

November 15, 2005

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

Dear Ambassador Portman:

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 U.S./Oman 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 extending to the right.

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

The U.S./Oman Free Trade Agreement (US/OFTA)

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

November 15, 2005

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 U.S./Oman Free Trade Agreement (US/OFTA)

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 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 US/OFTA. As a result, they cannot make a unified statement about whether the US/OFTA promotes the economic interests of the United States or achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002, including the provision for equity and reciprocity in these sectors. However, they offered a number of comments to express their diverse opinions about the US/OFTA and the role this FTA may serve as a template for future agreements, particularly those in the Middle East.

Textile industry members, although largely supportive of the rules of origin, expressed dismay over the inclusion and size of exceptions, such as the Tariff Preference Level, to the rule of origin. Several textile members stated their outright opposition to this FTA because of the inclusion of these exceptions. Apparel members, on the other hand, noted that these TPL provisions are necessary because they feel the basic rule of origin is too burdensome to conduct

business. They expressed concern that the basic rule provides insufficient flexibility or predictability to generate and sustain trade and investment under the US/OFTA or any similarly designed FTA for the Middle East.

The U.S. nonrubber footwear industry generally supports the U.S.-Oman FTA. The U.S. rubber footwear industry takes no position on the US/OFTA as a whole, but wishes to register its concern that the US/OFTA does not incorporate the industry's request for a NAFTA-style rule of origin for certain rubber footwear (see footnote in Section IV). The U.S. travel goods industry strongly opposes the fabric forward rules of origin for textile travel goods, believing such a provision effectively renders the agreement useless for most U.S. travel goods firms. The U.S. leather tanning industry takes a neutral position on the US/OFTA.

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 41 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 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 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 how that should be accomplished, whether that involves greater U.S. market access for foreign products, and what interests 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.

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 agreement 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 the fit of these individual FTAs among each other and 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 earlier this year. 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 and Central 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 and Central 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 so that companies may locate inputs based on best value and not national origin. They generally oppose yarn forward rules as being too restrictive to create incentives for business and investment, and favor rules that, at a minimum, permit cumulation, single transformation, and state of the art short supply provisions. Many also support tariff preference levels (TPLs). Textile members are split with many preferring a yarn forward 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 TPLs or cumulation.

Apparel members strongly support market access provisions that provide for immediate duty free status and that permit continued use of duty drawback. Textile members tend to favor longer duty phase-outs and generally do not support duty preferences for products that do not originate in the United States or in the other parties to an FTA.

B. Footwear

Import penetration in footwear exceeds 98 percent, with about 80 percent of all U.S. footwear imports coming from China. Although the nonrubber 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 specified rubber/fabric and plastic/protective footwear items^a, go duty-free immediately. This means that all nonrubber 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 rules 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 undergone a difficult transition in recent years. 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, including the very small group of U.S. manufacturers that remain, 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 coverings), has become one of the keys to remaining competitive in the travel goods market worldwide.

In addition, for historical reasons, which have no bearing on today's travel goods industry, textile and non-textile travel goods have been treated differently. As a practical matter, the marketplace makes no distinction between the two and most manufacturers deal in both types of travel goods. They believe that having different rules for textile vs. non-textile travel goods is confusing, burdensome, and produces no good result for any party. In fact, while a piece of textile luggage

^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.

may have a textile outer surface, textiles make up a minority of the value, the weight, and the market impact of the product. Features such as handles and wheels and framing systems are more costly, weigh more, and provide the essential differences that consumers discern between products.

It is the strong desire of the travel goods advisors on ITAC, reflecting a position held by the travel goods industry, that all travel goods (both textile and non-textile coverings as described in HTS 4202) should receive immediate, reciprocal duty-free access under a simple and flexible “substantial transformation” rule of origin with no local or U.S. content requirements, and that all travel goods be negotiated and implemented outside the textile and apparel chapters for all FTAs.

D. Leather

The U.S. leather industry has suffered significantly over the last decade due to foreign competition and the fact that many of their customers, U.S. footwear and travel goods manufacturers, have moved offshore. Most of the few leather tanneries that remain have survived by specializing in high-end automotive and furniture upholstery leather. The U.S. leather industry has and will continue to fight to have foreign countries eliminate export restraints on cattle hides, the principal raw material in the leather industry. The U.S. leather industry also continues to attack foreign subsidies that artificially support leather-using industries (i.e. footwear, travel goods) in foreign countries. Finally, the U.S. leather industry actively promotes the opening of foreign markets to U.S. leather.

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. Many noted that there is unlikely to be much trade developed with Oman and commented on the role this FTA plays as a template for future FTAs and the extent to which it paves the way for further Middle East trade integration.

A. Textiles and Apparel

Several textile members expressed strong support for the yarn forward rule and the fact that it mirrors similar yarn forward rules in other FTAs to provide consistency and reduce confusion. They further believe that this rule advances regional integration goals by making it easier for individual FTAs to be harmonized into a future Middle East Free Trade Agreement. Nevertheless, other textile and most 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 yarn forward rule is so burdensome that it will fail to foster trade or investment links. They questioned why the rule does not contain provisions that provide for more built in flexibility or why a more flexible overall rule, such as

the one used in the successful U.S./Jordan free trade agreement, was not used.

