



April 20, 2010

Mr. Ronald K. Lorentzen
Deputy Assistant Secretary of Commerce
Import Administration
Room 1870
U.S. Department of Commerce
Washington, D.C. 20230
E-mail: webmaster-support@ita.doc.gov

RE: Submission of Comments: Report to Congress: Retrospective Versus Prospective Antidumping and Countervailing Duty Systems; Request for Comment and Notice of a Public Hearing, *Federal Register* Notice Volume 75, Number 61, Page 16079, March 31, 2010

Dear Mr. Lorentzen:

I am writing to you in response to the above referenced notice to state our unequivocal support of the Commerce Department adopting a prospective system of determining anti-dumping (AD) and countervailing duties (CVD). AAFA also supports the separate comments submitted by the Trade Remedy Reform Action Coalition (TRRAC).

The American Apparel & Footwear Association (AAFA) is the national trade association representing the apparel and footwear industries, and their suppliers. Our members produce and market apparel and footwear throughout the United States and the world. In short, our members make everywhere and sell everywhere.

We support fair trade. Our members are also willing to pay a fair price for the products they import. Our members negotiate in good faith with their suppliers and strive to deliver affordable, quality products to American consumers, as well as consumers around the world.

A key to fairness and a rules based system is predictability. Unfortunately, the current trade remedy system used by the United States, which is retrospective in nature, does not permit this predictability. In fact, the uncertainty generated by the current U.S. system for the collection of antidumping and countervailing duties is a matter of great concern to our members.

Under the current system, when our members buy imported apparel, footwear or other products that are, or might in the future be, subject to an AD/CVD order, they have no way of knowing what the Commerce Department will determine to be a fair price, or the actual duties that our members will owe on an imported product for many months on

even years after a purchasing decision is made. This is not only potentially very costly, it also hinders our members' ability to make sound, informed business decisions for their companies, their workers and their shareholders. That is the last thing any business wants and it puts U.S. companies at a competitive disadvantage. Further, the uncertainty built in to the current system creates a legal and fiduciary nightmare for our members who are publicly-held companies as they struggle to comply with regulations like Sarbanes-Oxley while trying to predict potential financial obligations they won't know for years to come.

A prospective system would also dramatically diminish the administrative burden borne today by the U.S. Department of Commerce, the U.S. Customs and Border Protection and the U.S. International Trade Commission. Gone would be the countless and costly annual administrative reviews and appeals. Instead, the duties determined in the final AD/CVD order would remain unchanged until the five-year sunset review, providing predictability for all parties involved and freeing up personnel to devote time and resources to new cases or sunset reviews.

Further, the controversial and ineffective bond system would be eliminated because the AD/CVD duties would be paid in full at the time the shipment is made. Under a prospective system, "new shipper" reviews would be a thing of the past.

Meanwhile, the United States stands alone on the world stage with its current retrospective system. If virtually all U.S. trading partners can effectively employ a prospective anti-dumping and countervailing duty system, it seems that the United States can also develop a system that works this way as well. Other countries employ such a system that protects domestic companies from unfair trade but also eliminates the uncertainty for those companies that have to import. The United States should be able to do so as well.

For better or for worse, the United States sets the example for the rest of the world. The U.S. government's dogged determination to perpetuate the retrospective system could eventually lead our major trade partners to adopt similar systems – and then use them against U.S.-made and U.S.-branded products as a means of blocking access to their markets.

I want to be clear that we support the strong enforcement of U.S. trade laws. American companies should have the right to defend themselves against unfairly traded imports from abroad. We are not taking exception with the payment of duties; it is the unpredictability of the system that unnecessarily harms companies for no good reason.

In summary, a prospective system would ease administration of this program and reflect more appropriately the manner in which American businesses operate today. In order to compete with foreign and domestic competitors, we must have open, and predictable, markets so that we can realize the benefits of both imports and exports. Placing an additional burden on American companies – which our foreign competitors do not share – serves to harm the competitiveness of our members' businesses and the hundreds of thousands of workers they employ in the United States. The fact that this additional

burden creates a more administratively difficult and complicated program – which no doubt comes at the expense of the U.S. taxpayer – makes the case for a prospective system even more compelling.

We appreciate the Commerce Department considering our comments and taking seriously the task that has been given to you by Congress. We hope that your report will present the perspective of AAFA and our member companies that a prospective system would enhance predictability for American companies that import, eliminate a costly administrative burden on the U.S. government and the U.S. economy, protect exports of U.S.-made and U.S. branded products from being subject to a retrospective system in foreign markets and place American companies on an equal footing with their foreign competitors, all without diminishing the effectiveness of our trade remedy laws.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive, flowing style.

Kevin M. Burke
President & CEO