
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Chairman,
Subcommittee On Trade
Committee On Ways And Means
House Of Representatives**

**Implementation Of Trade Restrictions
For Textiles And Apparel**

Under the Multifiber Arrangement, the United States has negotiated bilateral agreements for restricting textile and apparel imports from producing countries.

GAO found that the structure of the Government's decisionmaking process for implementing restrictions was generally adequate, but saw opportunities for more input from interested U.S. parties. Also, data collection procedures needed improvement.

GAO makes recommendations for securing greater input from interested parties and for improving data collection procedures.





UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

B-208136

The Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

In response to your request, this report discusses the administration of the implementation of trade restrictions for imports of textiles and apparel. It provides information on the structure of the decisionmaking process within the administration, particularly the Committee for the Implementation of Textile Agreements, and points out the need for improvements in data collection procedures.

This report contains recommendations to the Secretary of Commerce for facilitating input from interested parties and for improving data collection procedures.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days from the date of issue. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

A handwritten signature in cursive script that reads "Frank C. Conahan".

Frank C. Conahan
Director

GENERAL ACCOUNTING OFFICE
REPORT TO THE CHAIRMAN,
SUBCOMMITTEE ON TRADE,
HOUSE COMMITTEE ON WAYS AND MEANS

IMPLEMENTATION OF
TRADE RESTRICTIONS FOR
TEXTILES AND APPAREL

D I G E S T

International trade in products of the textile and apparel industry--an industry that employs about 2 million people in the United States alone--is governed by a complex international system which has evolved over the past 25 years. The Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), provides the legal framework for regulating such trade.

At the request of the Chairman of the Subcommittee on Trade, House Committee on Ways and Means, GAO reviewed the current administration of the MFA, addressing the:

- Adequacy of the structure of the decision-making process within the administration, particularly the interagency Committee for the Implementation of Textile Agreements (CITA).
- Need, if any, to assure greater input from interested parties.
- Extent to which the Commerce Department's data collection procedures meet its requirements in administering textile quotas.
- Possible alternatives for data collection if present capabilities are inadequate.

GAO analyzed 60 market disruption statements prepared in 1981 and 1982. These statements are the basis for U.S. Government requests for consultations with foreign governments with the objective of restricting imports of particular categories of textiles or apparel so as to avoid market disruption in the United States. GAO also interviewed and obtained documents from all CITA agencies and from domestic textile and apparel producers, importers, retailers, and trade association and labor union officials.

ORGANIZATIONAL STRUCTURE

In the United States, the MFA is implemented by CITA, consisting of representatives from the Departments of Commerce (chairman), State, Labor, and the Treasury, and from the Office of the U.S. Trade Representative. CITA determines whether and when to request consultations with an exporting country about restricting its exports of a particular category of textiles or apparel. Broader policy guidance is provided by the higher level interagency Textile Trade Policy Group.

DECISIONMAKING PROCESS IS GENERALLY ADEQUATE

GAO found the structure of the decisionmaking process within the administration, and particularly CITA, to be generally adequate. CITA's member agencies represent domestic industry, labor, importers, retailers, and consumers, and they have the opportunity to participate in the decisionmaking process. Decisions to request consultations with foreign countries are reviewed at a sufficiently high level. Also, meetings of CITA are scheduled on a timely basis.

In practice, the process is weighted toward protecting domestic industry. Support for protection is generally forthcoming from Commerce and Labor representatives. Foreign policy concerns are provided through State's representative and some balancing of views is provided through the U.S. Trade Representative. Treasury, whose position would be most consistent with that of consumers, importers, and retailers, does not actively participate in the process. (See pp. 10 to 12.)

MARKET DISRUPTION STATEMENTS COULD BE BETTER SUPPORTED AND MORE PERSUASIVE

The MFA requires that each consultation request to a foreign country to discuss restricting textile or apparel imports be accompanied by a factual statement of market disruption, which Commerce's Office of Textiles and Apparel prepares.

The market disruption statements are to be based on (1) a finding of actual or threatened

injury to the domestic industry based on an examination of factors specified in the MFA (e.g., employment, production, etc.) and (2) a finding that the injury is caused by a significant increase in imports or sales of imports at prices substantially below those prevailing for similar goods in the importing country. GAO found that, although CITA addresses the factors outlined in the MFA, weaknesses in the information on the domestic economy lessen the persuasiveness of the disruption statements. GAO also found a lack of documentation as to why other major suppliers of the imports to be restricted have not been subject to consultation requests; this further detracts from the statements' persuasiveness. (See ch. 5.)

CITA's data collection procedures do not provide the current and detailed data on the health of the U.S. industry that would better support findings of market disruption. Detailed Census production data are collected only annually and are therefore too old to reflect current conditions. Bureau of Labor Statistics employment data are not compatible with the textile and apparel categories in the consultation requests, and the disruption statements contain only vague assertions as to the current state of the market for the category in question. (See ch. 4.)

RECOMMENDATIONS

GAO recommends that the Secretary of Commerce direct the Chairman of CITA to:

- Arrange with Census to begin collecting data compatible with the MFA categories on a quarterly basis. If Census finds that information obtained from domestic manufacturers on a voluntary basis is not sufficient for statistical validity, then GAO recommends that the Secretary of Commerce request Congress to enact legislation making such response mandatory.
- Ensure for consultation requests that documentation is included in the Office of Textiles and Apparel files and, to the extent practical, in the disruption statement, indicating why other major suppliers have not been the subjects of requests.

AGENCY COMMENTS AND
GAO'S EVALUATION

GAO had proposed that Census begin collecting detailed production data on a monthly basis. State supported the recommendation that more current data was needed and Labor noted that monthly reporting would substantially improve CITA's ability to evaluate conditions. Commerce, however, noted that CITA and a White House Interagency Working Group on Textiles and Apparel had considered monthly mandatory reporting and concluded that it would be an unnecessary burden on both the domestic industry and the Census Bureau. Census noted its serious reservations about whether such detailed information could be collected monthly. Based on comments of Commerce and Census, we have reconsidered our proposal and concluded that quarterly collection of production data by Census would be an acceptable compromise.

Commerce stated that it would document the reasons why other major suppliers in a particular category had not been subjected to restraints and would propose that CITA discuss incorporating information reflecting the restraints on other countries in the disruption statements.

INPUT FROM INTERESTED PARTIES
COULD BE FURTHER FACILITATED

During the period covered by GAO's review (Jan. 1982 to Oct. 1982), CITA published notices in the Federal Register and provided opportunity for comment for only half the 60 requests that were made. GAO questioned why notices were not published for requests to Hong Kong, Korea, and Taiwan. In June 1983, CITA began publishing all requests in the Register. Also, during this period (Jan. 1981 to Oct. 1982), market disruption statements were classified as confidential. GAO found that almost all of this material was publicly available. Whether the statements had been appropriately classified was important, because importers and retailers viewed such classification as a means of covering up statements that did not reasonably demonstrate findings of market disruption. GAO questioned the appropriateness of classification with each of the five CITA agencies and in August

1982 requested that the Information Security Oversight Office of the General Services Administration review the basis for such classification. In June 1983, CITA announced its decision to release the statements for public scrutiny immediately after they had been presented to the appropriate foreign government. (See pp. 13 to 18.)

GAO believes that CITA's decision to release statements for public scrutiny is responsive to the issues raised during the review but that input from interested parties could be further facilitated by including the disruption statements in the Federal Register notices.

RECOMMENDATION

GAO recommends that the Secretary of Commerce direct the Chairman of CITA to include either the disruption statement itself or an abbreviated discussion of the justification for each consultation request in the Federal Register notice.

AGENCY COMMENTS

Labor and State supported the proposed recommendation to publish the market disruption statement, or an abbreviated discussion of it, in the Register. Commerce agreed to consider publishing a statement summary in the Federal Register.

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ABBREVIATIONS

BLSD	Bureau of Labor Statistics
CITA	Committee the Implementation of Textile Agreements
GAO	General Accounting Office
ISOO	Information Security Oversight Office
ITC	International Trade Commission
MFA	Multifiber Arrangement (Arrangement Regarding International Trade in Textiles)
OTEXA	Office of Textiles and Apparel
OUSTR	Office of the United States Trade Representative
TSUSA	Tariff Schedule of the United States Annotated

CHAPTER 1

INTRODUCTION

Since World War II, efforts have been made to establish an international set of ground rules to govern world trade. Generally, these efforts--led by the United States--have sought to promote a more open world trading system. The basic structure of the trading system is contained in the General Agreement on Tariffs and Trade (61 Stat. A3, T.I.A.S. No. 1700 (Oct. 30, 1947)). Although the United States and other countries recognize that liberalizing trade can result in broad national benefits, they also have seen that increased imports may cause injury to specific industries. Consequently, international trade agreements contain escape clause provisions which allow a country to provide its domestic industry with a temporary relief period during which to adjust to a new competitive environment. There are also international arrangements that restrict the free flow of certain products when such trade is viewed as disruptive to national interests.

Trade in textile and apparel products is governed by complex and elaborate international agreements developed over the past 25 years, which give a measure of protection to the domestic industries of the United States and other developed countries through bilateral import quotas. This system developed despite the general progress in trade liberalization since World War II and is supported by the large affected U.S. industry and its workers. According to a 1983 Commerce Department estimate, there are about 29,000 textile and apparel plants located throughout the United States that employ about 2 million people. The textile and apparel industries combined employ 1 of every 9 persons working in the manufacturing sector.

The textile industry was a dominant force in the New England economy of the 19th century. By 1980, however, more than half the textile mills' labor force of almost 900,000 was concentrated in 3 southern states--North Carolina, South Carolina, and Georgia. Apparel manufacturing is more dispersed throughout the country, with the largest numbers of workers in New York, Pennsylvania, and California.

An article in the February 1983 National Journal interpreted Labor Department data as follows: 78 percent of apparel workers and 67 percent of textile workers are semi-skilled, compared with 44 percent of workers in all manufacturing jobs. Women account for 80 percent of the apparel workers and 48 percent of the textile workers. Minorities account for 28 percent of the jobs, substantially above the average of 18 percent for all manufacturing.

The cost of labor is a major problem facing the domestic industry in trying to compete with importers. According to various estimates for 1982, workers in the Asian nations, which

provide the principal U.S. competition (Hong Kong, Korea, and Taiwan), were paid only one fifth or one tenth as much as U.S. workers.

TRENDS IN THE TEXTILE AND APPAREL INDUSTRIES

The U.S. textile industry is generally viewed as quite competitive in world markets. Sophisticated capital equipment produces high-quality fabrics that are in demand abroad, and the balance of trade in textile products has been about even over the last decade. Nevertheless, the textile industry has sought protection long with the troubled apparel industry, whose companies are the largest customers of the textile mills. The Commerce Department's Office of Textiles and Apparel (OTEXA) estimates that while the domestic apparel market grew by 0.2 percent a year from 1972 to 1982, apparel imports increased by 4.3 percent a year.¹ These trends, along with increased automation, have caused employment to decline in both the apparel and textile industries. Understandably, support for protection has included the labor unions as well as textile and apparel companies themselves.

The American Textile Manufacturers Institute estimates that imports have captured about 30 percent of the market for apparel and apparel fabrics--twice the level of a decade ago. According to the Institute, at the 1973 peak, textile mills employed 1,010,000, but in 1982, employment averaged only about 742,000. The Institute estimates that employment in the apparel industry declined from a peak of 1,478,000 in 1973 to an estimated 1,260,000 in 1982.

FEATURES OF TEXTILE AND APPAREL TRADE REGULATION

The Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), which became effective January 1, 1974, provides the legal framework for the regulation of trade in textiles and apparel. A key objective is to provide for the orderly development of international trade in textile products; it defines the circumstances under which trade in textiles and apparel may be restricted and the nature of the permitted restrictions. Article 4 of the MFA provides for bilateral restraint agreements to regulate trade. As of June 1983, the United States had 24 bilateral agreements under the MFA.

A forerunner of the MFA was the Short Term Arrangement on Cotton Textiles of 1961. This led to the Long Term Arrangement Regarding International Trade in Cotton Textiles of 1962. The

¹From 1979 to 1982, OTEXA estimates that the domestic apparel market declined by 0.5 percent a year while apparel imports increased by 8.2 percent a year.

