

April 27, 2007

The Honorable Susan C. Schwab
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Schwab:

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 Trade Advisory Committee on Textiles and Clothing (ITAC-13) on the South Korea/U.S. (KORUS) Free Trade Agreement, reflecting diverse advisory opinions on the proposed Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Lamar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen Lamar
Chair
Industry Trade Advisory Committee
on Textiles and Clothing (ITAC-13)

The South Korea/U.S. (KORUS) Free Trade Agreement

**Report of the
Industry Trade Advisory Committee on Textiles and Clothing (ITAC-13)**

April 27, 2007

Industry Trade Advisory Committee on Textiles and Clothing (ITAC 13)

Advisory Committee Report to the President, the Congress and the United States Trade Representative on the South Korea/U.S. (KORUS) Free Trade Agreement

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 principal 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 Trade Advisory Committee on Textiles and Clothing (ITAC 13) hereby submits the following report.

II. Executive Summary of Committee Report

Committee members did not make a unified statement in support of or in opposition to the KORUS. As a result, they cannot make a unified statement about whether the KORUS promotes the economic interests of the United States or achieves the applicable overall and principal negotiating objectives set forth in the Trade Act of 2002, including the provision for equity and reciprocity in these sectors. Advisors offered a number of comments to express their diverse opinions about specific elements in the KORUS and the role this agreement may serve in relation to existing trade agreements.

Although unable to reach a consensus opinion on the agreement, advisors were unified in expressing concern that they were provided so little time to make a fuller assessment of the agreement during the 30-day review period normally provided under Trade

Promotion Authority (TPA) provisions. Although the agreement was notified on April 1, and although advisors received a briefing on April 5, key elements of the market access and rules of origin text were not uploaded to the cleared advisors web site until April 13. With a deadline of April 27, advisors had approximately two weeks to read, review and analyze the agreement. Given that this agreement appears to be the most complicated FTA yet negotiated – at least with respect to the textile and apparel industries – this shortened time period creates considerable concern. ITAC 13 members reserve the right to amend this report with additional views following more thorough consideration of the KORUS. Moreover, ***ITAC 13 recommends that, if Congress reauthorizes TPA, the Administration ask for a modification of the timetable so that the period for advisor review following notification be extended to at least 30 days after the full text becomes available to the advisory committees.***

Textile industry members were generally supportive of the rules of origin, believing they will ensure that the benefits of the agreement flow mainly to the signatory parties. However, they were critical of certain specific elements, such as the exclusion of components covered in recent agreements. Textile advisors also expressed strong concern over the fact that numerous items they deemed to be sensitive were afforded immediate duty free treatment. They also raised concerns that this agreement will pose dramatic challenges in regard to Custom's enforcement due to South Korea's proximity to China. Apparel members were very critical that not all textile and apparel articles were scheduled for immediate duty free treatment. They also expressed strong disappointment because they believe the rules of origin do not provide for sufficient flexibility to generate and sustain trade and investment with South Korea, and that they incorporate confusing and complicated new provisions that had not previously been discussed with the ITAC.

The footwear members were very supportive of the KORUS because the rules of origin reflect industry priorities. Rubber footwear members were pleased that the 17 sensitive footwear articles (see footnote in Section IV) receive a NAFTA style rule of origin and a long, non-linear duty phase out, while non-rubber footwear members were very pleased that the remaining footwear articles receive immediate duty free treatment and much more flexible rules of origin. The U.S. travel goods industry supports the rules and market access provisions for textile and non-textile travel goods, particularly since they provide immediate and reciprocal duty free entry and flexible rules of origin for textile and non textile travel goods.

