest clothing export market in 2002. The sharp rise in clothing exports to the United States continued into 2003, when over half of Vietnam's clothing exports were sent to the United States, while exports to Japan and the EU-27 continued to decline.

The decline in exports to Japan and the EU-27 ended in 2004, with a slight rebound in clothing sales to Japan and a larger rise in exports to the EU-27. Meanwhile, growth in clothing exports to the United States were possibly curbed in part due to the imposition of quotas by the United States. However, those protective measures were not sufficient to stop the advance in the U.S. share of Vietnam's clothing exports. In 2004, nearly \$6 of out of every \$10 of clothing exports from Vietnam went to the United States.

In 2005, Vietnamese clothing exports to the United States increased by just over \$147 million. However, exports to Japan and the EU-27 increased by a combined total of more than \$247 million. As a consequence, there was a small decline in the U.S. share of Vietnam's clothing exports in 2005, and a corresponding slight rise for both Japan and EU-27.

Although 2006 and 2007 trade figures were not available for this report, there are indications that the modest shift away from the United States and back towards Japan and the EU-27 continued. Because of its concerns about the possible continuation of protective measures by the United States as part of Vietnam's WTO accession agreement, the Vietnamese government has allegedly encouraged its clothing companies to export to Japan and the EU-27.¹⁰⁴ In addition, the continued weakening of the U.S. dollar and the slowdown in the U.S. economy has made Japan and the EU-27 a more attractive market.

¹⁰⁴ Based on confidential interviews with sources involved in U.S.-Vietnamese clothing trade.

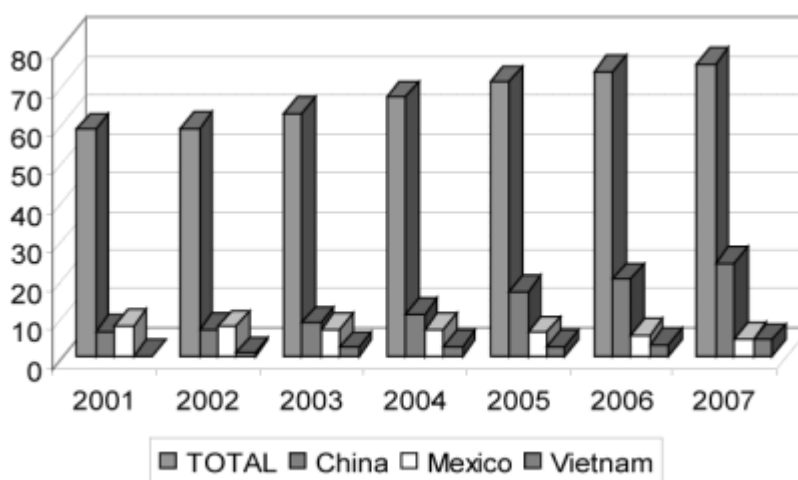
Vietnam's Role in the U.S. Clothing Market

Over the last five years, there has been a marked increase in U.S. clothing imports from Vietnam. Despite repeated changes in U.S. trade policy towards Vietnam—including the conferral of normal trade relations, the imposition of import quotas for selected clothing items, and compliance with Vietnam's WTO accession—there has been steady growth in Vietnam's clothing exports to the United States, and, with it, a rise in Vietnam's overall market share in the United States. However, Vietnam remains a comparatively modest supplier of U.S. clothing imports. Even in the market segments where Vietnam is among the top three suppliers to the United States, its portion of import supply with few exceptions remains below 10%.

Overall Market Share

The recent rapid growth in U.S. clothing imports from Vietnam should be considered in the context of the overall growth of U.S. clothing imports and in comparison with other major suppliers, such as China and Mexico. As shown in **Figure 2**, the increase in U.S. clothing imports from Vietnam since 2001 is relatively small when compared to the overall increase in U.S. clothing imports, as well as to the rise in clothing imports from China. In 2006, the United States imported \$73.4 billion of clothing, of which \$19.9 billion were from China, \$5.4 billion were from Mexico, and \$3.2 billion were from Vietnam. However, the rise in Vietnamese clothing imports over the last five years does roughly correspond to the decline in imports from Mexico.