Many of the advisors focused on the inclusion of Tariff Preference Levels (TPLs). Although several acknowledged that TPLs are intended to provide flexibility to the agreement, most textile advisors strongly criticized the inclusion of TPLs and complained that the 50 million square meter equivalent level creates an exception that is so large (roughly equal to current trade) that it undermines the basic rule of origin for its ten year duration. Many textile advisors suggested it creates opportunities for countries that are not parties to the US/OFTA, such as China, to benefit from the agreement, at the expense of U.S. textile manufacturing firms. Several textile interests expressed relief that the TPL does not cover wool items, but expressed concern that there are no sub limits or allocations among categories to prevent injury to individual products. Apparel members felt that the TPLs created opportunities for trade that are otherwise lacking in the US/OFTA because of the basic yarn forward rule. They expressed concern, however, that TPLs do not provide a sufficiently predictable environment since they are limited, must be allocated by government officials, and expire.

Several textile members lauded the fact that the agreement contains no “cumulation” provision. In contrast, apparel members questioned how the broader goal of regional integration can be accomplished if textile and apparel trade with Oman cannot use inputs of other Middle East FTA partners, such as Israel, Jordan, Bahrain, or Morocco. Several noted the absence of a specific rule – found in other trade preference programs and yarn forward free trade agreements – that permits the use of Israeli nylon filament yarn and questioned why the United States did not insist upon such a provision in this FTA.

Most textile and apparel advisors questioned the US/OFTA’s short supply procedures, which are vague and provide no clear guidelines for how short supply petitions are filed or considered. Several also questioned why additional short supply items were not designated (such as in CAFTA) or why there is no mechanism to designate automatically future affirmative short supply items from other trade programs (such as in CAFTA or the Singapore FTA). Several noted that the lack of clear short supply procedures harms both U.S. textile and apparel interests by limiting flexibilities and by restricting opportunities to co-mingle originating and short supply textile items. Others expressed concern that the vague wording made it unclear if the procedures were as strict as those provided for in the various trade preference programs.

Apparel members expressed support that the US/OFTA permits duty drawback, as is the case with several recently completed FTAs.

B. Footwear

The U.S. nonrubber footwear industry generally supports the US/OFTA, while the U.S. rubber footwear industry takes no position on the US/OFTA. The U.S. footwear industry as a whole, however, is extremely concerned with the failure of this FTA to reflect the agreement reached by

the industry – 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 the longest phase-out possible under more restrictive NAFTA-style rules of origin – that has been included in other recently concluded FTAs. Instead, the US/OFTA contains a Generalized System of Preferences (GSP)-style rule of origin – substantial transformation plus 35 percent value-added – for ALL footwear. The 35 percent value-added requirement adds an unnecessary burden for all non-17 footwear items. For the 17 items, the GSP rule of origin is much less restrictive than the NAFTA-style rule of origin requested by the rubber footwear industry.

C. Travel Goods

Travel goods advisors strongly oppose the textile travel goods provisions of the US/OFTA. They believe the fabric-forward rule of origin for textile travel goods is so restrictive that it effectively renders the US/OFTA useless for U.S. travel goods firms. The U.S. travel goods members do, however, 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 non-textile travel goods in the US/OFTA. Overall, U.S. travel goods industry members are deeply disappointed that the US/OFTA does not reflect this sector’s clear desire to have ALL travel goods (both textile and non-textile) become duty-free immediately under simple and flexible rules of origin. These members believe treating ALL travel goods the same would greatly simplify the US/OFTA for U.S. travel goods firms, making the US/OFTA more consistent and reducing additional and onerous burdens (including Customs documentation and inspection) that would prevent U.S. travel goods firms from fully utilizing and benefiting from the US/OFTA.

D. Leather

While the U.S. leather tanning industry would ordinarily be against any FTA, the industry is neutral on the U.S.-Oman FTA because of the insignificance of Oman as a potential source for competition for the U.S. industry.

VI. Membership of Committee

The members of ITAC 13 are:

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

First Vice Chair: Jane Johnson, Unifi, Inc.

Second Vice Chair: Fawn Evenson, Footwear Division, American Apparel & Footwear Association

J. Richard Abraham, Airway Industries, Inc.

Gerald Andersen, Men's Dress Furnishings Association, Inc.
Jim Conner, Consultant representing Parkdale Mills
James Cook, Sara Lee Branded Apparel
Mitchell Cooper, Esq., Consultant representing the Rubber and Plastic Footwear
Manufacturers Association
Jason C. Copland, Copland Industries, Inc.
Sudepto K. Datta, Global Brand Marketing, Inc.
Joe Deadwyler, Haggard Clothing Corporation
Shawn J. Dougherty, Dillon Yarn Corporation
Kathy Dutilh, Milliken & Company
Michael Gale, The Warnaco Company, Inc.
Charles M. Hansen III, Consultant representing Pillowtex Corporation
Nate Herman, Travel Goods Association
Michael S. Hubbard, American Yarn Spinners Association, Inc.
Mark S. Jaeger, Esq., Jockey International, Inc.
Cass Johnson, National Council of Textile Organizations
Francis X. Kelly, Liz Claiborne, Inc.
Michael Korchmar, Korchmar Leather Specialty Company
Henry L. Kotkins (Skip), Jr., Skyway Luggage Company
John Larsen, New Balance Athletic Shoe, Inc.
Bernard Leifer, SGFootwear & Company
Lance R. Levine, MFI International Manufacturing, LLC
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, Esq., American Floorcovering Alliance
Carlos F. Moore, Consultant representing Galey & Lord
Charles S. Myers, Leather Industries of America
Paul T. O'Day, American Fiber Manufacturers Association, Inc.
Toni R. Ray, Hobo International
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, Inc.
Richard Williams, Sr., PhD, Williams Companies, Inc.
Helga L. Ying, Levi Strauss & Company