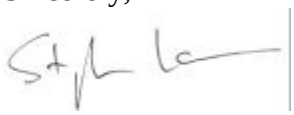
March 12, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Zoellick:

Pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Industry Sector Advisory Committee on Textiles and Apparel (ISAC-15) on the U.S.-Australia Free Trade Agreement, reflecting diverse advisory opinions on the proposed Agreement.

Sincerely,



Stephen Lamar
Chair
Industry Sector Advisory Committee
on Textiles and Apparel (ISAC-15)

The U.S.-Australia Free Trade Agreement (FTA)

Report of the
Industry Sector Advisor Committee on Textiles and Apparel (ISAC-15)

March 2004

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Industry Sector Advisory Committee on Textiles and Apparel (ISAC 15)

Advisory Committee Report to the President, the Congress and the United States Trade Representative on the U.S.-Australia Free Trade Agreement (FTA)

I. Purpose of the Committee Report

Section 2104 (e) of the Trade Act of 2002 requires that advisory committees provide the President, the U.S. Trade Representative, and Congress with reports required under Section 135 (e)(1) of the Trade Act of 1974, as amended, not later than 30 days after the President notifies Congress of his intent to enter into an agreement.

Under Section 135 (e) of the Trade Act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002.

The report of the appropriate sectoral or functional committee must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, the Industry Sector Advisory Committee on Textiles and Apparel (ISAC 15) hereby submits the following report.

II. Executive Summary of Committee Report

This report transmits input from the Committee, reflecting primarily two divergent opinions held by the different sectors of this industry (the fiber/yarn/textile sector, including textile bag manufacturers, and the apparel sector, including those with vertical textile interests). The most significant interest revolves around the rules of origin and the issue of whether these rules might become a precedent for other trade agreements. Here there is a sharp division of opinions.

In general, the **fiber, yarn and textile** members believe the U.S.-Australia FTA is a good example of an arrangement that benefits both signatories. Due to the expansion of the Australian economy, this country represents a trading partner that will be able to both buy and sell goods, as contrasted to many developing country trading partners that only offer low cost production. Textile members view this agreement as being reciprocal and having equitable benefits. They believe the rules of origin, which are generally yarn forward, are very appropriate and the most likely to support U.S. business. These rules follow the NAFTA/Chile/Singapore template, granting duty benefits only to the parties of the agreement, and not to third party, free riders.

Textile members feel strongly that consistency in these agreements creates parity amongst the U.S. trading partners and reduces the complexity of Customs administration.

Textile members believe there are, however, several factors that will limit the trade between the two countries for textiles and apparel: 1) the shipping distance between the U.S. and Australia in a time sensitive industry; 2) the fact that quota elimination is looming at the end of this year for all textiles and apparel products, which is likely to result in consolidation of supplying resources; 3) both countries are considered high cost producers; and 4) the long duty phase out schedule for textiles and apparel in the agreement.

In contrast, **apparel members** largely expressed disappointment with the FTA, because the NAFTA-style rule of origin is restrictive and is made worse by additional complications and burdens. They argue that the restrictive rule of origin discourages apparel trade among the beneficiary countries, which will in turn diminish sales opportunities for fabric and trim suppliers. This is further complicated by the long duty phase out. They urge that the rule of origin and duty phase out schedule in this FTA not be seen as a precedent for other FTAs. Because of the restrictive nature of this FTA, apparel members do not believe this agreement advances U.S. economic interests or achieves meaningful equity and reciprocity for U.S. apparel companies.

Although committee members disagree over the impact of the FTA and the benefits it holds for the U.S. economy, and for this sector in particular, the Committee believes this agreement should be approved.

III. Brief Description of the Mandate of the Industry Sector Advisory Committee on Textiles and Apparel (ISAC 15)

The Industry Sector Advisory Committee on Textiles and Apparel for Trade Policy Matters was established on March 21, 1980, and extended every two years since then, most recently on March 17, 2002, by the Secretary of Commerce and the United States Trade Representative pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, as an advisory committee established under Subsection 135(c)(2) of the Trade Act of 1974 (Public Law 93618), as amended by Section 1103 of the Trade Agreements Act of 1979 (Public Law 9639), and Section 1631 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100418, 102 Stat. 1107 (1988)). In establishing the Committee, the Secretary and the USTR consulted with interested private organizations and took into account the factors set forth in Subsection 135(c)(2)(B) of the Trade Act of 1974. In accordance with the provisions of the Trade Act of 1974, as amended, and the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Subpart 1016.1001, Federal Advisory Committee Management Rule, the Committee is rechartered.