Figure 2. U.S. Clothing Imports from Top Suppliers, 2001-2006
(in U.S. \$ billions)



Overall, Vietnam's share of the U.S. clothing imports rose from 0.1% in 2001 to 5.7% in 2007. By contrast, China's share increased from 11.0% to 31.7% over the same six-year period. The second largest clothing supplier to the United States, Mexico, saw its share decline from 13.7% to 6.1% between 2001 and 2007.

In 2001, Vietnam was not among the top 25 suppliers of clothing imports to the United States. Following the passage of normal trade relations, Vietnam was the 20th largest source of U.S. clothing imports in 2002. In 2003, Vietnam jumped to 5th in the list of leading clothing suppliers

for the United States. However, following the imposition of import quotas, Vietnam's ranking dropped to 7th in 2005, only to rebound to 5th in 2006 and then 3rd in 2007—behind (in order) China and Mexico.

Top Clothing Imports

While Vietnam may be only the 5th largest overall supplier of clothing imports for the United States with a share of 4.3%, it is possible that it may be a dominant supplier of select categories of clothing. However, an examination of U.S. import data at the four-digit level of the HTS code does not find evidence of submarket dominance by Vietnam. Even in the few categories where it is among the top three sources for U.S. imports, Vietnam rarely provides more than 10% of the total imports.

For Chapter 61 of the HTS code, which includes “articles of apparel and clothing accessories, knitted or crocheted,” there were six subcategories at the four-digit level in which Vietnam was one of the top three suppliers in 2006 (see **Table 8**). For Chapter 62, “articles of apparel and clothing accessories, not knitted or crocheted,” there were five such subcategories.

Table 8. Leading U.S. Clothing Imports from Vietnam by Share of Total Imports by Category, 2006

HS Code	Description	Value (U.S. \$ Millions)	Import Share
Chapter 61 - Knitted or Crocheted Clothing			
6101	Men's & Boys' Coats	49.962	7.4%
6102	Women's & Girls' Coats	69.109	8.3%
6106	Women's & Girls' Shirts & Blouses	117.536	9.0%
6111	Babies' Garments & Clothing	53.571	3.3%
6113	Garments made of fabric impregnated with plastic, rubber or for theatrical scenery	17.010	10.3%
6114	Garments, N.E.S.	62.165	6.4%
Chapter 62 - Not-Knitted or Crocheted Clothing			
6201	Men's & Boys' Coats	191.241	12.9%
6202	Women's & Girls' Coats	140.952	8.0%
6209	Babies' Garments & Clothing	41.542	6.5%
6210	Garments made of fabric impregnated with plastic, rubber or for theatrical scenery	99.495	9.6%
6216	Gloves & Mittens	15.253	7.5%

Source: Global Trade Atlas.

It is worth noting that only one of the 11 clothing submarkets in which Vietnam was a major source of U.S. imports in 2006—HS 6106—significantly overlaps with the clothing categories being monitored by the DOC's monitoring program. For most of the categories being monitored, Vietnam was generally not among the top 10 suppliers for the United States and/or Vietnam's market share was below 3%. Two exceptions in Chapter 61 were men's and boys' knitted or