United States was then the dominant world economic power and the primary force behind international trade liberalization through multilateral negotiations under the auspices of the General Agreement on Tariffs and Trade. Reasons for U.S. executive branch support of the arrangements included its desire to avoid new legislation authorizing import restrictions. This remains valid today. A March 1981 study by the International Trade Commission noted that the Long Term Arrangement:

"continued the attempt to balance the need for increased access to the industrial national markets for exports from the developing countries . . . with the need to prevent market disruption in importing countries. The arrangement stressed the former aspect in its introductory statement; in its subsequent provisions, however, the latter aspect was emphasized more strongly."

In the years following establishment of the Long Term Arrangement, many changes took place in the industry and exports from developing countries grew rapidly. The major change was a switch to man-made fiber products, not covered by the Arrangement, which contributed significantly to developing countries' success in exporting apparel in particular. As a consequence, pressures built up to extend the scope of the Long Term Arrangement. The result was the Multifiber Arrangement.

Some 50 governments were party to the MFA which became the statement of principle and policy for international textile trade. The MFA initially was to be effective from January 1, 1974 to December 31, 1977, but was later extended with some major modifications outlined in protocols, first through December 31, 1981, and later through July 31, 1986.

Within the U.S. Government, responsibility for implementing the MFA rests with the Committee for the Implementation of Textile Agreements (CITA) which was established by Executive Order 11,651 (3 C.F.R. 676 (1971-1975 Comp.)). CITA is chaired by Commerce and consists of representatives from the Departments of State, Labor, and Treasury and the Office of the United States Representative (OUSTR). CITA determines whether and when to request consultations with an exporting country in order to avoid market disruption in the United States; it receives policy guidance from the Textile Trade Policy Group, which is chaired by the OUSTR and includes as members the Under Secretaries of State, Treasury, Agriculture, Commerce, and Labor,

OBJECTIVES, SCOPE, AND METHODOLOGY

We made this review pursuant to a request by the Chairman of the Subcommittee on Trade, House Committee on Ways and Means, to determine the:

--Extent to which Commerce's data collection procedures meet requirements for administering textile quotas.

--Possible alternatives for data collection if present capabilities are inadequate.

--Adequacy of the structure of the decisionmaking process within the administration, particularly CITA.

--Need, if any, to assure greater input from interested parties.

We first examined two legal issues concerning CITA's procedures for textile import relief decisions: (1) the criteria that must be considered in making a determination of market disruption and (2) whether CITA is required to provide notice and opportunity to comment to interested parties before making a request for consultations.

To assess both the decisionmaking process and the data collection procedures, we analyzed market disruption statements² prepared by OTEXA for the 60 requests for consultations made between January 1981 and October 1982. Our analysis entailed not only determining whether such statements addressed factors outlined in the MFA but also whether they persuasively demonstrated threats of or actual market disruption.

To assess the structure of the decisionmaking process within the administration, we interviewed and obtained documents from officials of all CITA agencies, including CITA principals, their deputies who attend meetings generally held every week, and other staff. In addition, we interviewed and obtained documents from officials of the International Trade Commission, Commerce's Bureau of the Census, and Labor's Bureau of Labor Statistics in an attempt to identify problems with present data collection procedures and possible alternatives. Finally, we met with officials of the General Services Administration's Information Security Oversight Office in an effort to clarify OUSTR's reasons for classifying market disruption statements as confidential.

To assess the adequacy of the input of interested private sector parties in the decisionmaking process, we interviewed (1) 18 domestic textile and apparel producers, some of whom imported as well as produced domestically, (2) 8 importers and retailers, including 3 of the 5 largest retailers, (3) trade associations representing producers, importers, and retailers, and (4) labor

²These documents form the bases for requests for consultations with foreign governments with the objective of establishing limits where none had previously existed.

union officials. We were interested in their involvement in negotiating the bilateral agreements as well as in CITA's decisions to request consultations with foreign governments concerning specific categories of textile or apparel imports. We also interviewed several academicians and reviewed appropriate articles and studies dealing with textile and apparel trade and import relief for this industry.

Our review was made in accordance with generally accepted government audit standards.

AGENCY COMMENTS

We sent copies of our draft report to the five CITA member agencies. We also provided copies to the International Trade Commission and the Information Security Oversight Office, and we met with the former to discuss the draft.

All CITA agencies responded with written comments except Treasury. (See apps. II through VI.) The agencies generally believed that the draft report was a comprehensive and balanced study. Commerce found it "positive, constructive, comprehensive and balanced;" State commented that it provided "in general, a fair and balanced discussion. . ." Labor found it to be a "reasonable report based on careful research;" and the OUSTR stated that the report was in general a "very useful analysis of a complex program." A Treasury representative to CITA told us he found the report to be well done and that he would in general agree with its contents. An ITC official stated he found the report to be thorough and well-balanced. Specific agency comments, generally of a technical nature, were incorporated into the report where appropriate.

CHAPTER 2

MFA AND THE BILATERAL AGREEMENTS

The MFA's objectives, as stated in Article 1 of the Agreement, are to expand trade and to reduce barriers to and liberalize world trade in textile products while at the same time ensuring the orderly and equitable development of this trade and avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries. Also, according to Article 1, the MFA was "to further the economic and social development of developing countries and secure a substantial increase in their export earnings from textile products . . ." In addition, the MFA was to provide for special and more favorable treatment of new entrants and small suppliers.

The MFA provides the framework for regulating textile trade, but implementation is generally accomplished through a series of bilateral agreements negotiated under Article 4. When the MFA first went into effect in 1974, initial quotas were to be based on past import levels and were generally to grow at a minimum of 6 percent a year. In addition, provisions were to be made for transferring unused quotas among categories and between years.

Unlike the United States, the European Economic Community did not pursue bilateral agreements during the first MFA period and, as a result, developing country suppliers greatly increased their exports of textiles and apparel to its member countries. Under pressure by the Community, when the MFA was renewed in December 1977, the extension protocol contained an amendment which allowed for "jointly agreed reasonable departures" from the 6-percent growth rate in quotas and from the MFA's flexibility provisions. The amendment allowed for cutbacks in growth in those products considered sensitive by importing countries. According to the latest protocol extending the MFA (Dec. 1981), importing countries are allowed to take actions which might result in growth rates approximating the growth of the domestic market, defined as per capita consumption of textiles and apparel. The U.S. textile and apparel industry has estimated this domestic growth at 1.5 percent.

BILATERAL AGREEMENT PROVISIONS

U.S. bilateral agreements vary from country to country. They generally are to be in effect for 3 to 6 years on a calendar-year basis and cover cotton, wool, and manmade fiber textiles and apparel. Many of the agreements have had aggregate limits, measured in square yard equivalents, and from two to four broad "group" limits, in addition to specific limits for

more narrowly defined categories.¹ Although many of the agreements have been comprehensive in their coverage, others have included a limited number of categories--only those articles imported into the United States in enough volume to be of concern. Agreements generally have included provisions for the transfer of unused quotas through carryover (from the previous year), carryforward (from the subsequent year), and swing (from one category or group to another), so as to provide the exporting country with flexibility to adjust to changes in the market during a given year.

In February 1979, the U.S. Government issued its Administrative Textile Program, referred to as the "White Paper." Flexibility provisions were to be limited, import quotas monitored more closely, and bilateral agreements renegotiated to prevent sudden increases in imports.

Since extending the MFA in December 1981, the United States has negotiated or renegotiated agreements with 25 countries, including Hong Kong, Korea, Taiwan, and China. Under the latest bilateral agreements with Hong Kong, Korea, and Taiwan, textile and apparel categories with specific limits have been limited to growth rates between 0.5 percent and 2.0 percent a year, but, unlike the previous bilateral agreements, no aggregate or group limits have been established. Smaller exporters have been allowed growth rates exceeding 6 percent. Flexibility provisions have also been restricted in some of the agreements negotiated in 1982.

Bilateral agreements contain a variety of consultation mechanisms. According to some agreements, the exporting countries may request permission to ship more than minimum or designated consultation levels contained in those agreements. According to others, the United States may request consultations regarding imports not already controlled by specific limits if it determines that such imports are causing or threatening to cause market disruption; the objective of such a request is to establish a specific limit.

The request for consultations, according to both the MFA and the implementing bilateral agreements, must be supported by a factual statement demonstrating market disruption or a threat thereof. Chapter 3 discusses the decisionmaking process by which the U.S. Government determines that a request should be made, and chapter 5 analyzes the market disruption statements supporting requests for consultations made in 1981 and 1982.

¹There are 102 categories in total, 65 for apparel (23 cotton, 16 wool, and 26 manmade fiber) and 43 for textiles (18 cotton, 8 wool, and 17 manmade fiber).

NEGOTIATION OF BILATERAL AGREEMENTS

In accordance with provisions of the MFA, the United States has negotiated bilateral agreements with those countries which are considered large enough sources of textiles and/or apparel to justify import restraints. The U.S. negotiating position is usually based on information developed on trends in U.S. imports from the particular country, potential for greater imports, and other factors.

The Chief Textile Negotiator, with the title of Ambassador, is the CITA representative from OUSTR. He directs all negotiations with other countries to establish agreements or to make changes in current agreements. The Negotiator may delegate his authority to chairmen of additional negotiating teams as necessary. CITA members are usually on the teams that negotiate with the major supplying countries of Hong Kong, Taiwan, Korea, and China. CITA members or their designated representatives negotiate with other supplying countries.

Private sector representatives provide advice to the negotiating teams. Generally, these representatives fall into two groups. The first, consisting of textile, apparel, and fiber companies, trade associations representing their interests, and textile and apparel unions, generally seek to protect the domestic industry from the disruptive effects of increased imports. The second, consisting of retailers, importers, and trade associations representing their interests, generally seek to reduce the barriers to trade in textile and apparel products. Advice of the two groups is presented through a variety of forums. The management/labor textile advisory committee, composed of representatives from the trade associations, labor unions, and individual companies, meets with members of CITA about monthly to discuss problems and progress under the MFA on bilateral agreements and industry developments and market conditions. The importers/retailers textile advisory committee meets with CITA members about monthly to discuss the same things.

Interested party advisors

In addition to providing advice through the advisory committees, selected members of industry and labor have been given a "cleared technical advisor" status. They are available to answer questions and give advice, whether the negotiations are in the United States or in foreign countries. Representatives of retailers and importers were given a somewhat similar status in 1982, but they have not been allowed to accompany government negotiators overseas. It should be noted that industry and labor representatives are not permitted to attend the actual negotiating sessions; nevertheless, the general perception among importers and retailers we interviewed is that the industry and labor representatives have undue influence on the negotiations. One

... expressed was that government officials were negotiating with the industry/labor representatives as they were with the foreign governments. Although several importers and retailers expressed a desire to have equal status with industry/labor representatives, others preferred that these representatives not be permitted to accompany the U.S. negotiators. Industry/labor representatives had varied opinions as to whether the importers/retailers should be permitted equal status.

CITA members' views on having importer/retailer representatives accompany the negotiators overseas are as follows.² Commerce's representative to CITA noted that it would give the semblance of fair play but would dilute the quality of advice from the domestic industry. The Chief Textile Negotiator noted that he does get the views of the importers/retailers in advance of negotiations and that the negotiators go into as much detail with them as with the industry people. He told us that, at the negotiations, three sets of negotiations are simultaneously in process with (1) the foreign government, (2) the industry advisors, and (3) other U.S. Government agencies concerning the next step to be taken. Consequently, adding the importers/retailers to those present at the negotiations would result in "one more cog in the process." State's representative to CITA agreed that, were importers/retailers in the same room as the industry/labor representatives, there would be "no frank exchange of views" and the sessions would be non-productive. He also stressed the limited amount of time available, adding that if the two groups were dealt with separately, the result would be less exposure for domestic industry. Labor's representative to CITA noted that importers/retailers are represented to some extent in that they are "wired in" to the foreign governments.

Treasury's representative to CITA expressed opposition to allowing industry/labor representatives to accompany the negotiators overseas while barring importers/retailers. He added that, since importers/retailers would represent views consistent with consumer interests, barring them from accompanying negotiators overseas demonstrated the "one sidedness" of the program.

