

February 1, 2006

The Honorable Robert Portman  
United States Trade Representative  
600 17<sup>th</sup> 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./Peru Trade Promotion 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 U.S./Peru Trade Promotion Agreement (US/PTPA)

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

February 1, 2006

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./Peru Trade Promotion Agreement (US/PTPA)

## **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/PTPA. As a result, they cannot make a unified statement about whether the US/PTPA 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/PTPA and the role this agreement may serve as a template for future agreements, particularly those in the Western Hemisphere.

Textile industry members were largely supportive of the rules of origin, believing they will ensure that the benefits of the agreement flow mainly to the signatory parties. Apparel members, although appreciative of the immediate duty phase out in the agreement, expressed strong disappointment because they believe the rules of origin do not provide for sufficient flexibility to generate and sustain trade and investment with Peru or the Andean region.

The footwear members generally support the US/PTPA because the rules of origin generally 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 the longest duty phase out, while non-rubber footwear members were generally 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 non-textile travel goods, but 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.

### **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 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.

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 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 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. Most textile members also support immediate duty free regimes when the rules of origin require originating inputs, but generally strongly oppose 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 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<sup>a</sup>, 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 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), has become one of the keys to remaining competitive in the travel goods market worldwide.

In addition, for historical reasons that have no bearing on today's travel goods 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. 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 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, in many areas, provide the essential differences that consumers discern between products.

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<sup>a</sup> 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.

Therefore, it is the strong desire of the travel goods advisors on the ITAC, reflecting a position held by most in the travel goods industry, that all travel goods (both textile and non-textile 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 they be negotiated and implemented outside the textile and apparel chapters for all FTAs.

## **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 Peru and commented on the role this agreement plays as a template for future FTAs and the extent to which it makes up part of the Western Hemisphere textile and apparel partnership. However, others felt the agreement was a step in the right direction with regard to reserving the benefits of the agreement to the signatory parties and reducing transshipment opportunities through a tight rule of origin.

### **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 with other hemispheric FTAs and that a simpler approach makes customs enforcement easier. 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, as was the case with the CAFTA-DR.

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 questioned how the broader goal of regional integration can be accomplished if textile and apparel trade with Peru cannot use inputs of other FTA partners, such as Mexico, or the CAFTA-DR countries. Nevertheless, several textile and apparel members applauded the presence 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.

Other apparel interests expressed strong concern that deviations from the CAFTA-DR in this agreement almost always favor the more restrictive approach. They note that the US/PTPA does

not contain other flexibility provisions that were in CAFTA-DR, such as the single transformation rules for boxer shorts, girls dresses, or brassieres, but does contain the more burdensome requirements from CAFTA-DR, such as the sewing thread, elastomeric, elastic strip, and pocket fabrics provisions.

However, other textile members were pleased that the US/PTPA did not retain what they view as contentious rule-of-origin loopholes included in the CAFTA-DR, such as tariff preference levels, cumulation, single transformation, and the original exclusion of pocketing fabrics. They feel that tight rules of origin, without exceptions, fairly reserve the benefits of the agreement for the signatory countries – the countries that made concessions and are opening their own markets.

Most textile and apparel advisors focused on the US/PTPA's short supply procedures. While all advisors were pleased that the US/PTPA appears to adopt a more CAFTA-DR-friendly short supply process, several apparel members felt the initial short supply list contains too few products (including products already found to be in short supply in other FTA and trade preference programs). 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.

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

#### B. Footwear

The U.S. rubber and non-rubber footwear industry generally support the US/PTPA, because the agreement generally reflects the agreement reached by the industry – flexible substantial transformation rules of origin (albeit with a regional value content requirement) 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. Non-rubber members urged that the regional value content requirement for the non-17 footwear articles be viewed as a provision solely for this agreement and not as a precedent for future FTAs.

#### C. Travel Goods

Travel goods advisors very strongly oppose the textile travel goods rule of origin provisions of the US/PTPA, which they believe are antiquated and do not reflect a consensus in the industry. They believe the fabric-forward rule of origin for textile travel goods is so restrictive that it effectively renders the US/PTPA 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/PTPA. Overall, U.S. travel goods industry members are deeply disappointed and frustrated that the US/PTPA 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/PTPA for U.S. travel goods firms, making the US/PTPA 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/PTPA.

## **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, Hagggar Clothing Corporation

Shawn J. Dougherty, Dillon Yarn Corporation

Kathi 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, National Council of Textile Organizations (Yarn)

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

Cass Johnson, National Council of Textile Organizations (Fabric)

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  
Paul T. O'Day, American Fiber Manufacturers Association, Inc.  
Onder Ors, Bates Uniform Footwear and Stanley Footgear  
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