

February 28, 2003

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.-Chile 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 Sector Advisory Committee
on Textiles and Apparel (ISAC-15)

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

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

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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.-Chile 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). The most significant interest revolves around the rules of origin and the issue of whether they might become a precedent for other trade agreements. Here there is a sharp division of opinions.

It is anticipated that Chile will not become a major trading partner in the textile and apparel sector, under any set of circumstances, and the Committee doubts that this agreement will significantly promote U.S. economic interests. The Committee would like to better understand the fit of these individual trade agreements into a cohesive, long range textile and apparel trade policy. The Committee urges the Administration to articulate their plan so that businesses can reduce the uncertainty in their strategic planning, and make appropriate use of their resources and investment.

Regarding rules of origin, the **fiber, yarn, and textile members** largely support the requirements of a yarn forward rule that grants benefits only to the signatories of the agreement, and not to third parties. They believe this condition is most conducive to U.S. economic growth, and is an appropriate precedent for future trade agreements. Because the agreement largely parallels NAFTA, it creates parity amongst our trading partners. The industry did, however, express concerns over the high level of Tariff Preference Levels (TPLs) that were included, which undermine the, otherwise, favorable origin rules.

In contrast, **apparel members** largely expressed disappointment with the FTA, because the NAFTA rule of origin is restrictive and is made worse by additional complications and burdens. They argue that the rule of origin discourages apparel trade among the beneficiary countries, which will in turn diminish sales opportunities for fabric and trim suppliers. They urge that the rule of origin 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 apparel companies.

Comments are also made on customs procedures, safeguard procedures, and intellectual property rights provisions.

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 19 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 ISAC 15 Report on U.S.-Chile FTA Page 2

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 open 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 in 2005 as part of the 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.

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 positively as supporting U.S. business:

- o 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);
- o An effort to provide equity amongst our trading partners by using the basic NAFTA template;
- o Reciprocally staged tariff reductions;
- o Strong customs enforcement measures; and
- o A safeguard mechanisms to deal the with damaging imports

2. Market Access

Members of the textile sector are 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.

The high level of **TPLs** that were included, however, is considered excessive and unnecessary, in light of the Short Supply provision that is available. TPLs are intended to be a transitional concession, and the textile sector believes that TPLs of 2 million Square Meter Equivalents for non-originating products that will get the full benefits of the agreement even after that transition period are far too large. This level is not connected to any actual shortage of production capacity in the partner countries, and it diminishes the export potential for U.S. yarn and fabric manufacturers. The textile sector, however, is pleased that the sensitive segment of wool fabrics is excluded from the TPL. As the U.S. moves forward in negotiations with broader reach (FTAA) and encompasses countries with a far larger pool of suppliers for every step of the value chain, the textile sector believes there is no need for TPLs. Any lack of a particular product can be handled on an exception basis via the Short Supply mechanism.

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 of origin will be more comprehensively applied with a yarn forward rule of origin for all fabric parts.

3. Safeguard Mechanism

If invoked, the safeguard provision requires compensation in the form of trade concessions equal to the impact of the safeguard. The U.S. government will be unlikely to agree to a safeguard remedy if it has to compensate Chile with other trade concessions. This provision could render the safeguard useless.

4. Intellectual Property Rights

There are no provisions that address the issue of intellectual piracy of textile designs, copyrights, trademarks and patterns.

B. Comments from the Members Representing the Apparel Sector

1. General

Apparel members on the Committee^a (including those who produce some of their own textile inputs) have a largely negative assessment of the FTA. While they are pleased that the FTA envisions immediate duty phase out for all originating apparel goods, they are extremely disappointed that the principal rule of origin is overly restrictive and complicated. This new FTA follows 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. 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. Thus, an agreement that might have held potential benefits for U.S. textile and trim manufacturers will also not do so, since they are dependent upon the apparel sector's utilization of the agreement to drive their business. As a result, it will have a negligible impact on the U.S. economy. 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 so slim.

2. Market Access

The **rule of origin** in the U.S.-Chile 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), which will make it extremely difficult to locate and supply the various inputs needed for garment production. Although this “essential character” approach is far superior to one embodied in the Caribbean, African and Andean trade preference programs

^a One apparel member abstained from offering an opinion or comments on the FTA for the purposes of this report.

(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. This restrictive rule of origin is mitigated somewhat by a tariff preference level (**TPL**) that provides some flexibility to use non originating inputs and receive immediate duty free treatment. This TPL is limited, however, and declines, rather than grows, over time. Several deviations from the NAFTA rule of origin - with respect to elastomeric yarns and brassieres - also complicate the program. Apparel members question the wisdom of such further restrictions, especially since this means there will be a different rule of origin with respect to bras in virtually every free trade agreement or preference program. Further, the elastomeric exception appears to benefit a very narrow group of U.S. based suppliers while adding much complexity and risk to the FTA.

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 build upon the short supply mechanisms of other trade preference programs that are also contained in the Singapore FTA.

With respect to the rule of origin, the apparel sector strongly urges that these provisions not be seen as a model for FTAs where the U.S. has a strong interest in promoting apparel production, such as the Central America FTA or the Free Trade Area of the Americas. As those agreements are advanced, the apparel members strongly urge the development of a new rule of origin structure based on future economic priorities and realities and not on historical models that no longer work and only hasten the migration of the U.S. textile and apparel industry to low cost producers in Asia.

3. Customs Procedures

Apparel members took note of the unusual Customs procedures embedded in the FTA. The apparel members still have many questions over how these 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.

4. Safeguard Mechanism

Apparel members also noted that there is a special safeguard mechanism for textile and apparel products. Noting that there is a basic safeguard mechanism in place for all goods under the FTA, apparel members questioned how the two mechanisms interact. They also questioned why, given the very strict rule of origin that will discourage apparel trade with Chile, 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.

VI. Membership of Committee

The members of ISAC 15 are Gerald Andersen, Neckwear Association of America; Jimmie Conner, American Yarn Spinners Association; James Cook, Sara Lee Branded Apparel; Gale Foster, Cordage Institute; Charles Hansen III, Consultant to Pillowtex; Mark Jaeger, Jockey International, Inc.; Robert Kaplan, Clothing Manufacturers Association of the U.S.; Stephen Lamar, American Apparel & Footwear Association; Wendy Wieland Martin, Kellwood Company; Peter Mayberry, Association of the Nonwoven Fabrics Industry; Connie McCuan-Kirsch, Textile Bag Manufacturers Association; Carlos Moore, American Textile Manufacturers Institute; John Nash Jr., Milliken and Company; Paul O'Day, American Fiber Manufacturers Association; Darcy Price, Levi Strauss; Ted Sattler, Phillips-Van Heusen Corporation; George Shuster, Cranston Print Works Company; Karl Spilhaus, National Textile Association; and Mary Vane, DuPont Textiles and Interiors.