III. Brief Description of the Mandate of the Industry Trade Advisory Committee on Textiles and Clothing (ITAC 13)

The Industry Trade Advisory Committee on Textiles and Clothing (the Committee) is established by the Secretary of Commerce (the Secretary) and the United States Trade Representative (the USTR) pursuant to the authority of section 135(c)(2) of the 1974 Trade Act (Public Law 93-618), as delegated by Executive Order 11846 of March 27,

1975. In establishing the Committee, the Secretary and the USTR consulted with interested private organizations and took into account the factors set forth in section 135(c)(2)(B) of the Act.

The Committee currently consists of 38 members from the textiles, clothing, footwear, leather, and travel goods industry sectors. The Committee is balanced in terms of points of view, demographics, geography, and company size. The members represent a full spectrum of textiles, clothing, footwear, leather, and travel goods interests ranging from importers to domestic manufacturers, and many combinations thereof. Collectively, they are involved in all facets of importing, exporting, and/or domestic production and, thus, present many diverse perspectives on this sector. The members, all of whom come from the U.S. private sector, serve in a representative capacity presenting the views and interests of these industry sectors. They are, therefore, not special Government Employees.

The Committee shall perform such functions and duties and prepare such reports as may be required by Section 135 of the Act, with respect to the industry trade advisory committees. The Committee advises the Secretary and the USTR concerning trade matters referred to in section 135(a)(1) of the Act, and is consulted regarding the matters referred to in section 135(a)(2) of the Act.

In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers, negotiation of trade agreements under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, and implementation of existing trade agreements affecting its sectors; and performs such 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 Trade Advisory Committee for Textiles and Clothing (ITAC 13)

ITAC 13 represents U.S.-based manufacturers and importers of fibers, yarns, textiles, clothing, footwear, leather, and travel goods and their inputs. Because these are global industries, some members produce and sell all over the world. Others produce almost entirely in the United States and are focused on the U.S. market, possibly in conjunction with co-production facilities in this hemisphere. Because the ITAC members hold widely diverging views on whether rapid opening of markets in the United States and around the world through the Free Trade Agreement (FTA) negotiations serve the best interests of these industries, ITAC 13 has not developed a uniform set of negotiating objectives.

Most of the members agree that there should be greater opening of markets globally. Members have sharply divergent views over how that should be accomplished, whether that involves greater U.S. market access for foreign products, and what role consumer perspectives should play in this debate. There are strong differences over how the

current agenda of trade negotiations can best accommodate the industries' needs to prepare for and accommodate new and on-going competitive pressures. 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. The Committee also strongly supports the inclusion of strong IPR/anti-piracy enforcement language in trade agreements so that U.S. trading partners will fully enforce their obligations and fully respect U.S. intellectual property rights. Finally, the Committee supports the inclusion of language in free trade agreements confirming the Berry Amendment protections for military clothing, textiles, and footwear purchased by the U.S. military.

In particular, the Committee urges clear and transparent customs procedures and anti-circumvention/enforcement requirements so firms doing business under specific trading regimes can do so with predictability and certainty. The Committee also supports consistency among free trade agreements on the rules of origin, documentation, and other requirements, noting that the current situation involving different rules and requirements for different trade agreements and preference programs is intolerable. However, there is considerable disagreement over which FTAs already negotiated present the best templates for future agreements.

The Committee would like to better understand how these individual FTAs fit together into a cohesive, market responsive trade policy, particularly as it affects each of the sectors represented on the Committee. The Committee urges the Administration to articulate its vision so that businesses can reduce the uncertainty in their long range strategic planning, and make appropriate use of their limited resources and investment.

A. Textiles and Apparel

The textile and apparel industry has gone through very difficult changes over the past 30 years. On-going global pressures, coupled with more recent challenges and opportunities triggered by NAFTA, Asian economic crises, the enactment of trade preference programs, and the accession of China to the World Trade Organization (WTO) have greatly affected this industry. Textile and apparel members on the Committee 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, is having a tremendous impact on the consumer and associated textile and apparel industries in countries producing and consuming textile and apparel products. They believe that the next few months and years represent a critical period for the U.S. textile and apparel industry as it absorbs the impact of the quota elimination on January 1, 2005. Committee members urge that the negotiation of all FTAs be conducted with this development in mind.