The Committee currently consists of 27 members from the textiles and apparel industry sectors. The Committee is balanced in terms of points of view, demographics, geography, and company

size. The members, all of whom come from the private sector, will serve in a representative capacity presenting the views and interests of a U.S. business in the textiles and apparel industry sectors; they are, therefore, not Special Government Employees.

The Committee advises the Secretary and the USTR concerning the trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the development, implementation, and administration of the trade policy of the United States including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers and implementation of trade agreements negotiated under Sections 101 or 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act, which affect the products of its sector; and performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

IV. Negotiating Objectives and Priorities of the Industry Sector Advisory Committee for Textiles and Apparel (ISAC 15)

ISAC 15 represents US-based manufacturers and importers of textile and apparel products and their inputs. Because ISAC 15 members hold widely diverging views on whether rapid opening of markets in the United States and abroad serve the best interests of this industry, they have not developed a uniform set of negotiating objectives. However, all members agree that the elimination of quotas on textile and apparel products on January 1, 2005, the final stage of the 10 year long phase out of the Agreement on Textiles and Clothing, will have a tremendous impact on the industry and on countries producing and consuming textile and apparel products.

Most of the members agree that there should be greater opening of markets globally, although there are sharply divergent views on how that should be accomplished and whether that involves greater U.S. market access for foreign textile and apparel products. There are strong differences over how the current agenda of trade negotiations can best accommodate the industries' needs to prepare for 2005 and beyond. Nevertheless, there is broad consensus that U.S. negotiators should continue to strive to level the playing field and achieve reciprocal tariff reductions on the part of negotiating partners. The Committee views the continued existence of non-tariff barriers as a major impediment that denies market access and prevents export opportunities for U.S. products. Finally, the Committee urges clear and transparent customs procedures and anti-circumvention requirements so firms doing business under specific trading regimes can do so with predictability and certainty.

The Committee would like to better understand the fit of these individual trade agreements into a cohesive, textile and apparel trade policy. The Committee urges the Administration to articulate

their plan so that businesses can reduce the uncertainty in their long range strategic planning, and make appropriate use of their limited resources and investment.

V. Advisory Committee Opinions on Agreement

A. Comments from Members Representing the Fiber/Yarn/Textile Sector

1. General

From the perspective of the textile members, there are a number of aspects of the agreement that are viewed very positively as supporting U.S. business:

- A yarn forward rule of origin, with some tightening of NAFTA loopholes (brassiere 75% fabric rule, and inclusion of all elastomeric textile yarns under the rules of origin);
- No Tariff Preference Levels (TPLs) or other provisions that permit the use of non-originating inputs.
- An effort to provide parity amongst our trading partners by using the basic NAFTA/Chile/Singapore template;
- Strong customs enforcement measures;
- A safeguard mechanisms to deal the with damaging imports; and
- Preservation of the Berry Amendment for U.S. military procurement, requiring fibers, yarns, and textiles be of U.S. origin

Some textile members, however, believe that the rule of origin would have more accurately served the interests of the textile community if it contained a fabric forward rule of origin or offered other flexibilities.

2. Market Access

Members of the textile sector are broadly pleased that the **rules of origin** for textile and apparel products require that significant value-added processes (yarn forward) take place in the partner countries, not in non-partner third countries.

Several textile members expressed concern that the duty phase out under the FTA was exceptionally long, especially given that it was a strict yarn forward rule of origin. Some commented that the long duty phase out may reduce immediate trade opportunities under this FTA.

The textile sector is also concerned that it appears that the rules of origin for apparel apply, in general, to only the fabric that conveys the essential characteristics of the garment (plus certain visible linings). This group believes that the language of recent preferential trade arrangements, such as AGOA, CBTPA, and ATPDEA, which consider ALL the fabrics that go into the

production of a garment, would be a better model to effectively achieve the goal of limiting the benefits of the agreement to the signatory countries. In future agreements, the textile sector hopes that the rules or origin will be more comprehensively applied with a yarn forward rule of origin for all fabric parts.

B. Comments from the Members Representing the Apparel Sector

1. General

Apparel members on the Committee (including those who produce some of their own textile inputs) have a largely negative assessment of this FTA, particularly since it represents a missed opportunity in this industry. They are extremely disappointed that the principal rule of origin is overly restrictive and complicated and that it continues a disturbing pattern in which a specific industry sector (apparel and textiles) is subject to minute restrictions that can only serve to assure that this sector will not participate in this market. They are disappointed that beneficial provisions included in the U.S./Central America FTA, which had been concluded more than a month earlier, were not also incorporated in the U.S./Australia FTA as well. The restrictive rule of origin is exacerbated by the extremely long duty phase out accorded most apparel and many textile products.