²It should be noted that we did not evaluate how well this advisory system works.

CHAPTER 3

DECISIONMAKING PROCESS FOR REQUESTING CONSULTATIONS IS GENERALLY ADEQUATE

We found the structure of the decisionmaking process within the Administration, and particularly CITA, to be generally adequate because:

- Agencies representing constituencies that include interested parties, namely, domestic industry, labor, importers, retailers, and consumers, are members of CITA and therefore have the opportunity to participate in the decisionmaking process.
- Decisions to request consultations with foreign governments are reviewed at a sufficiently high level.
- Meetings of CITA are scheduled on a timely basis.

In practice, however, Treasury, which would be expected to take the position most consistent with that of consumers, importers, and retailers, does not actively participate in the process.

In addition, notwithstanding recent decisions to publicize all consultation requests in the Federal Register and to make market disruption statements available to the public, we believe there could be further improvements in facilitating greater input from interested parties.

STRUCTURE OF CITA

As of December 1982, the CITA principals from the five member agencies were the:

Deputy Assistant Secretary for Textiles and Apparel,
Office of Trade Development, International Trade
Administration--Commerce.

Chief of the Textile Division, Office of International
Trade, Bureau of Economics and Business Affairs--
State.

Assistant Director, Office of International Economic
Affairs, Bureau of International Labor Affairs--
Labor.

Director of the Office of International Trade--
Treasury.

Chief Textile Negotiator--OUSTR.

Representatives from each of the CITA member agencies, except Treasury, meet approximately weekly to review data on imports and to determine whether imports in particular product

categories from particular countries are causing or threatening to cause market disruption. These "sub-CITA" representatives are at the GS-12 to GS-15 level, with Commerce's higher ranking representative acting as Chairman. Prior to the weekly sub-CITA meeting, OTEXA distributes an agenda indicating the categories by countries that are to be considered. According to CITA officials, consideration of a particular category/country is triggered by an increase in imports in a "sensitive" category. The term "sensitive" is not defined but, based on discussions with CITA officials, it appears that a sensitive category is one with either a high or an increasing import/production ratio.¹ We were told that consideration of a category/country might also be triggered by a congressional inquiry or by industry complaints.

OTEXA maintains records on imports in each category from each bilateral agreement country and on specific limits, consultation levels, and flexibility provisions set forth in each agreement. Under a special system set up with Hong Kong, Korea, and Taiwan, OTEXA also monitors export authorizations issued by these governments to exporters to ship stated amounts of goods of particular categories not subject to specific limits.

The executive order establishing CITA allows the Chairman to make a decision to request consultations with a foreign government unless a majority of the members object. CITA members told us that in practice, however, any decision to request consultations is made by consensus. The sub-CITA representatives confer with their superiors (the CITA principals) at their respective agencies, both before and after the weekly sub-CITA meetings. When a request for consultations might have serious foreign policy implications, approval by the Secretary of State or Under Secretary for Economic Affairs would be obtained by the State representative to CITA.

In considering a request for consultations, CITA representatives have statistical information available on imports, domestic production, import/production ratios, and import values for the category in question. CITA officials told us that they might consult industry, labor, and/or importers and retailers, either by telephone or through their monthly advisory committee meetings; they do not inform such non-governmental parties, however, that a request for consultations is being considered for a particular category/country.

A CITA official told us that the decision to request consultations for a particular category/country was judgmental, dependent on a variety of factors, including an increase in imports, market share, price, domestic production, employment,

¹Ratio of imports of a particular category of textiles or apparel to domestic production of that category, measured in square yard equivalents.

etc. One CITA representative commented that the system for making consultation requests is reactive, attempting to satisfy the domestic industry.

There are no formal notes of discussions between sub-CITA representatives at the weekly meetings during which a consultation request would have been considered. If consensus is lacking at the sub-CITA level and at least one agency feels strongly that a request should be made, then the CITA principals would hold telephone discussions.² We found no memoranda of such telephone conversations, however. Consequently, to assess the persuasiveness of a particular request for consultations and the adequacy of support for the finding of market disruption, we made an in-depth analysis of the 60 market disruption statements supporting consultation requests made to foreign governments during January 1981 to October 1982. (See ch. 5.)

Concerns of individual CITA members

The agencies' CITA representatives bring different viewpoints and particular concerns to the decisionmaking process. Commerce is concerned with the impact of imports on the domestic textile and apparel industry, Labor with the impact of imports on domestic employment, and State with foreign policy implications of restricting imports. The OUSTR is concerned with avoiding market disruption while keeping trade flowing as freely as possible, while Treasury is concerned with promoting free trade and with representing the domestic consumer. However, it should be noted that the Treasury representative to sub-CITA has not participated in its weekly meetings on a regular basis since 1981. Treasury's representative to CITA told us that Treasury does not have the resources to get involved in the decision-making process leading to individual requests for consultations. Instead, Treasury participates in meetings of CITA principals where broader policy issues are discussed.

INPUT FROM INTERESTED PARTIES

Non-governmental U.S. parties directly affected by the administration of the MFA and the bilateral agreements generally fall into two groups. The textile, apparel, and fiber companies and textile and apparel labor unions generally seek to protect the domestic industry from the disruptive effects of increased imports. The retailers and importers generally seek to reduce the barriers to importing textile and apparel products. Notwithstanding recent decisions to publish all consultation requests in the Federal Register and to make market disruption

²There were seven meetings of CITA principals during our review--Jan. 1981 to Oct. 1982. An examination of the minutes of those meetings indicated that, although particular consultation requests were occasionally discussed, there were no details concerning the justification for such requests.

statements available to the public, we believe there could be further improvements in facilitating greater input from these interested parties.

Representatives of both the industry/labor and retailer/importer groups meet with CITA members about monthly to discuss industry developments and market conditions and there may be additional telephone or other contacts between CITA and outside parties. CITA does not solicit comments concerning a particular request until after the request is made, however, because it believes that providing advance notice of a request would encourage an increase in imports before the quota imposed by the request takes effect. This could further harm the domestic industry it seeks to protect. Commerce maintains that the current procedures preserve the importer's procedural rights by allowing notice and comment before consultations begin.

Legal considerations

In our view, CITA's current procedure is not legally objectionable. The consultation request is the first step in a process leading to negotiation of quota levels with a foreign government. The negotiations themselves culminate in an agreed-upon import quota or generally, if no agreement is reached between the governments, imposition of a quota based on formulas in the agreement between the countries. Thus, even though the request generally results in import restraints, the request itself is an interim mechanism pending consultation; it is not a final step in the process. Comments received from interested parties after the request is made may, in theory, influence the U.S. position in negotiations or, as Commerce has indicated, may ultimately convince CITA to withdraw the request altogether. Although CITA's procedure does not provide for participation by interested parties at the earliest possible stage, it does allow participation before a final decision on quotas is made, at a point where interested parties' comments could still be effective. Moreover, while importers may be hurt by imposition of restraints without prior notice and hearings, domestic industry will be hurt, according to Commerce, if notice and hearings are granted. Since the purpose of the consultation mechanism of the MFA generally is to protect domestic industry from market disruption, we cannot say that CITA is acting unreasonably in adopting a procedure which, in effect, strikes a balance between conflicting interests in favor of protecting domestic industry. CITA's procedure is an acceptable compromise between protecting domestic industry from further harm and guaranteeing interested parties' procedural rights.

Federal Register notices and public comments

When requests are made, notification is made in newspapers (including the Daily News Record and Women's Wear Daily) and trade magazines, and the American Association of Exporters and

Importers is contacted by telephone. The Association's weekly publication, International Trade Alert, distributed to the entire membership of over 1,300 companies (about 400 in the textile and apparel area) also includes notices of requests made by CITA. In addition, CITA publishes a notice in the Federal Register that a consultation request has been made and provides an opportunity for comment.

During the course of our review, we questioned why notices were not published in the Federal Register concerning requests to Hong Kong, Korea, and Taiwan. According to the bilateral agreements with these three countries, their governments notify the U.S. Government, on a weekly or monthly basis, of export authorizations they issue. In 1981 and 1982, 30 of the 60 requests were to these countries and were not publicized. The Chief Textile Negotiator offered no rationale for not publishing these requests in the Register and said that he thought doing so would be useful to importers. In June 1983, CITA began publishing all requests in the Register.

The notice published in the Federal Register indicates that a request has been made to a foreign government for consultations concerning a particular category of imports. It may note that import controls may be invoked during the consultation period. The notice asks that comments be submitted promptly, since the exact timing of consultations is uncertain when the request is made. It should be noted that the market disruption statement supporting the request is not contained in the Register notice nor is any abbreviated discussion of the statement's contents or justification for the request.

In 1981, public comments were received for 6 of the 10 requests for which there was notice and solicitation of comments in the Federal Register. The other 10 requests in 1981 were to Hong Kong, Korea, and Taiwan, for which there were no announcements in the Register. In 1982, public comments were received for 9 of the 20 requests in the Register. The other 20 requests in 1982 were to Hong Kong, Korea, and Taiwan. A CITA official told us that no public comments were submitted on requests not publicized in the Register.

Public comments on the publicized requests came from a variety of parties, with as many as five separate submissions received on a single request. Comments supporting requests were received especially from textile and apparel trade associations (9 separate submissions), but also from individual textile and apparel companies (3), and from the International Ladies' Garment Workers Union (1). While there was a total of 13 sets of comments submitted in support of consultation requests, only 4 sets of comments were submitted in opposition to requests--one from the American Association of Exporters and Importers, two from attorneys for individual companies importing the goods in question, and one from a group of companies belonging to the National Council for United States-China Trade.

The fact that importers, retailers, and other parties who might oppose the consultation requests have submitted so few public comments is interpreted differently by various parties. A CITA official commented that the importers/retailers have little of substance to add to the decisionmaking process. But an official of the American Association of Exporters and Importers told us that it is a "fait accompli" when notice is published in the Federal Register; i.e., the request has already been made, and there has yet to be a request withdrawn in response to any public comments.³ He added that importers realize that they won't get any satisfaction, and so don't even bother commenting. He also noted that, except for the largest importers/retailers, companies involved in textile and apparel importing are not "sophisticated enough," or don't have the necessary attorneys. The Association also argued that one cannot comment substantively on information that one doesn't have, a reference to the fact that neither the market disruption statements nor justifications for the requests had been made available to the public until June 1983. (See below.)

Notwithstanding the relatively few submissions of comments opposing particular consultation requests, importers are concerned that such requests were made even though in their opinion CITA did not make "valid and reasoned determinations" of market disruption or the threat thereof. The American Association of Exporters and Importers filed a suit on November 29, 1982, alleging that the requests for consultations by CITA were arbitrary and capricious. It referred to a December 1981 Department of Commerce solicitation to procure data from national consumer apparel panels, noting that Commerce had admitted that "there is a lack of sufficient and timely apparel production, sales, consumption, and price data . . . necessary to identify and substantiate market disruption resulting from imports and to determine and monitor current trends in apparel markets."

The Association also said that CITA had failed to provide advance notice and opportunity for affected parties to comment prior to making its market disruption determinations. Furthermore, it noted, the United States failed to "provide, publish, release or otherwise make available" the market disruption statements justifying the requests (except for its November 1980 release of a statement on two 1980 requests to China).

CLASSIFICATION OF MARKET DISRUPTION STATEMENTS

During our review, the market disruption statements prepared by OTEXA had been classified as confidential by the OUSTR.

³With respect to the 4 cases from our sample of 60 consultation requests where comments were submitted in opposition, none of those requests were withdrawn.

Our analysis of the statements indicated that an overwhelming amount of the material in them was publicly available. Whether the statements had been appropriately classified was important, because classification has been viewed by parties outside the government--primarily importers and retailers--as a means of covering up the fact that the statements do not reasonably demonstrate findings of market disruption. Moreover, importers/retailers have argued that classifying the statements prevents them from commenting substantively on whether a particular consultation request is justified.

In an effort to understand the rationale for classifying the disruption statements as confidential, we raised the question of the appropriateness of classification with each of the five CITA agencies. In addition, we initiated a request in August 1982 with the Information Security Oversight Office (ISOO) of the General Services Administration for assistance in reviewing the basis by which OUSTR classified the disruption statements. ISOO oversees implementation of Executive Order 12356, entitled "National Security Information," which was the basis for classification of the market disruption statements.