In particular, Committee members note that the U.S. textile industry is largely dependent on the coupling of supply chains in countries of close proximity, primarily North, Central, and South America. The U.S. is not a low cost producer, but linkages in the Western Hemisphere gain the advantage of quick delivery response in a rapidly changing, fashion driven industry. As a result, many urge that the primary focus of our textiles and apparel trade policy be directed toward strengthening the North, Central, and South American industrial platform and ensuring a level playing field with respect to other supplying countries.

With respect to particular FTAs, many apparel members prefer a rule of origin that offers sufficient flexibility, which they believe provide companies a chance to locate inputs based on best value and not national origin. Many generally oppose yarn forward rules, which they view as being too restrictive to create incentives for business and investment. Textile members are split, with many preferring a yarn forward rule of origin and others advocating a fabric forward approach or, in the case of some intermediate products, a simple tariff shift approach. In many cases, textile members strongly oppose provisions that provide opportunities for the use of non-originating inputs, such as Tariff Preference Levels (TPLs) or cumulation, which they believe benefit parties outside the agreement to the disadvantage of U.S. producers.

Apparel members strongly support market access provisions that provide for immediate duty free status and that permit continued use of duty drawback. They believe that, with the elimination of quotas, FTAs provide an important opportunity to secure two-way duty free access to create sourcing and market alternatives. Most textile members also generally support immediate duty free regimes, particularly with Western Hemisphere FTAs, when the rules of origin require originating inputs. They strongly oppose duty preferences for products that contain inputs that do not originate in the United States or in the FTA partner country. Moreover, they have expressed support for duty phase outs – rather than immediate duty free access – for sensitive products in FTAs with countries in Asia that possess competitive textile industries.

B. Footwear

Import penetration in the U.S. footwear market exceeds 98 percent, with about 85 percent of all U.S. footwear imports coming from China. Although the non-rubber footwear industry (which represents more than 90 percent of the footwear sold in the United States) has moved towards free trade, the rubber footwear industry remains supportive of protections in trade agreements that it hopes will help the remaining small number of U.S. manufacturers of rubber footwear stay competitive in today's economy.

Footwear members on the Committee advocate an agreement whereby all footwear, except for 17 sensitive rubber/fabric and plastic/protective footwear items^a, go duty-free immediately. This means that all non-rubber and many rubber/fabric and plastic/protective footwear items (95 percent of all footwear sold in the United States) can go duty-free immediately under any trade agreement. Furthermore, this footwear should be subject to simple and reasonable “substantial transformation” -style rule of origin with no local or U.S. content requirements. Tariffs on the 17 specific rubber/fabric and plastic/protective rubber footwear items should remain untouched if at all possible; if not possible, they should be phased out, preferably on a non-linear basis, over the longest period permitted in a given free trade agreement, and should be subject to the much more restrictive rules of origin that currently exist under the North American Free Trade Agreement (NAFTA).

C. Travel Goods (i.e. luggage, brief and computer cases, handbags, backpacks, purses, travel and duffle bags, flatgoods, wallets, and other travel goods products)

The U.S. travel goods industry has successfully transitioned from one of domestic manufacturing to one of primarily importing, warehousing and distribution companies. The events of September 11, 2001 and the resulting U.S. economic recession hit the travel-dependent travel goods industry very hard, forcing many firms to downsize or to leave the industry entirely through bankruptcy. The remaining firms have survived for a number of reasons, including the elimination of quotas on textile travel goods from all World Trade Organization (WTO) member countries on January 1, 2002. The elimination of quotas has allowed U.S. travel goods firms to respond to an increasingly discriminating U.S. consumer by offering a wider variety of high-quality products at lower prices. At the same time, U.S. travel goods firms have dramatically cut costs. Throughout this process, U.S. travel goods firms have learned that removing trade barriers for all travel goods (both textile and non-textile) has become one of the keys to remaining competitive in the travel goods market worldwide.