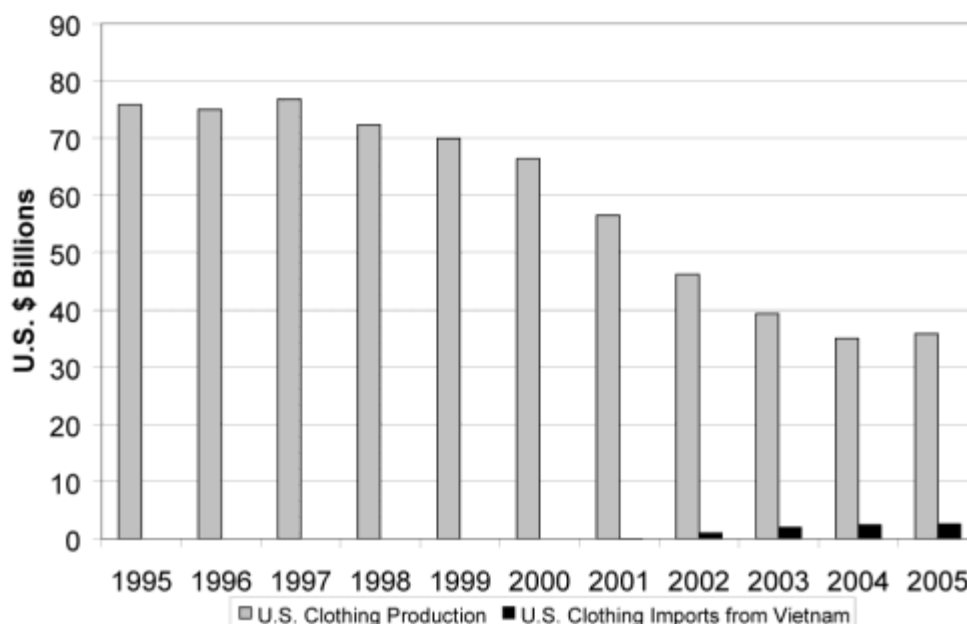
crocheted shirts, where Vietnam ranked 5th and provided 6.2% of the imports; and men's and boys' knitted or crocheted sweaters, where Vietnam ranked 7th and provided 3.9% of the imports.

Also, the main competitors to Vietnam in the U.S. clothing import market are not generally the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) nations, but China and other Asian nations. For the 11 submarkets listed in **Table 8**, Guatemala, Honduras, and Mexico are the only American nations that appear among the top five suppliers for the United States, and in only three of those submarkets.¹⁰⁵ This provides some support for the view that limiting clothing imports from Vietnam would probably result in production being shifted to other Asian sources, rather than to manufacturers in the United States or elsewhere in the Americas.

Recent Trends in U.S. Clothing Production

Recent trends in the gross output of the U.S. clothing industry provide an ambiguous picture of the possible effect of the recent rise in clothing imports from Vietnam (see **Figure 3**). Between 1997 to 2004, there was a general decline in the value of U.S. clothing production that corresponded with the period of most rapid growth in the clothing imports from Vietnam. In 2005, U.S. clothing production rose slightly, at the same time that the growth in clothing imports from Vietnam slowed down. Both of these trends were generally consistent with the argument that clothing imports from Vietnam were displacing clothing manufactured in the United States.

Figure 3. Gross Output of U.S. Clothing Industry and U.S. Imports of Clothing from Vietnam, 1995-2005



Source: Bureau of Economic Analysis, U.S. Department of Commerce; Global Trade Atlas.

¹⁰⁵ Mexico and Guatemala for HS 6114, Mexico and Honduras for HS 6210, and Honduras for HS 6216.

However, there are aspects of the recent trade trends that raise doubts about a causal link between the rise in clothing imports from Vietnam taken alone and the decline in U.S. clothing production. First, the decline in U.S. production predates the end of the U.S. trade embargo on Vietnam, indicating that other factors may be involved. Second, the decline in U.S. production between 2000 and 2004—over \$30 billion—is nearly 13 times the size of the increase in clothing imports from Vietnam during the same time period—another possible indication that other factors may be responsible for the decline in U.S. clothing production. Third, both U.S. clothing production and clothing imports from Vietnam rose in 2005, which is contrary to the relationship expected if clothing imports from Vietnam were causing a decline in U.S. production. Finally, because it has been a relatively short period of time since Vietnam has been allowed to export clothing to the United States, it is difficult to demonstrate any reliable trends or conduct time series analysis that will provide statistically significant results.