At a June 1983 meeting of the Management/Labor Technical Advisory Committee, CITA announced the decision to release market disruption statements for public scrutiny immediately after they had been presented to the appropriate foreign governments. The decision was to apply to all statements dated after June 15, 1983. In addition, OUSTR was to begin work to declassify statements dated prior to June 16, 1983.

OUSTR's rationale for classification of the statements prepared during the period of our review, the results of ISOO's inquiry, and other agencies' views as to the appropriateness of the classification procedures then in effect are discussed below.

According to OUSTR, the statements contained information falling under Section 1.3(3) (foreign government information) or Section 1.3(6) (scientific, technological, or economic matters relating to the national security) of Executive Order 12356. In response to ISOO's inquiry, the Chief Textile Negotiator explained that the statements contained items sensitive to the conduct of negotiations which were to take place; they were the "starting point" of the negotiations. Also, the statements contained information that was received in confidence from the foreign governments or that officials of OUSTR or another U.S. government agency had learned from foreign government officials. Finally, certain information in the statements was sensitive in that it could affect non-textile trade relations with the countries in question and/or U.S. relations with third countries.

In response to our inquiry, ISOO reviewed nine market disruption statements dated June, July, and August 1982 and concluded that they were justifiably classified as confidential.

ISOO noted, however, that OUSTR's marking of the documents was not in compliance with two requirements of the Executive Order. First, the documents were not portion marked; that is, classified portions were not distinguished from the unclassified portions. Second, the documents were designated to remain classified for a period longer than required; the Executive Order provides that, at the time a document is classified, a specific date or event for declassification should be established when such a date can be determined. The declassification date established for the 1982 disruption statements examined by ISOO was 1987 or 1988. ISOO indicated that OUSTR should have established a declassification date based upon completion of negotiations.

In October 1982, ISOO requested that OUSTR portion mark the disruption statements and that earlier declassification dates be established. In apparent response to an earlier informal request by ISOO, OUSTR started portion marking the documents in September 1982. Declassification dates, however, remained the same.

We concluded that the 1981 and 1982 statements consisted overwhelmingly of information that was publicly available. Such information generally included current import data from Commerce's "Major Shippers Report" (a report based on Census data), and production and import data and import/production ratios over time from a Commerce publication entitled "U.S. Production, Imports and Import/Production Ratios For Cotton, Wool and Man-Made Fiber Textiles and Apparel." The narrative portions of the statements generally were based on this public information. We found that the only consistent exception was in the statements supporting consultation requests to Hong Kong, Korea and Taiwan, which included data on export authorizations issued by the foreign governments.

The Chief Textile Negotiator told us in December 1982 that OUSTR still believed the market disruption statement to be a negotiating document and expressed surprise at the extent of interest over the statements. According to the Chief Negotiator, it is virtually impossible to convince importers/retailers that a case for market disruption exists, since the program is not in their interest. The Commerce representative to CITA told us in January 1983 that he thought the disruption statements should be declassified, either immediately after submission to the foreign government or at the end of the negotiations. He stated that if the statements were to be declassified immediately, the importers/retailers could develop information which might unduly raise the foreign government's expectations for a more favorable outcome in the ensuing consultations. The State representative to CITA told us that, although he agrees that the import restraint program is a foreign affairs function, the statements should not be classified.

In June 1983, CITA decided to release market disruption statements for public scrutiny immediately after presentation to the appropriate foreign governments. The decision was to apply to all statements dated after June 15, 1983, and OUSTR was to begin declassifying statements dated prior to June 16, 1983.

CONCLUSIONS

The structure of the present decisionmaking process for requesting consultations is generally adequate. However, the process is weighted toward protecting domestic industry. Commerce and Labor representatives generally support protection of the domestic industry. Foreign policy concerns are provided through the State representative, and some balancing of views is provided through the OUSTR. Treasury, which would be expected to take a position more consistent with that of consumers and/or importers/retailers, generally does not participate in the decisionmaking process.

Most of the material contained in the market disruption statements is publicly available information. We believe that CITA's June 1983 decision to release disruption statements for public scrutiny immediately after presentation to the appropriate foreign government is responsive to the issues we raised with the member agencies during our review. Although CITA now publicizes all consultation requests in the Federal Register, we believe that input from interested parties could be further facilitated by including the disruption statement or an abbreviated discussion thereof in the Register notices.

RECOMMENDATION

We recommend that the Secretary of Commerce direct the Chairman of CITA to include either the disruption statement itself or an abbreviated discussion of the justification for the consultation request in the Federal Register notice.

AGENCY COMMENTS

All CITA agencies except Treasury responded with written comments to our report. The agencies generally found the report to be comprehensive and balanced. ISOO agreed with our interpretation of its review and recommendations to OUSTR. The State and Labor Departments supported the recommendation to publish the market disruption statement, or an abbreviated discussion of it, in the Federal Register. Commerce stated that it will consider publishing a summary of the statement in the Register.

CHAPTER 4

BETTER DATA COLLECTION PROCEDURES ARE NEEDED

CITA's data collection procedures do not provide the current and detailed data that would better support findings of market disruption. Production data are dated, employment data are not compatible with the textile and apparel categories that are the subjects of consultation requests, and assertions in the disruption statements are vague concerning the current state of the market for the category in question.

Government and private sector officials agree that there are weaknesses in the data supporting CITA's determinations of market disruption. A January 1982 Commerce Department solicitation for data on consumer purchases noted that:

"At present there is a lack of sufficient and timely apparel production, sales, consumption, and price data. This information is necessary to identify and substantiate market disruption resulting from imports and to determine and monitor current trends in apparel markets."

Although data on imports are only 2 to 3 months old at the time a request is made, production data generally range from between 10 to 24 months old. Consequently, if production has declined since the data were collected, by the time CITA makes a request the situation may have worsened considerably, to the detriment of domestic producers. Conversely, if production has increased from the time the data were collected, CITA may be making a request unnecessarily, to the detriment of importers and retailers.

The makeup of the apparel industry makes data collection difficult at best. The industry is dispersed (an estimated 20,000 firms nationwide) with a large number of small producers supplying retail outlets on a local or regional basis. An official of the American Apparel Manufacturers' Association noted that many companies are still family-owned and that smaller producers may not feel directly the effect of imports on the industry and therefore not see the importance of supplying data. He added that there is a tradition in the apparel industry of not supplying data which could possibly be used by a competitor.

Notwithstanding these problems, we believe that there is both a need and room for improvement. Moreover, given the protection that domestic manufacturers are deriving from import restrictions resulting from consultation requests, we believe that they should be prepared to provide data so that the requests that are made are well justified. The following sections describe the current data collection procedures for domestic production, employment, other market factors, imports, and prices and discuss alternative procedures.

CENSUS PRODUCTION DATA

The Census Bureau collects annual domestic production data for apparel, aggregates it, and makes it available to CITA about 10 to 12 months after the end of the calendar year. Consequently, depending on when a consultation request is made, the data incorporated into CITA's market disruption statement could be between 10 and 24 months old. In addition to the annual data, Census collected less comprehensive monthly data on apparel manufacturing through December 1981, when collection was discontinued due to budgetary considerations. Census resumed collecting such monthly data in January 1983. Representatives of importers/retailers and domestic industry alike expressed their confidence in the accuracy and thoroughness of the annual Census data and in the confidentiality of Census procedures. It is the age of the data they are concerned about.

There are 3 separate annual surveys: men's and boys' outerwear, women's and children's outerwear, and underwear and nightwear. For the annual data, Census mails a questionnaire to all known apparel manufacturers, jobbers (those having garments made for them by contractors) and government contractors (those making garments for the federal and state governments from government-furnished materials). Data are not requested from establishments with 5 employees or less. There are about 4,000 reporting units in total for the 3 annual surveys. The questionnaire--a computer-imprinted form with the company name and data reported during the last 2 years--is mailed out in January, for completion and return in 30 days. It asks for cuttings data and dollar values of net shipments by product code. There are breakdowns by fabric (i.e., cotton, manmade fiber, wool, and all other) and, in some cases, knit and woven fabric are differentiated. The product codes are 7-digit numbers, with the first 4 digits representing the Standard Industrial Classification code. At Commerce, OTEXA processes the annual data from product codes into the 65 different apparel categories for which consultation requests are made.

There are three follow-ups to the questionnaire by mail and one by telephone. The final response rate is about 90 to 95 percent by line item. The processed information is not actually released to CITA until October, November, or December of the following year.

With respect to monthly surveys, it should be noted that the Secretary of Commerce is authorized to conduct surveys to provide "annual and other interim current data" on subjects authorized for census coverage. Although the Secretary is empowered to make monthly surveys, the penalties for non-disclosure of information requested by Census do not apply to surveys taken more frequently than annually (13 U.S.C. § 221-225). Accordingly, responding to monthly surveys is voluntary.

The monthly apparel production data that Census had collected through December 1981 had a 90 percent cut-off sample.

Thus, for each product code, information would be collected from as many reporting units as necessary to permit 90 percent coverage of that product code. About 900 units were sampled in total--about 450 each for men's apparel and for women's, misses', and juniors' apparel. The sampled units were asked for data on cutting of selected garments and for shipments of sweaters. The men's apparel summary showed cuttings data for 15 garments and the women's for 8. There was no breakdown by fiber of fabric or whether the fabric was knit or woven; consequently OTEXA was not able to put the data into the MFA apparel categories on which requests are made. Summary information was published about 45 to 60 days following the reporting month. According to Census officials, the response rate varied by line item but averaged 30 to 65 percent in terms of cuttings. If the response rate fell under 50 percent, the summary information would not be published.

The collection of monthly apparel data resumed in January 1983. The combined sample of men's apparel and women's, misses', and juniors' apparel, consisting of about 1,000 reporting units, represents about 90 percent of production for each line item (12 men's and 9 women's garments). Again, the forms ask for cuttings data (or shipments data for sweaters), and there is no fabric breakdown by fiber. Consequently, the summary data will not correspond to the MFA apparel categories.

Census also collects textile production data through quarterly and annual surveys for broadwoven fabrics and annual surveys for knit fabrics. The firms surveyed report in sufficient detail for OTEXA to make a concordance between the approximately 175 line items and the 43 different MFA textile categories. The overall response rate to the quarterly survey on broadwoven fabric is about 75 to 80 percent. Only those firms that do not respond to the quarterly survey are asked to respond to the annual survey. Overall response for the annual and quarterly surveys on broadwoven fabrics is about 90 percent. The response rate for the annual survey on knit fabrics is about 90 percent. Survey results are in usable form about 3 months after the end of the quarter for the quarterly surveys, about 6 to 7 months after the end of the calendar year for the annual broadwoven survey, and almost a year after the end of the calendar year for the annual knit survey. Respondents totaled about 400 on the broadwoven surveys and about 1,300 on the knit surveys.

BLS EMPLOYMENT DATA

The Labor Department's Bureau of Labor Statistics (BLS) collects employment data which are relatively timely, but since the data are not fiber-specific, they are not compatible with the textile and apparel categories which are the subjects of consultations

BLS makes monthly establishment surveys for employment, payroll, and hours in 20 selected manufacturing sectors, including textiles and apparel. Included in the monthly tabulations

of survey results are monthly data and annual averages for employment, earnings (average weekly and average hourly) and hours (average weekly and average overtime).

Using the Standard Industrial Classification system, the data is broken down into 18 separate categories for textile mill products and 20 categories for apparel. The results of a monthly survey of a sampling of firms are published within 2 months of the period for which the data are collected. Although relatively timely, the employment data are not fiber-specific. A BLS official told us that it would be extremely difficult to obtain employment data by specific product and fiber material. Establishments surveyed are classified by primary activity; data for a single establishment would be included in only one of the 38 categories, even though the goods it produces might well fall into 2 or more of those categories.