In addition, for historical reasons that were intended to protect the US textile industry, textile and non-textile travel goods have been treated differently in U.S. trade policy. As a practical matter, the marketplace makes no distinction between the two and most manufacturers deal in both types of travel goods.

Travel goods advisors have diverse opinions on whether this distinction should be maintained in U.S. trade policies. Some believe that having different rules for textile vs. non-textile travel goods is confusing and burdensome. They believe that all travel goods

^a Based on the Harmonized Tariff Schedule of the United States (HTSUS), the 17 rubber/fabric and plastic/protective footwear items that should receive special and differential treatment as part of any agreement are: 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.80, 6402.99.90, 6404.11.90, 6404.19.20. [Note: The products covered in these 17 HTS lines are reflected in the HTS 2007 as 20 HTS lines].

(both textile and non-textile as described in HTS 4202) should receive immediate, reciprocal duty-free access under a simple and flexible “substantial transformation” or “cut and sew/single transformation” rule of origin with no local or U.S. content requirements in these free trade agreements. Others view the distinction as meaningful and should be considered on a case-by-case basis for future FTAs. While they support the unified rule of origin and immediate duty free access accorded all travel goods (both textile and non textile) in the U.S./Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) and in other agreements in the Western Hemisphere, they believe this unified rule may not be appropriate with respect to other free trade partners. It should be noted that while there is a difference of opinion on this issue among travel goods advisers and Industry members, the trade association of the travel goods industry has consistently taken the position that all travel goods should receive the same unified cut and sew rules of origin as were applied in CAFTA-DR and the KORUS.

V. Advisory Committee Opinion on Agreement

The Committee presented mixed views on many aspects of the agreement relating to rules of origin, market access, and customs procedures.

A. Textiles and Apparel

Textile members generally believe this agreement will have a major impact on trade flows due to that fact that Korea is a significant producer and supplier of numerous textile and apparel items. They view KORUS as presenting unique concerns beyond those associated with previous free trade agreements such as CAFTA-DR, where the free trade partners were primarily apparel assemblers with limited textile capabilities. Considering that Korea is strong competitor in many categories in addition to apparel, there will be greater than normal ramifications for U.S. textile producers.

A group of fiber, yarn, and fabric producer advisors advised that no export opportunities to South Korea would be created by the agreement, therefore prevention of damage to domestic producers is an important goal. These advisors also report that significant proposals in the talks were made without prior consultation, and they conclude this directly led to “damaging, uneven, and dysfunctional outcomes.” They also conclude that the advice they provided about cross-fiber, yarn, and fabric competition was not heeded, nor was advice about the importance of avoiding “sharp duty reductions that create strong incentives for transshipment fraud well beyond the capacity of both governments to control.”

Apparel members were less optimistic that that KORUS will lead to new trade and investment patterns in the short or medium term, particularly because of the agreement’s rule of origin and duty phase out schedules. However, several expressed the view that the KORUS agreement could help serve as a counter to growing intra-Asia

trade – particularly between China or India and other Asian countries – and, in the longer term, help expand direct trade links between the United States and Asia

Most textile members expressed general support for the yarn forward rule, noting that it is substantially similar to yarn forward rules in other FTAs, providing consistency and reducing confusion. However, they strongly criticized the exclusion of sewing thread, narrow fabrics and pocketing fabrics from the rule of origin, noting that these products are in plentiful supply in the United States and South Korea. Furthermore, they noted that recent agreements, such as Panama, included these components and questioned why these provisions would not be extended in an agreement like Korea where there are already limited benefits for U.S. yarn, and fabric producers. Most textile members were pleased that KORUS did not include the majority of what they view as contentious rule-of-origin loopholes in the CAFTA-DR, such as tariff preference levels and cumulation. They feel that tight rules, without exceptions, fairly reserve the benefits of the agreement for the signatory countries as opposed to outside parties.