Some U.S. apparel companies had anticipated the opportunity to service the Australian market using U.S. made apparel. Others were contemplating importing certain products from Australia to the United States. The agreement as written will have no significant effect on apparel or textile trade between the signatories because the U.S. apparel industry will find little or no benefit to using the FTA. As a result, the FTA will have a negligible impact on the U.S. economy – either positively or negatively. The apparel sector does not view this agreement as providing meaningful equity or reciprocity since opportunities for U.S. apparel companies to take advantage of this agreement are slim.

Apparel members still have many questions over how the Customs procedures will be implemented in such a way that they facilitate rather than burden trade. Such mechanisms should not be viewed as precedent setting unless they can be implemented in such a manner that legitimate commerce is not obstructed or overburdened with excessive documentary requirements. Apparel members also noted that there is a special safeguard mechanism for textile and apparel products in addition to one in place for all goods under the FTA. They questioned why, given the very strict rule of origin that will discourage apparel trade with Australia, there is need for a special textile and apparel safeguard mechanism at all. Apparel members took note that, under both safeguard mechanisms, damage must be shown to “like or directly competitive products” - reflecting a standard embedded in U.S. safeguard law.

Apparel members were pleased that the Australia FTA continues the requirements of the Berry Amendment, and enshrined in other trade agreements, that all textiles and clothing for the U.S. military must be made in the United States from U.S. inputs.

2. Market Access

The **rule of origin** in the U.S.-Australia FTA relies upon a NAFTA yarn forward model (yarns and fabrics for the component conferring the "essential character" of the garment must originate within the FTA beneficiary countries). Although this "essential character" approach is far superior to rule of origin embodied in the Caribbean, African and Andean trade preference programs (which measures origin using all fabric elements of a given garment), it is still too restrictive to serve as the foundation for any trade creation with Australia. Several deviations from the NAFTA rule of origin - with respect to elastomeric yarns and brassieres - also complicate the program. Apparel members are also disappointed the rule of origin does not envision any flexibility with respect to inputs from other U.S. FTA partners. There is a missed opportunity to link this FTA with those already negotiated through the sharing of inputs. There is a further missed opportunity to include any kind of meaningful short supply mechanism or permission to use already recognized short supply inputs, such as is the case with the U.S./Central America FTA. In sum, apparel members believe the rule of origin will make it extremely difficult to locate and supply the various inputs needed for garment production for trade under this FTA.

The lack of immediate duty free access is also problematic, particularly since Australia provides better duty preferences for other trade partners. For example, a garment made in the United States entirely of U.S. fiber, yarn, and fabric still faces a significant import duty when it enters the Australian market while garments imported from developing countries containing Asian fabrics receive preferential duty treatment in Australia. U.S. imports from Australia containing U.S. fabrics and yarns are similar disadvantaged since U.S. duties phase out over a long period as well. Thus, an agreement that might have held potential benefits for U.S. textile and trim manufacturers will not do so, since those suppliers are dependent upon the apparel sector's utilization of the agreement to drive their business.

Many U.S. apparel companies had anticipated the opportunity to service the Australian market using U.S. made apparel. This long phase out stifles trade going both ways, even if such trade were to develop under the yarn forward rule.

Apparel companies did react positively to the fact that companies can still avail themselves of duty drawback./duty deferral provisions in the agreement.

VI. Membership of Committee

The members of ISAC 15 are Gerald Andersen, Neckwear Association of America; James Cook, Sara Lee Branded Apparel; Joe Deadwyler, Haggar Clothing Corporation; Shawn Dougherty, Dillon Yarn Corporation; Robert Ecker, Cordage Institute; Charles Hansen III, Consultant to Pillowtex; Michael Hubbard, American Yarn Spinners Association; Mark Jaeger, Jockey International, Inc.; Cass Johnson, American Textile Manufacturers Institute, Inc.; Jane Johnson,

Unifi, Unifi, Inc.; Robert Kaplan, Clothing Manufacturers Association of the U.S.; Stephen Lamar, American Apparel & Footwear Association; Lance Levine, MFI International Manufacturing, LLC; Connie McCuan-Kirsch, Textile Bag and Packaging Association; Wendy Wieland Martin, Kellwood Company; Richard Martino, Russell-Newman, Inc.; Peter Mayberry, Association of the Nonwoven Fabrics Industry; John Miller III, Esq., Carpet and Rug Institute; Carlos Moore, Consultant to Galey and Lord; John Nash Jr., Milliken and Company; Paul O'Day, American Fiber Manufacturers Association; Theodore Sattler, Phillips-Van Heusen Corporation; George Shuster, Cranston Print Works Company; Karl Spilhaus, National Textile Association; Augustine Tantillo, American Manufacturing Trade Action Coalition; Mary Vane, Invista, Inc.; and Richard Williams, Sr, Williams Companies.