OTHER DATA ON THE DOMESTIC ECONOMY

Census production data and BLS employment data are the data most consistently used by CITA in determining market disruption. In addition, OTEXA officials noted that representatives of domestic industry, labor, importers, retailers, and trade associations are consulted, either by telephone, or in the technical advisory committee meetings held about monthly. One OTEXA official noted that the disruption statement is developed from a variety of sources, including the Daily News Record, Textile World, and other trade journals; these provide general market data; for example, that demand is weak.

Annex A of the MFA lists 10 factors relating to the state of the industry which are to be examined in determining market disruption. An OTEXA official noted that information on many of the factors may be available for the industry as a whole but not at the specific category level. He added that domestic industry officials provide some data and that, with regard to its credibility, if 9 of 10 companies indicate, for example, that capacity utilization is low, then this is a "pretty good indication." Another OTEXA official told us that a problem with industry data is that it may be company proprietary; if only a handful of companies produce a particular category of goods, then publicizing this data could cause market speculation by competitors.

It is not only importers and retailers who are concerned with the collection of data used in preparing market disruption statements. Domestic industry, and especially the trade associations representing it--has emphasized the need for current information so that market disruption may be demonstrated at a sufficiently early point in time. In the fall of 1982, the American Textile Manufacturers Institute began collecting production data on a confidential basis from its approximately 200 member companies. Data are aggregated and sent back to contributing firms. According to the Institute, there are about 5,000 textile firms in the United States, with the largest firm

accounting for about 6 percent of total production. No one firm dominates domestic production, but the Institute estimates that the top 200 textile companies (coinciding roughly with its membership) account for about 85 percent of total production.

The American Textile Manufacturers Institute surveys its member companies with varying frequency (from weekly to quarterly), requesting data on production, inventories, and unfilled orders. Aggregate information is available within a month of the reporting period. The Institute captures between 50 and 100 percent of production for the categories for which it collects information. We were told that these categories correspond closely to about a dozen of the 43 MFA textile categories. The Institute told us its aggregate data would be available to the U.S. Government if requested.

As noted earlier, collecting production data for the apparel industry is a far more difficult process than for the textile industry due to the large number of small producers. The National Cotton Council collects data on apparel production. Reports are published around July of each year, with identification of production by fiber content. The data are based on a sample of about 700 manufacturers who identify the percentage increase (or decrease) in production from the prior year. These percentages are then applied to the prior year's census data to produce current year estimates. These estimates are revised in the subsequent year's report to reflect Census figures.

CONSUMPTION DATA

In December 1981, Commerce solicited bids for data on consumer purchases of apparel. In December 1981 a contract was signed between the Commerce Department and Market Research Corporation of America. The Corporation gets its data from about 11,500 households throughout the United States, based on demographic composition. It collects data from consumers who keep diaries of purchases, aggregates the data, and projects the quantity purchased and dollar value to the national level. For apparel, the consumer is asked to identify the fibers (and percentages of those fibers) in garments purchased and to indicate whether the garment is imported (names of individual countries are not requested). The data are available in aggregate form approximately 6 weeks after the close of the month, and results are sold to marketing officials at all stages of the textile pipeline; i.e., retailers, manufacturers, mills, and fiber producers.

The Market Research Corporation of America has prepared a concordance, or match, between its 3,000 to 4,000 product codes and the 65 MFA apparel categories. According to an OTEXA official who has contacted various users of the Corporation data, aggregate levels indicated by the Corporation may be inaccurate and imports are probably understated, but trends (percentage changes) are considered fairly accurate. According to the same official, if the concordance is satisfactory, OTEXA will receive

its first data from the Corporation in the summer of 1983. Precisely how the data will be used in OTEXA is unknown, but it may be used as an indicator of domestic production.

Importers and retailers believe that consumer data are inadequate as a measure of the state of the domestic textile and apparel industries. They note that such data are derivative and cannot substitute for direct data obtained through producers' questionnaires. Furthermore, we were told that, due to varying labeling practices, consumers may be unable to accurately determine whether particular garments are produced domestically or are imported.

IMPORT AND PRICE DATA

The Bureau of Customs and the Bureau of the Census collect textile and apparel import data. The importer of record prepares a document (Customs Form 7501) describing the merchandise being imported. This and other statistical information is verified by Customs officers, and a copy of the form is sent to Census for statistical processing. Customs Form 7501 records the Tariff Schedule of the United States Annotated (TSUSA) number. Census officials told us that between 2,500 and 3,500 TSUSA numbers are actively used and processed for statistical purposes in the textile and apparel area. OTEXA has prepared a concordance between the TSUSA numbers and the 108 MFA categories. Census makes the tabulations and furnishes them to OTEXA within about 30 days of the reporting period. OTEXA then prepares the monthly Major Shippers Report, which cites, in descending order, countries whose imports of each category exceed certain amounts for the year ending as of the reporting period. These amounts are one million square yards equivalent for cotton and man-made fiber textiles, 700,000 for cotton and man-made fiber apparel, and 100,000 for wool textile and apparel products.

A second document prepared by OTEXA is the Performance Report which matches Customs and Census data against quotas specified in the various bilateral agreements. This report is available within 6 weeks of the reporting period for the Census data described above and within 2 weeks for Customs data maintained on imports of controlled categories only. All these data collected through Customs and Census are publicly available.

Additional data on imports are obtained for Hong Kong, Korea, and Taiwan. As specified in the bilateral agreements with these countries, these governments notify the U.S. Government of export authorizations issued on a weekly (Hong Kong and Taiwan) or monthly (Korea) basis. This information, received in confidence from the foreign government, is not publicly available. It enables CITA to request consultations with these governments before the goods are actually shipped to the United States. Such data, if available from other exporting countries, would be beneficial to CITA deliberations.

Price data are important because Annex A of the MFA requires that a determination of market disruption be based on a finding that actual or threatened injury is caused by an increase in imports or by those products being offered at prices substantially below those prevailing for similar goods of comparable quality in the importing country's market. With respect to domestic price data, an OTEXA official told us that, when a consultation request is being considered, publications such as Inside Textiles, Daily News Record, and Textile Week are consulted and that telephone calls are made to U.S. manufacturers.

For import price data, OTEXA established a computerized system whereby data from Census are used to determine import unit values. We were told that, while these may be used as proxies of import prices, a word of caution is appropriate. Because the values are often based on a weighted average of heterogeneous products classified within the same TSUSA number, a change in the composition of imports will change the unit value, which is calculated as the value of imports divided by quantity, even if prices of products within the TSUSA number are unchanged.

ALTERNATIVE DATA COLLECTION PROCEDURES

Representatives of importers and retailers have recommended that the International Trade Commission (ITC) be assigned responsibility for collecting domestic industry data through questionnaires based on MFA categories. They note ITC's broad expertise in collecting and evaluating domestic industry data and its reputation as an independent and objective agency.

In response to a request from the Subcommittee on Trade, House Committee on Ways and Means, the ITC in March 1982 developed cost estimates for quarterly and annual monitoring of the textile and apparel industries. The estimates were based on the assumption that data would be collected on a quarterly and annual basis for exports, domestic shipments, imports by U.S. producers for own use, and employment. Annual data would include information on average prices and an indication of productivity. ITC estimated that results of both the quarterly and annual surveys would be publicly available within 3 months of the reporting period. ITC would not collect data on profits, capacity, research and development, and investment because it believed that such data were not available from industry on an MFA category basis and that attempts to collect it would "at best lead to sporadic returns with little hope that the numbers would have any bearing to actual operations in a particular company."

ITC estimated its budget costs as follows.

--\$140,000 in annual costs for coverage of the 40 largest MFA categories in terms of imports (88 percent of 1981 imports of MFA category products measured in square yard equivalents).

--\$215,000 for coverage of the 60 largest categories (96 percent).

--\$272,000 for the 80 largest categories (99 percent).

--\$45,000 to \$55,000 additional in start-up costs, depending on coverage.

An ITC official told us that a stratified sample would be favored, with 100 percent coverage of the top 20 or 30 companies for each category and a statistical sample of the rest. There would be separate questionnaires for each category, but they would be fairly standardized. The official added that the proposed investigation would be computerized and far more streamlined than the normal ITC investigations. The greatest difficulty with data collection would be to make the distinction between fibers; producers generally do not keep data on just cotton shirts or just manmade fiber shirts. Another problem stems from the blending of fibers, e.g., 65 percent polyester, 35 percent cotton. With respect to imports, if cotton accounts for the primary dollar value of an item, it is considered cotton, even if the material is less than 50 percent cotton. For domestic production, on the other hand, the material is considered cotton if the greater percentage is cotton.

Another alternative to the present data collection procedures would be for Census to collect data more frequently, (semi-annually, quarterly, or monthly), in enough detail for a concordance to be feasible between the Census line items and the MFA categories. The Chief of the Industry Division at Census estimated that it would cost between \$150,000 and \$200,000 for semi-annual surveys, between \$225,000 and \$300,000 for quarterly surveys, and between \$500,000 and \$600,000 for monthly surveys of apparel production, assuming the same line items as in the existing annual survey, with results fitting into the 64 apparel categories. These costs do not net out the \$225,000 annual costs incurred for the monthly apparel survey that Census is making this year and which would be unnecessary if the detailed monthly survey described above were made. Although there may be some 1,000 line items in total, an individual establishment would probably produce and report on no more than 15 to 20 line items. Costs assume a sample size of about 2,000 establishments, allowing for 85 to 90 percent coverage in terms of production. A Census official told us that a goal would be to have data available 60 days after the end of the month for the monthly survey and 90 days after the end of the reporting period for both the quarterly and semiannual surveys. Estimated response rate, assuming extensive telephone follow-up, is 65 to 70 percent.

Census officials noted that it would be very difficult to get monthly or quarterly apparel data in the same amount of detail as the annual data since it would not be mandatory. Also, any monthly collection of apparel production data compatible

with the MFA categories would have to compete with other surveys funded from Census' information collection budget. Finally, the Office of Management and Budget would have to approve such an information collection request. To make response mandatory, Congress would have to enact legislation.¹

CONCLUSIONS

Up-to-date production data is important to CITA deliberations in assessing the impact of current imports. Census has reinstated a monthly apparel survey; however, its categories are not compatible with the MFA categories. Although there is merit to the ITC data collection alternative, we believe it is preferable that Census should begin collecting data compatible with the MFA categories on a quarterly basis since it is already collecting such data on an annual basis. The cost would approximate that of the monthly survey being made by Census this year. Although there would be some increased burden on domestic manufacturers, we believe that such costs are justified in the light of the benefits that manufacturers derive from import restrictions resulting from consultation requests. If Census finds that information obtained from domestic manufacturers on a voluntary basis is not sufficient for statistical validity, then the Secretary of Commerce should request Congress to enact legislation making response mandatory.

AGENCY COMMENTS AND OUR EVALUATION

In our draft report, we proposed that Census begin collecting production data on a monthly basis. In commenting on our draft report, the State Department supported the recommendation that more current production data is needed. Labor observed that monthly reporting would substantially improve CITA's ability to evaluate conditions, but added that the specific recommendation would "probably have to be worked out between OTEXA and Census." Commerce replied that both CITA and the White House Interagency Working Group on Textiles and Apparel have considered monthly mandatory reporting and concluded that it would be an unnecessary burden both on the domestic industry and the Census Bureau. Commerce indicated that the Working Group would recommend quarterly reporting instead. Census noted its "serious reservations about whether such detailed information can be collected monthly." Based on comments of Commerce and Census, we have reconsidered our proposal and concluded that quarterly collection of production data by Census would be an acceptable compromise.

¹Congress has enacted legislation making response mandatory on monthly surveys in only a few cases, including fats, oils, and cotton.

RECOMMENDATION

We recommend that the Secretary of Commerce direct the Chairman of CITA to arrange with Census to begin collecting data compatible with the MFA categories on a quarterly basis. If Census finds that information obtained from domestic manufacturers on a voluntary basis is not sufficient for statistical validity, then we recommend that the Secretary of Commerce request Congress to enact legislation making such response mandatory.