In contrast, some textile and all apparel members criticized this rule as being overly restrictive. Several textile members expressed a desire to see fabric forward rules or Special Regime provisions (similar to NAFTA, but with no cutting requirement) to accommodate particular products. Apparel members complained that the KORUS relies upon the yarn-forward approach, which they believe limits opportunities for trade between the two countries to take place and only leads to more confusing and burdensome compliance requirements. They noted that the rule contains only a few of the flexibilities contained in the CAFTA-DR and questioned why all the CAFTA-DR provisions were not simply carried forward into the KORUS agreement. Several also complained that the agreement contains no TPLs.

Many of the advisors focused comments on the lack of “cumulation” provisions. Textile members lauded the fact that these provisions were not included since they believe they undermine opportunities for U.S. textile interests while complicating enforcement activities. In contrast, apparel members complained that the lack of such cumulation provisions in KORUS misses several opportunities to create new markets for U.S. textile and apparel exports that flow through FTA partners (such as garments made in Guatemala with U.S. fabric exported to South Korea). Some apparel members also felt there was a missed opportunity by not covering Korea’s outward processing operations (OPA) in the Rule of Origin, especially since there is a provision that could see some future OPA with North Korea. In addition, several textile and apparel members questioned the absence of a cumulation-style specific rule – found in other trade preference programs and yarn forward free trade agreements – that permits the use of Israeli and Mexican nylon filament yarn.

Many textile and apparel advisors focused on the KORUS short supply procedures. While all advisors were pleased that the KORUS appears to adopt a more CAFTA-DR-friendly short supply process, members were unable to comment on the specific content

of the short supply list since no products have yet been designated. In general, textile members oppose the inclusion of products that have not been through a formal short supply review process, while apparel members believe it is only commonsense to include previously designated short supply items in future agreements. Many textile advisors approved of the concept of tying short supply access to a tariff preference level arrangement. These advisors believe that this new concept should serve as a model for future free trade agreements. Apparel members were extremely critical of provisions providing a quantitative limitation for short supply. They note that that this is a new concept, and that it is not reflected in any previous FTA. Apparel advisors only learned of this quantitative limit AFTER the agreement was notified; they urged that it NOT be used in any future agreement and that steps be taken to remove it before the KORUS is finalized. Advisors noted that some of the short supply language that is based on CAFTA-DR represents an improvement inasmuch as it corrects mistakes that are still contained in the CAFTA-DR text. In any event, many advisors pointed to the operation of a clear short supply process as one key to ensuring viability of this FTA in the future. They noted that properly managed short supply programs benefit both U.S. textile and apparel interests by facilitating opportunities to co-mingle originating and short supply textile items.

Most advisors expressed significant disapproval of the U.S. duty phase-out schedule for textiles and apparel. Textile advisors noted that numerous products identified as sensitive by the domestic industry were given immediate zero duty treatment. This is contrary to textile member advice throughout the negotiation process which stressed the critical importance of a lengthy tariff phase-out period for products deemed sensitive to the textile industry, such as those covered under the existing U.S./China textile bilateral agreement. These textile advisors believe that KORUS will undermine the China bilateral and create increased potential for illegal transshipment due to Korea's close proximity to China. In contrast, apparel advisors were concerned that not all textile and apparel articles were accorded immediate duty free treatment, which was the unified advice of U.S. advisors throughout the process. They believe that, without duty free access and with rules of origin they feel are too restrictive, there will be little incentive for trade to develop with South Korea. At the least, the duty phase out schedule adds a layer of complexity to the agreement, which makes it more difficult to use.

Both textile and apparel advisors noted that the South Korea tariff phase-out schedule made available to ITAC advisors (as of the filing of this report) still did not include textile and apparel HTS chapters 50-63. Advisors were, however, advised during briefings that the South Korean phase-out schedule was fully reciprocal on a line-by-line basis. We expect the legal scrub of the agreement to confirm and reflect this reciprocity commitment.