Implications for Congress

The completion of the two reviews by the Department of Commerce of its monitoring program provided little resolution or clarity to a number of questions raised about the authority and the necessity of establishing such a monitoring program. The DOC press releases appear to have been carefully worded to avoid a flat denial that there was evidence of dumping by Vietnam, while simultaneously providing possible grounds for the continuation of the monitoring of selected Vietnamese clothing imports. In addition, there is sufficient ambiguity in the language of the press releases to allow the DOC to amend or alter the categories of Vietnamese clothing imports it monitors, if it chooses to do so.

One possible response for Congress is to take no action. Given that the DOC is monitoring trade flows, and has so far determined that there is insufficient evidence to initiate an anti-dumping investigation, it would appear that clothing imports from Vietnam are generally in compliance with current U.S. laws and regulations.

If Congress were to consider taken some action on this issue, there are several aspects of the current status of U.S.-Vietnamese trade relations for clothing that might be examined. First, the Department of Commerce has not publicly responded to requests from some Members of Congress, the Vietnamese government, and some major U.S. clothing importers for the legal basis for establishing the monitoring program. The Federal Register announcement of the creation of the monitoring program did not include the usual federal law citation establishing the authority to create the program. Congress could act to revisit the question of DOC's legal authority for establishing the monitoring program.

Second, there was concern by several Members of Congress that the current U.S. trade policy towards Vietnam's clothing imports may violate both the spirit and the letter of the U.S. commitments to other WTO members. As such, Congress might act to review the monitoring program to decide whether or not it violates existing WTO agreements, exposing the United States to the risk of a formal complaint from Vietnam.

Third, Congress could investigate Vietnam's compliance with its promise to terminate all WTO-prohibited subsidies to its clothing and textile industry. As indicated by their submitted comments on the monitoring program, some U.S. textile manufacturers are concerned that Vietnam is not living up to its promise, and continues to use direct and indirect subsidies to support its clothing exports. Such an investigation might also include research into Vietnam's labor market to

ascertain if the Vietnamese government is suppressing the wages of clothing and textile workers below fair market values.

Fourth, possibly based in part of the results the investigation mentioned above, Congress could choose to pass legislation designed to counteract perceived unfair trade practices by Vietnam in its export of clothing to the United States. The proposed legislation might incorporate provisions that would make it easier to initiate anti-dumping or countervailing duty investigations in cases involving nonmarket economies, such as Vietnam.

Fifth, Congress may decide to consider the claims of major clothing retailers and importers that the monitoring program has stunted trade with and investments in Vietnam, thereby possibly causing them economic harm. The DOC review was designed to examine trade data to determine whether or not there was sufficient evidence to self-initiate an antidumping investigation against Vietnam. It did not analyze the trade data to determine if the program had distorted trade during its first six months of operation.

Sixth, Congress could also investigate the administration and operation of the monitoring program to determine if it is correctly identifying the types of clothing in which there might be possible dumping by Vietnam. Among the criteria typically considered as being necessary conditions for proof of possible dumping are below market prices and significant market share. In its review of clothing imports from Vietnam, the DOC reported rising unit prices and implied that prices were comparable to other clothing suppliers. As for market share, some experts assert that unless a supplier provides more than 4% of the overall supply of a product, it cannot cause sufficient harm to substantiate dumping claims. At present, there are very few categories of clothing for which Vietnam achieves the market threshold level.

Finally, Congress might decide to authorize its own study of the monitoring program data to see if there is any evidence of dumping and/or sufficient evidence to warrant the continuation of the program. One criticism previously raised with the DOC's biannual review process was the problem of the seasonal nature of the global clothing market. By assessing the monitoring program for a full year, Congress could take into account the seasonal characteristics of the clothing market in evaluating the trade data.

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