CHAPTER 5

MARKET DISRUPTION STATEMENTS COULD BE MORE PERSUASIVE

According to the MFA, a detailed factual statement demonstrating market disruption must accompany each request for consultations made to a foreign government with the objective of restricting imports. Under Annex A of the Arrangement, a determination of market disruption must be based on (1) a finding of actual or threatened injury to the domestic industry based on an examination of factors (specified in the Annex) relating to the state of that industry and (2) a finding that the actual or threatened injury is caused by (a) a sharp and substantial increase or imminent increase of imports of particular products from particular sources and/or (b) those products being offered at prices substantially below those prevailing for similar goods of comparable quality in the market of the importing country. The Annex does not limit the relevant injury factors to those listed or require that each factor be examined; they are given only as examples of "appropriate factors" bearing on the state of the domestic industry.

We found that, although CITA addresses the factors outlined in Annex A, the information used on the domestic economy is often dated and/or not compatible with the categories of imports that may be restricted and thus lessens the persuasiveness of the disruption statements.

REQUESTS MADE IN 1981 AND 1982

We reviewed all market disruption determination statements prepared by OTEXA which supported requests for consultations made during 1981 and the first 10 months of 1982. Of the 20 requests made in 1981, 15 were for apparel categories and 5 for textile categories. Of the 40 requests made in the 1982 period, 36 were for apparel categories and only 4 for textile categories. This reflects the relative competitiveness of the domestic textile industry compared with the domestic apparel industry. The number of requests by exporting country is shown below.

<u>Country</u>	<u>Number of Consultation Requests</u>		
	<u>1981</u>	<u>1982</u>	<u>Total</u>
Hong Kong	2	3	5
Taiwan	5	8	13
Korea	3	9	12
China	5	12	17
Sri Lanka	3	0	3
Japan	0	1	1
Mauritius	2	0	2
Hungary	0	3	3
Indonesia	0	3	3
Maldives	0	1	1
Totals	<u>20</u>	<u>40</u>	<u>60</u>

CONSIDERATION OF MFA REQUIREMENTS

In determining injury, Annex A provides that the finding of market disruption may be based on either actual or threatened injury to domestic producers. In the Annex, the examples of factors to be examined in assessing the state of the domestic industry are turnover, market share, profits, export performance, employment, volume of disruptive and other imports, production, utilization of capacity, productivity, and investments. The Annex does not limit the relevant factors to those listed or require that each factor be examined; rather, they are given only as examples of "appropriate factors" bearing on the state of the domestic industry.

Annex A addresses the injury and causation elements of market disruption separately and requires that both elements be analyzed in all market disruption determinations. Accordingly, the injury factors relevant to the state of the domestic industry must be examined in each case, regardless of whether the basis for the request for consultations is actual or threatened injury. It would not be sufficient to rely on the causation factors--those relating to import activity--to establish per se a threat of serious damage.

In determining whether the injury is caused by import activity, Annex A lists two factors to be considered: a surge in import activity and sales of imports at prices substantially below those for similar goods of comparable quality in the importing country. Paragraph II states that those two factors "generally appear in combination," implying thereby that both do not have to be present in any particular case. The Commerce Department's position is that CITA need not demonstrate both criteria in every case. In our view, Commerce's position is a reasonable interpretation of Annex A.

We found that both causation factors (whether the injury is caused by a surge in import activity from the country in question and whether injury is caused by imports at prices substantially below those for similar goods of comparable quality) and 3 or 4 of the 10 injury factors were addressed in disruption statements prepared in support of the 1981 and 1982 requests.

For the first causation factor--a surge in import activity from the country in question--1981 statements included data showing a change in import activity in 19 of the 20 requests made in 1981 and in all 40 requests made in 1982. Data included percentages of change in the volumes of imports from the previous to the current year. With a one or two month lag, data was presented on a "year-ending" and "year-to-date" basis; i.e., if a request was made in August 1982, data would compare imports for (1) July 1, 1981 through June 30, 1982 with those for July 1, 1980 through June 30, 1981 and (2) January 1 through June 30, 1982 with those for January 1 through June 30, 1981.

For the second causation factor--import prices substantially below those those for similar goods--a comparison of prices between the imported and similar goods in the U.S. market was included in all statements for requests made in 1981 and 1982. Generally prices of one or more specific TSUSA articles are indicated for imports from the country in question, for comparison from an average of 4 other countries, and for articles produced in the United States.

We found that 6 of the 10 injury factors listed as examples in Annex A of the MFA were rarely if ever addressed--turnover, profits, export performance, utilization of capacity, productivity, and investments. Three of the other 4 factors--production, market share, and volume of disruptive and other imports--were addressed in all instances as shown below.

<u>Factor</u>	<u>Number of statements in which factor addressed</u>		
	<u>1981</u>	<u>1982</u>	<u>Total</u>
Production	20	40	60
Employment	1	19	20
Market share	20	40	60
Volume of imports	20	40	60

A factor not specifically listed in the MFA, but included in OTEXA's analysis, was the import/production ratio. This ratio indicates the volume of total imports, measured in square yard equivalents of the category divided by the volume of domestic production in square yard equivalents of that category. CITA representatives indicated that this factor, along with domestic production, employment, and market share, was an important element in the determination to make a request. The import/production ratio compares the volume of imports of a particular category with the volume of domestically produced goods.

SUPPORT FOR FINDINGS OF MARKET DISRUPTION

While OTEXA addresses both causation and injury factors as outlined in Annex A of the MFA, information used on the domestic economy is often dated and/or not compatible with the categories of imports that may be restricted and thus lessens the persuasiveness of the disruption statements. Although production data and, to a lesser extent, employment data, are included in the statements, there are problems in the quality of both types of data in terms of supporting a determination of market disruption. In addition, lack of documentation as to why other major suppliers of the category being restricted have not been the subjects of requests further detracts from the persuasiveness of the statements.

The "actual" production data in the disruption statements were generally between 10 and 32 months old. "Estimated" or "preliminary" production data were more recent -under 10 months old. The employment data, although relatively timely, were not compatible with the MFA categories because the data were not fiber specific. With respect to the import/production ratios, since the denominator of the ratio is the volume of domestic production, the ratios in the statements were as dated as the domestic production data. The ratios based on "estimated" or "preliminary" production data were more recent. Although we agree with CITA officials that these ratios and trends in the ratios over time are significant, we believe that they are of limited value unless a ratio that is relatively current at the time the consultation request is made is included in CITA's analysis.

Information on import market shares and volumes of imports from the countries in question, total U.S. imports, and imports of other major suppliers was relatively current (generally only 2 months old) at the time of the request. For the 20 requests made in 1981, the most current data in the statements showed a market share for the country in question ranging between 1.2 and 69 percent, with the country ranking between 1st and 11th among all exporters to the United States of the category in question. For the 40 requests made in 1982, the market share for the country in question ranged between 1.4 and 47 percent, with the country ranking between 1st and 13th among all exporters to the United States.

We reviewed the disruption statements to determine if they indicated whether (1) the United States imported the category in question from other countries in even greater quantities than from the country in question, (2) these other countries were already controlled through specific limits, designated consultation levels, or some other mechanism, and (3) when there were other uncontrolled suppliers, there were any indications as to why they had not been the subjects of consultation requests.

Other countries had greater shares of the U.S. market according to 17 of the 20 requests made in 1981. In 10 of these cases, the disruption statements did not indicate whether imports from such countries were restricted. In 4 of the other 7 cases, there were indications that imports of other larger suppliers were restricted. In 1982, other countries had greater shares of the U.S. market according to 36 of the 40 requests. In 8 of these cases, the statements did not indicate whether imports of such countries were restricted. In 25 of the other 28 cases, there were indications that imports of other larger suppliers were restricted. Although there was significantly more information in this regard for 1982 requests than for those made in 1981, we believe there is still need for improvement.

We examined in further detail several cases for which there were indications that major suppliers were not controlled. For an October 1982 request, information in the disruption statement

indicated that the country in question was the 4th largest supplier for the year ending July 1982, accounting for 9 percent of total U.S. imports of the category. The 1st and 3rd largest suppliers, accounting for 24 and 16 percent, respectively, of total imports, were not controlled, according to information in CITA files.

Information on other countries with greater shares of the U.S. market should be considered in justifying a finding of market disruption caused by imports from a particular country. When a consultation request is made, the question arises as to how CITA is handling the imports of other larger suppliers of the same category. If such suppliers are already controlled through specific limits, designated consultation levels, or some other mechanism, then the request would be better supported. If larger suppliers are not controlled, then the question arises as to why they are not subject to requests. There may well be valid reasons for not doing so, such as prices which are not substantially below U.S. producer prices or foreign policy considerations. These reasons, however, should be explained in files supporting the requests or in the market disruption statements.

For price differentials, 1981 market disruption statements showed import values ranging widely--from 13 to 83 percent below U.S. producer prices for particular TSUSA numbers. In 1982 statements, import values ranged from 9 to 71 percent below U.S. producer prices, and in one statement the import value indicated was only one percent below the U.S. producer price.

CONCLUSIONS

OTEXA appears to be satisfying the legal requirements in terms of addressing both the injury and causation factors outlined in Annex A of the MFA. However, the information in the disruption statements on the domestic economy is often dated and/or not compatible with the categories of imports that may be restricted, thereby lessening the persuasiveness of the statements. Also, lack of documentation in either OTEXA files or in the statements as to why other major suppliers of the category being restricted have not been subject to requests further detracts from the persuasiveness of the statements.

We believe that support for a finding of market disruption should include not only data indicating an increase in imports from the country in question and/or sales at prices below those for similar goods but also relatively current data indicating the state of the domestic industry with respect to the particular category. As recommended in chapter 4, there should be recent data for domestic production which is fiber specific. This type of data is presently being collected on an annual basis by the Bureau of the Census. Finally, if a request for consultations is made to a particular country for a particular

category, there should be documentation, either in the files or in the disruption statement, indicating why other major suppliers of that category have not been the subjects of requests.

RECOMMENDATION

We recommend that, when a consultation request is made, the Secretary of Commerce direct the Chairman of CITA to ensure that documentation is included in the OTEXA files and, to the extent practical, in the disruption statements, indicating why other major suppliers have not been the subjects of requests.

AGENCY COMMENTS

The Labor Department noted that all member agency files should include CITA statements noting why other major suppliers are not the subjects of consultation requests but added that inclusion of such statements in the disruption statements could compromise negotiations and raise foreign economic policy problems. Commerce stated that it would propose that CITA discuss incorporating information reflecting the restraints on other countries in the disruption statements. Commerce added that it would document the reasons why other major suppliers in a particular category have not been subjected to restraints.

SAM M. GIBSONS, FLA., CHAIRMAN
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COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C. 20515

SUBCOMMITTEE ON TRADE

March 17, 1982

Honorable Charles A. Bowsher
Comptroller General
General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Comptroller General Bowsher:

In recent hearings before my Subcommittee, and in subsequent correspondence, representatives of the MFA Coordinating Group and the American Association of Exporters and Importers Textile and Apparel Group discussed various problems they see in the implementation of the Multifiber Arrangement (MFA) by the Department of Commerce. A basic concern of both groups is the problems the Commerce Department has experienced in obtaining objective, reliable data upon which to make import relief decisions under the MFA. This problem has been acknowledged by Commerce officials, and has been the subject of litigation. They are also concerned about the need for improvement in Commerce Department procedures related to those decisions.

The purpose of this letter is to request that the General Accounting Office examine the current administration of textile quotas under the MFA, and suggest possible improvements in the system. I believe such an examination would be helpful to both the Government and interested parties in determining how to better assure fairness and certainty. More specifically, I think analysis and recommendations on the following matters would be most beneficial:

1. The extent to which existing data collection procedures in the Department of Commerce are sufficient to meet requirements of the agency in administering textile quotas.

2. Possible alternatives for data collection if present capabilities are inadequate.

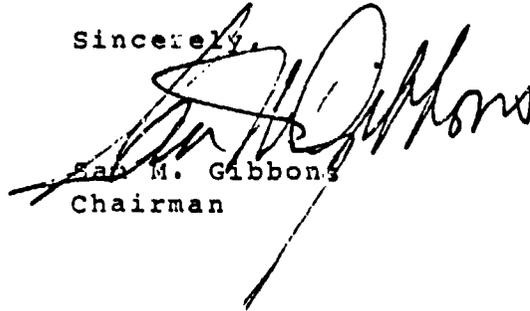
Honorable Charles A. Bowsher
March 17, 1982
Page Two

3. The adequacy of the structure of the decision-making process within the Administration--and particularly the Committee to Implement Textile Agreements (CITA).