Apparel members expressed support that the KORUS permits duty drawback, as is the case with several other recently completed FTAs. Apparel members expressed support for Customs facilitation and IP protection improvements in the KORUS.

B. Footwear

The U.S. rubber and non-rubber footwear industry strongly support the KORUS, because the free trade agreement generally reflects the internal agreement reached by the industry. KORUS contains flexible substantial transformation rules of origin and immediate duty-free entry for all footwear (HTS Chapter 64), except 17 specific rubber/fabric and plastic/protective footwear items, which receive a long (12-year), non-linear phase-out under more restrictive NAFTA-style rules of origin.

C. Travel Goods

Travel goods advisors very strongly support the textile and non-textile travel goods rule of origin provisions of the KORUS. They support the immediate and reciprocal duty-free entry provisions for ALL travel goods and the simple and flexible “substantial transformation”-style rules of origin for ALL travel goods in the KORUS. Overall, U.S. travel goods industry members are deeply appreciative that the KORUS reflects this sector’s clear desire to have ALL travel goods (both textile and non-textile) become duty-free immediately and on reciprocal terms under simple and flexible rules of origin as the U.S. government successfully negotiated in CAFTA-DR.

VI. Membership of Committee

The members of ITAC 13 are:

Chairman: Stephen E. Lamar, American Apparel & Footwear Association

Vice Chair: Cass M. Johnson, National Council of Textile Organizations (Fabric)

James (Jerry) J. Cook, Hanesbrands, Inc.

Mitchell J. Cooper, Esq., Consultant representing the Rubber and Plastic Footwear Manufacturers Association

Jason C. Copland, Copland Industries, Inc.

Sudepto (Killick) K. Datta, Global Brand Marketing, Inc.

Shawn J. Dougherty, Dillon Yarn Corporation

Katherine (Kathi) M. Dutilh, Milliken & Company

Michael R. Gale, Consultant representing The Warnaco Group, Inc.

Nathanael (Nate) E. Herman, Travel Goods Association

Michael S. Hubbard, National Council of Textile Organizations (Yarn)

Frank K. Hurd, Carpet and Rug Institute

Mark S. Jaeger, Esq., Jockey International, Inc.

Jane L. Johnson, Unifi, Inc

Sarah (Sally) F. Kay, The Hosiery Association

Francis (Frank) X. Kelly, Liz Claiborne, Inc.

Michael D. Korchmar, The Leather Specialty Company

Henry (Skip) L. Kotkins, Jr., Skyway Luggage Company
John E. Larsen, New Balance Athletic Shoe, Inc.
Bernard Leifer, Esq., SG Footwear, Inc.
Lance R. Levine, MFI International Manufacturing, LLC
Jean H. Lineberger, Member, Board of Directors, U.S. Industrial Fabrics Institute
Wendy Wieland Martin, Kellwood Company
Richard D. Martino, Russell-Newman, Inc.
Peter G. Mayberry, INDA, Association of the Nonwoven Fabrics Industry
Sara L. Mayes, Gemini Shippers Group
John L. Miller III, American Floorcovering Alliance
Carlos F. Moore, Consultant representing Swift Gale, Inc.
Paul T. O'Day, American Fiber Manufacturers Association, Inc.
Onder Ors, Bates Uniform Footwear and Stanley Footgear
Theodore G. Sattler, Phillips-Van Heusen Corporation
George W. Shuster, Cranston Print Works Company
Karl Spilhaus, National Textile Association
Augustine D. Tantillo, American Manufacturing Trade Action Coalition
Mary K. Vane, Invista
Anderson D. (Andy) Warlick, Parkdale, Inc.
Richard Williams, Sr., PhD, Williams Companies, Inc.
Helga L. Ying, Levi Strauss & Company