4. The need, if any, to assure greater input from interested parties.

I am enclosing testimony and correspondence which we have received on this issue. My staff is available to answer any questions you may have about this request. Please contact Dave Rohr, Staff Director of the Subcommittee on Trade, at 225-7601 if you have any questions.

Sincerely,



Sam M. Gibbons
Chairman

SMG/Ryc
Enclosures



SEP 12 1983

Mr. Allan Mendelowitz
Associate Director, National Security
and International Affairs Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Mendelowitz:

This is in reply to GAO's letter of August 3, 1983, requesting comments on the draft report entitled "Implementation of Trade Restrictions for Textiles and Apparel."

We have reviewed the enclosed comments of the Under Secretary for International Trade and believe they are responsive to the matters discussed in the report.

Sincerely,

Sherman M. Funk
Inspector General

Enclosure



SEP 7 1983

Mr. Allan Mendelowitz, Associate Director
National Security and International
Affairs Division
U.S. General Accounting Office
441 G Street, N. W.
Washington, D. C. 20548

Dear Mr. Mendelowitz:

This is in reply to Mr. J. Dexter Peach's August 3 request for the Commerce Department's review and comment on the GAO's draft report on "Implementation of Trade Restrictions for Textiles and Apparel."

We find the draft report to be positive, constructive, comprehensive, and balanced. We are also pleased that GAO has found the overall implementation of the program to be satisfactory, in particular that the United States has been fulfilling the requirements of MFA Annex A. With your permission, we will advise the Justice Department attorneys handling the current suit of the American Exporters and Importers Association versus the United States of your finding in this matter.

We have reviewed the report's four major recommendations and have taken actions consistent with its suggestions.

1. Market disruption statements are being made available to the public in the Commerce Trade Reference Room, and we will consider publishing a summary of the market statement in the Federal Register.
2. Monthly mandatory reporting has been considered by the Committee for the Implementation of Textile Agreements (CITA) and the White House Interagency Working Group on Textiles and Apparel. The Working Group and CITA have concluded that monthly reporting is an unnecessary burden both on the domestic industry and the Census Bureau. The Working Group will recommend quarterly reporting instead. Enclosed is a memorandum from C. L. Kincannon to Robert Dederick, Under Secretary for Economic Affairs, which discusses the problems which monthly reporting raises.
3. Commerce will propose that the CITA discuss incorporating information reflecting the restraints on other countries in the market statements.
4. Commerce will document the reasons why other major suppliers in a particular category have not been subjected to restraints.



Following are our comments on specific portions of the text.

Page i

The Arrangement Regarding International Trade in Textiles (the MFA) is the authority under the GATT for the textile program. The report should point out that the domestic legal authority derives from Section 204 of the Agricultural Act.

Page iii, Para 1

"OUSTR provides a broader perspective on trade." While we recognize that OUSTR's sole responsibility is for trade policy and the Commerce Department has a large number of responsibilities, we do not believe that this provides OUSTR a "broader perspective" than Commerce which is concerned with the health of all aspects of the U.S. economy, including importing, exporting, consumer issues, travel and tourism, technology transfer, export controls, foreign and U.S. overseas investment, and U.S. industrial competitiveness.

Page v

CITA is always eager to improve the range and timeliness of the domestic market data available to it. However, it is our understanding that the United States has the most comprehensive and timely domestic market data of any major developed importing country which is a member of the MFA. The absence of current and comprehensive data may have meant that in some instances over the years no action was taken to prevent damage, rather than that action was wrongfully taken -- as has been implied by some critics of the textile program.

Page 2, Line 13

The limit normally sought in consultations is an "agreed" limit. A specific limit (sic) may be negotiated, but other types of limits may also be set which do not receive growth or flexibility, or the category may even revert to consultation status in the following year.

Page 6, Para 1, line 8

The sentence should include the underlined statement: "CITA's responsibilities involve the implementation of agreements...."

Page 11, Para 1, lines 13 to 16

The protocol of extension of the MFA does not specifically allow importing countries "to limit the aggregate growth rates of imports to growth in the domestic market." It permits importing countries to take actions, for example, paragraphs 6 and 9, which might result in import growth rates approximating market growth. Several sources we have recently consulted in the domestic industry believe that the domestic market had declined in the last decade rather than grown. Our data substantiates that view.

Page 12, Para 2, line 3

The "White Paper" did not specifically aim at eliminating carryover. It pledged to eliminate import surges. Elimination of carryover provisions was negotiated to carry out the anti-surge goal.

Page 13, Para 1, line 5

On August 19, the United States and China signed a bilateral textile and apparel agreement.

Page 13, Para 1, line 10

We suggest adding the underlined words: "But unlike the previous agreements with these countries no aggregate or group limits were established."

Page 13, Para 2, Line 7

This sentence would better distinguish between the two principal types of consultation mechanisms by revising it to read: "However, with most agreements the United States must request consultations...."

Page 14, Para 2, Line 15

See above comment on page 6, paragraph 2, line 14.

Page 15, Para 4, Line 9

The Chief Textile Negotiator directs most negotiations but occasionally participants of other agencies may chair a delegation.

Page 21, Para 1, Line 5

"anabbrevated" should read "an abbreviated."

Page 25, Para 1, Line 13

In June 1983, CITA began publishing such requests in the FEDERAL REGISTER.

Page 29, Para 2, Line 11

Should read "Discontentment."

Page 30, Para 2, Line 10

Our bilateral agreements provide for calls when the United States believes there is market disruption or the threat thereof. We suggest that the text of the draft be reviewed to add these underlined words whenever market disruption is discussed in the context of a bilateral agreement.

Page 28, Para 2, Line 19

should read: "...reported during the last two years... "

Page 43, Para 2, Line 12

The ten factors in Annex A Paragraph 1 of the MFA which relate to the state of the industry are descriptive of damage, not market disruption. Market disruption, discussed in Annex A Paragraph 2 is caused by two factors listed in that paragraph (low price and a significant increase in imports). We believe the text should be carefully reviewed to ensure that "damage" and "market disruption" are not confused.

Page 44, Para 2, Line 9

We believe the last sentence would more accurately read: "ATMI data often is available to the U.S. Government and is used by the Office of Textiles and Apparel when appropriate."

Page 47, Para 1, Line 7

We suggest the following revisions would more accurately reflect Census procedures: "...the merchandise being imported. This and other statistical information is verified by Customs officers, and a copy of the form is sent to Census for statistical processing. At Census, forms undergo clerical and computer operations to compile and to tabulate the statistics."

Page 47, Para 1, Line 10

"...2,500 and 3,500 TSUSA numbers actively used and processed for statistics...."

Page 47, Para 1, Line 13

Tabulations are done by Census and furnished to OTEXA within about 30 days of the reporting period. The monthly Major Shippers Report is then promptly prepared by Commerce's OTEXA.

Page 49, Para 1, Line 2

Should read: "...data from Census...."

Page 49, Para 1, Lines 5 to 6

"Because the values are often based on a weighed average of heterogeneous products, classified within the same TSUSA Number"

Page 49, Para 1, Line 8

"... even if prices of the products within the TSUSA Number...."

Chapter 5

This chapter discusses the market disruption statements but refers to their findings as "injury." The MFA concept is "damage or actual threat thereof," not "injury." - Damage and injury are very different concepts, and the text should be revised to use the correct term.

Page 54, Footnote 1

We believe the footnote is not appropriate to the discussion on damage. The courts have no role in U.S. Government decisions on damage or threat thereof. Enclosed is an analysis from our General Counsel on injury and market disruption.

We look forward to continuing to provide your staff any further information they may need concerning this study.

Sincerely,



Lionel H. Olmer

Enclosures

GAO note: Page numbers in this appendix may not correspond to page numbers in the final report.

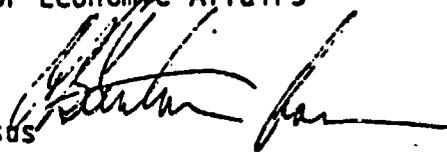


UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

AUG 18 1953

MEMORANDUM FOR Robert G. Dederick
Under Secretary for Economic Affairs

From: C. L. Kincannon
Acting Director
Bureau of the Census 

Subject: Comments on the General Accounting Office (GAO) Draft
Report Entitled "Implementation of Trade Restrictions
for Textiles and Apparel"

Our comments on the draft GAO report focus primarily on the GAO recommendation, (page 52) that the Bureau begin collecting fiber-specific production data monthly. In other words, the Bureau would be collecting approximately the same level of detail monthly as currently collected in the three annual apparel surveys. Information on value of shipments and price-line detail, which is included in the annual surveys, would not be collected monthly.

We have serious reservations about whether such detailed information can be collected monthly. Our knowledge of the industry and our experience with the response problems associated with collecting apparel information show that such detailed data may not be collectable. As mentioned in the GAO report, we recently began a monthly apparel survey that collects data on cuttings of 21 selected apparel items. Even though most of the major textile and apparel trade associations did an excellent job of encouraging their members to report, the initial response was disappointing. It has been only through an intensive telephone follow-up operation that response has been increased to a satisfactory level. The proposed level of detail would increase the number of data items from 21 to about 500. This certainly would exacerbate the response problems and make telephone follow-up operations difficult and much more expensive.

Anticipated problems in collecting the information may result in the suppression of a significant number of data cells because they do not meet the Bureau publication standards. Even if the overall response rate is satisfactory, we anticipate that many of the detailed cells would have to be suppressed because of high estimation rates. The point is that we may not be able to publish all of the data we are attempting to collect. Obviously, the greater the number of cells suppressed, the less useful will be the results.

Authority for mandatory responses can be helpful in improving survey results if used judiciously and realistically. However, even if the recommended survey were made mandatory, we are very doubtful that the survey's results would be improved because of the detailed data requested, monthly survey frequency, and nature of the respondent industry. Our three annual surveys, which collect information on about 800 different items, are mandatory. Nonetheless, we have problems in receiving responses in a timely fashion. In fact, we expend a significant amount of time and money in an extensive telephone follow-up conducted by our regional offices. Besides being difficult to collect this

level of detail, it requires additional analytical resources for the review of the data, raising the cost of the survey and making it much more difficult to publish the survey results quickly. Monthly results generally are available 60 days after the end of the survey month. However, monthly surveys typically collect data on relatively few items. There is no other monthly survey that collects the level of detail recommended in the report. Given anticipated response problems and the level of detail, monthly results most likely would not be available until 90 days after the survey month.

Before attempting to collect fiber-specific production data monthly, we would recommend that a pilot study be conducted to ensure that the proposed level of detail can be collected monthly and that published results fulfill International Trade Administration needs. The study would involve meeting with individual apparel manufacturers, trade associations, and other interested parties.

The report (page 51) cites the cost of the proposed survey as \$520,000. This was a preliminary cost estimate that we provided GAO. It does not include start-up costs nor does it include the cost of performing a pilot study. As stated in the report, the present monthly apparel survey costs \$225,000, of which \$150,000 is appropriated. However, these funds were appropriated for FY 1983 only. Presently, we have no guarantees that funding will be available for either FY 1984 or FY 1985. Consequently, the additional budgetary costs may well exceed the \$300,000 cited in the report (page 52).

While we believe the GAO recommendation would be very difficult to implement, we do understand the importance of timely data for monitoring the effect of imports on the industry. The annual production data for 1982 were published by the Bureau 7 months after end of the calendar year, an improvement of 3-5 months over the last several years. We anticipate continuing this more timely schedule.

Should you have questions, please call Michael S. McKay on 763-7452.

cc:
Catherine Miller

Commerce's General Counsel Analysis of
Requirements for Market Disruption under the MFA

Both Articles 3 and 4 of the MFA refer to "Market Disruption"; in Article 3 as the justification for action and in Article 4, "preventing the real risk of market disruption" as a basis for bilateral agreements. In both articles, reference is made to the definition of Market Disruption in Annex A.

Annex A paragraph I, does not, however, contain any quantifiable definition of Market Disruption, but rather refers to it as "serious damage" or the "actual threat thereof." "Appropriate factors" must be examined in determining damage, an illustrative list of which is given. No mention is made of threat of damage. The definitiveness of the list of factors is further clouded by the last sentence of Paragraph I which comments that, "No one or several of these factors can necessarily give decisive guidance."

The ambiguities of Paragraph I, when seen in conjunction with the Article 3(3) provision which leaves the decision as to when Market Disruption exists to the "opinion" of the importing country (in terms of the Annex A definition) further dilutes the "definition" as it exists in Annex A Paragraph I.

Clearly, to have Market Disruption there must be serious damage or the actual threat of serious damage. In order to make a determination as to whether or not damage exists, participating countries must look at factors determined to have a bearing on the state of the domestic industry. An illustrative list of factors which may have such a bearing are:

- turnover
- market share
- profits
- export performance
- employment
- volume of disruptive and other imports
- production
- utilization of capacity
- productivity
- investments

The illustrative nature of the list, together with the caveat that "No one or several of these factors can necessarily give decisive guidance" would seem to leave to the country making the determination (under Article 3) considerable flexibility as to which factors, listed or otherwise, should be considered most important in determining whether or not damage exists.

While there is no discussion in Annex A as to what factors one should look at to determine actual threat of damage, it seems reasonable to expect that a country would look at similar factors as when determining damage but may, of course, consider some factors more important than others or look at different factors when determining if an actual threat exists.

Paragraph II which lists the factors, generally appearing in combination, which cause Market Disruption give a more quantifiable basis for a Market Disruption determination. If those factors exist;

(i) a sharp and substantial increase or imminent increase of imports of particular products from particular sources;

(ii) those products are offered at prices which are substantially below those of similar goods in the importing market,

then it would not, in my view, be inconsistent with Annex A to presume Market Disruption. The presumption could be refuted if it was determined that no damage or threat of the damage was present after looking at factors bearing on the domestic industry's condition in accordance with Paragraph I.

With respect to agreements under Article 4 of the MFA, the standard is that the agreements should eliminate the "real risk of Market Disruption," a term translated into most U.S. bilaterals as providing for exporter and U.S. action when the "threat of Market Disruption" exists. (As contrasted to the threat of damage which can be Market Disruption in Annex A). The standard is still Annex A under the terms of Article 4, but the justification for action under an agreement is pushed back one step from Market Disruption (Article 3) to threat of Market Disruption (U.S. bilaterals).

With respect to countries not a party to the MFA, there is no requirement that Market Disruption exist. Article 8 of the MFA gives rights to MFA signatories that an importing country not allow non-participant to frustrate the operation of the MFA. It additionally provides that participants not be restrained greater than non-participants causing or threatening Market Disruption.



SEP 9 1983

Mr. Philip A. Bernstein,
Director, Human Resources Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Bernstein:

This is in response to Mr. Fogel's letter of 3 August, 1983 to Secretary Donovan concerning the GAO draft of a proposed report on "Implementation of Trade Restrictions for Textiles and Apparel."

We find the draft GAO report to be a reasonable report based on careful research. It gives a clear picture of the essential elements of the implementation of the textile and apparel program; refers in adequate detail, to the complexities of the system and the difficulties encountered in attempting to balance the needs of the domestic producers and workers with those of importers, retailers and consumers, and with our legal obligations and international commitments.

We concur in the finding of the report that the overall program operates fairly well but that improvements could be made concerning some aspects. With respect to certain specific GAO recommendations that we have noted below, we have indicated our comments.

- 1) Either the market disruption statement itself or an abbreviated discussion of the justification for consultation requests should be included in the Federal Register to provide interested parties with further opportunity to comment on individual requests.

Comment: The inclusion of a summary of the market disruption statement, in the Federal Register seems reasonable and is expected to be included in the future. Notice of the call is usually published as soon as possible after the foreign government receives our note. The market information included with our note becomes unclassified upon receipt by the foreign government and thus there should be no problem in publishing the information, particularly in summary form, in the Federal Register.

- 2) Apparel production data on a fiber-specific basis should be collected monthly instead of annually as it is now.

- 2 -

Comment: This would substantially improve our ability to evaluate conditions and import-related situations. Collection of production data on a more timely basis is one of the issues being pursued in the White House Working Group. This specific recommendation will probably have to be worked out between OTEXA and Census. Some additional data collection improvements will undoubtedly result from the report of the White House Working Group on Textile Enforcement.

3) When a consultation request is made, either Commerce Department files or the disruption statement itself should include some indication as to why consultations have not also been requested with other major suppliers of a particular category of imports.

Comment: An agreed CITA statement should be in all member agency files noting why other major suppliers are not the subject of consultation requests. A simple one-line explanation about each supplier should be sufficient.^{1/} Inclusion of such statements in the disruption statements however, could compromise the negotiations and could raise foreign economic policy problems.

Concerning specific points:

- There does not appear to be reference to the Textile Trade Policy Group (TTPG). This group meets infrequently but has a decided responsibility to resolve issues of policy or where there is need for a higher level of operational review. (The Trade Policy Committee might also be referred to. In recent weeks there has been some reference to this committee examining textile trade policy as well as other trade policy.)
- Another deficiency appears to be a lack of reference to the relationship between CITA and the selection of cleared advisors from among the Management Labor Textile Advisory Committee members to provide product specific advice and guidance to the negotiating teams either in Washington or overseas.
- pg. 3 last sentence: The labor data cited are not consistent with BLS data.

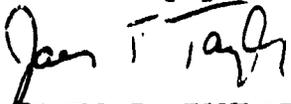
^{1/} e.g.: foreign policy reasons; EC (non-controlled) supplier; or technical issues.

- 3 -

- pg. 4 top: Reference on cost of labor being principal problem cites only wage component without other costs -- and no reference made to externally mandated costs of EPA and OSHA.
- pg. 4 mid-para.: Reference to MFA Art. 4 agreements should state ... "bilateral restraint agreements." The word "export" should be deleted to avoid the contentious issue of import-vs-export control responsibility and sovereignty.
- pg. 11 top para.: Add to "carry over"- "carry forward"
- pg. 12, 13: Other editorial changes and updating on PRC agreement.
- pg. 13: Rephrase language for technical accuracy.
- pg. 16: Clarification needed re importers and retailers.
- pg. 20-21: Clarification is needed on authorities of the CITA chairman and the relationship of agency approvals.
- pg. 22: Add to top para: domestic production, employment, etc.
- pg. 25: Technical clarification required on application of restraints and determination of level thereof with respect to consultation mechanism procedures.

Mr. Irving I. Kramer (523-6227) is DOL's expert on textile and apparel matters. If there are questions concerning the above, I suggest that your staff contact Mr. Kramer.

Sincerely yours,



JAMES F. TAYLOR
Associate Deputy Under Secretary
International Affairs

GAO note: Page numbers in this appendix may not correspond to page numbers in the final report.



DEPARTMENT OF STATE
Comptroller
Washington, D.C. 20520

7 SEP 1983

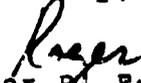
Dear Frank:

I am replying to your letter of August 8, 1983, which forwarded copies of the draft report: "Implementation of Trade Restrictions for Textiles and Apparel."

The enclosed comments on this report were prepared by the Deputy Assistant Secretary for Trade and Commercial Affairs in the Bureau of Economic and Business Affairs.

We appreciate having had the opportunity to review and comment on the draft report. If I may be of further assistance, I trust you will let me know.

Sincerely,


Roger B. Feldman

Enclosure:
As stated.

Mr. Frank C. Conalan,
Director,
National Security and
International Affairs Division,
U.S. General Accounting Office,
Washington, D.C. 20548

GAO DRAFT REPORT: "Implementation of
Trade Restrictions for Textiles and Apparel"

The draft report provides, in general, a fair and balanced discussion of the implementation of restrictions on textile and apparel imports. We believe, however, that the report could more clearly point out that the Committee for the Implementation of Textile Agreements (CITA) is charged with implementing textile agreements. Policy decisions, including decisions to request consultations under Article 3 of the MFA, are under the purview of the Textile Trade Policy Group established by a Presidential Memorandum of June 5, 1975.

The Department supports the GAO recommendations concerning. 1) the publication of the market statement or an abbreviated discussion of it in the Federal Register; and 2) when a consultation request is made, the documenting of why other major suppliers have not been subject to requests. We also support the recommendation that more current production data is needed. However, we believe that the quarterly collection of data by Census, rather than monthly, would provide sufficiently current data upon which to base requests for consultations while minimizing additional costs to Census. The Department will work within CITA to implement these recommendations.



Denis Lamb

Deputy Assistant Secretary
for Trade and Commercial Affairs
Bureau of Economic and
Business Affairs

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

September 15, 1983

MEMORANDUM

TO: Allan Mendelowitz, Associate Director,
National Security and International Affairs
Division, GAO

FROM: Richard H. Imus, Chief Textile Negotiator

SUBJECT: GAO Draft Report on "Implementation of Trade
Restrictions for Textiles and Apparel"

The GAO draft report is in general a very useful analysis of a complex program. Our suggestions on the specifics, keyed to the draft by page and paragraph, follow.

Page i - Last paragraph. In the sentence beginning with "CITA", delete the words "for negotiating bilateral agreements with foreign suppliers and". Some reference should be added regarding the Textile Trade Policy Group, which is chaired by the USTR and includes as members the Under Secretaries of State, Treasury, Agriculture, Commerce, and Labor. The TTPG is responsible for providing policy guidance for CITA.

Page ii - First paragraph. Add "or real risk thereof" to the sentence with the words "market disruption".

Page 4 - Second paragraph. Begin the second sentence with the words "A key objective" or "One of its objectives".

Page 6 - Paragraph 2. Delete the sentence beginning "CITA's responsibilities involve overseeing the negotiation of agreements...". Include a reference to the TTPG and its role in providing policy guidance.

Page 11 - Paragraph 2. Change the sentence following "reasonable departures" so as to refer to "cutbacks" rather than "zero or negative growth". Change the sentence beginning "according to the latest protocol" to quote from or align with paragraphs 4 and/or 9 of the protocol itself. According to these paragraphs, there was recognition of the "decline

in the rate of growth of per capita consumption in textiles and in clothing." However, there was no reference to limitation of the aggregate growth rate of imports.

Page 12 - Paragraph 1. "Carryforward" should be followed by the words "to the previous year".

Page 13 - Paragraph 1. Include a footnote for China stating that a new agreement was concluded in August 1983. Add a few words to the last sentence, i.e., "Flexibility provisions were also restricted in some of the agreements negotiated in 1982".

Paragraph 2. Distinguish between (1) bilateral agreements under which the exporting countries request permission to ship more than the minimum and designated consultation levels contained in those agreements, and (2) bilateral agreements under which the United States requests consultations regarding imports not already controlled by a specific limit.

Page 14 - Paragraph 2. Sentence 3. Delete the words "for overseeing the negotiation of agreements with foreign suppliers, including the determination of any aggregate, group or specific limits and consultation levels, and". Again, make some reference to the TTPG's responsibility for policy guidance.

Page 15 - Paragraph 1. Sentence 1. Change "CITA" to the "United States".

Page 16 - Paragraph 2. Sentence 3. Change "they have not been allowed to accompany" to "they have not accompanied."

Page 20 - Paragraph 3. Modify this sentence so that it is clear that the United States Government, or the State Department on behalf of the United States, is responsible for the actual request for consultations.

Page 26 - Last paragraph. Substitute "agreement" for "treaty".

Page 53 - Paragraph 2. Insert "/or" before (ii).

Page 60 - Paragraph 2. Sentence 1. Change "Market share" to "import market share" as "relatively current" production and consumption data is not normally available.

GAO note: Page numbers in this appendix may not correspond to page numbers in this final report.



September 1, 1983

Mr. Stanton Rothouse
General Accounting Office
National Security and International
Affairs Division
441 G Street, NW, Room 4148
Washington, DC 20548

Dear Mr. Rothouse:

We have reviewed those portions of General Accounting Office Report B-208136 that deal with the Information Security Oversight Office's (ISOO) review of the Office of the United States Trade Representative's classification of disruption statements. We are in agreement with GAO's interpretation of ISOO's review and recommendations to the Office of the United States Trade Representative.

Sincerely,

STEVEN GARFINKEL
Director

(483361)