

September 27, 2018

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

Dear Mr. Ambassador:

In accordance with section 105(b)(4) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, 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 11 (ITAC) on the Trade Agreement with Mexico and potentially Canada reflecting diverse advisory opinion(s) 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
Textiles and Clothing, ITAC-11

A Trade Agreement with Mexico and potentially Canada

Report of the
Industry Trade Advisory Committee on Textiles and Clothing

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Textiles and Clothing Industry Trade Advisory Committee

Advisory Committee Report to the President, the Congress, and the United States Trade Representative on the Trade Agreement with Mexico and potentially Canada.

I. Purpose of the Committee Report

Section 105(b)(4) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and section 135(e)(1) of the Trade Act of 1974, as amended, require that advisory committees provide the President, the Congress, and the U.S. Trade Representative with reports 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 Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

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 11 (Committee or ITAC) hereby submits the following report.

II. Executive Summary of Committee Report

While the Committee does not have a consensus view of the outcome, there is a consensus view in support of the trade partnerships that exist today among North American textile, apparel, footwear, and travel goods companies. We endorse the effort to modernize NAFTA, and, if Canada joins, we believe that the Agreement does reflect modernization and improvement. However, without Canada, many feel the Agreement would not be an improvement. A judgment on that question cannot be made until we see the final language of the Agreement and until we see whether Canada joins.

Views presented in the report reflect assessments the Advisors presented on whether they feel the Agreement represents an improvement over the underlying North American Free Trade Agreement (NAFTA). In presenting these assessments, all advisors expressed support for the

inclusion of Canada in this Agreement and they expressed their belief that this economic platform should remain trilateral. We believe continuation of a partnership uniting Mexico, Canada, and the United States – as the current NAFTA does – promotes the economic interests of our industries and the United States.

III. Brief Description of the Mandate of the Committee

The Committee was 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 considered the factors set forth in section 135(c)(2)(B) of the Act.

The Committee currently consists of 24 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, they bring diverse perspectives to the Committee. 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.

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 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.

Section 135(e)(1) of the Trade Act of 1974 requires that the Committee meet at the conclusion of negotiations of major trade agreements and provide the President, the United States Trade Representative, and Congress with a report regarding that agreement.

IV. Negotiating Objectives and Priorities of (Committee)

The Committee represents U.S. based manufacturers and importers of fibers, yarns, textiles, clothing, footwear, leather, and travel goods and their inputs. Some members produce and sell all over the world, while others produce entirely or almost entirely in the United States, possibly in conjunction with co-production facilities in this hemisphere. Because the members hold widely divergent views on whether rapid opening of markets in the United States and around the world through FTA negotiations serve the best interests of these industries, the Committee 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 support 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 FTAs confirming the Berry Amendment protections for clothing, textiles, and footwear purchased by the U.S. military.

In particular, the Committee urges effective, clear, and transparent customs procedures and anticircumvention/enforcement requirements so firms doing business under specific trading regimes can do so with predictability and certainty. The Committee also supports consistency among FTAs on the rules of origin, documentation, and other requirements, with some members 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.

With respect to this negotiation, there is broad consensus in support of modernization of NAFTA, and an additional focus on upgrading it to strengthen U.S. and North American manufacturing. However, as this report indicates, there is a diversity of opinion on how best to accomplish that and whether the Agreement achieves that result.

V. Advisory Committee Opinion on a Trade Agreement with Mexico and potentially Canada

Trilateral Agreement:

All members believe that one of the key strengths of the current NAFTA is its trilateral nature. The threat to have an Agreement only with Mexico and exclude Canada is of great concern to many of our members. While others are less concerned and feel that it is a good thing for the Agreement to move forward even if only with Mexico, all agree that the Agreement is strongest and provides the maximum benefit if it is trilateral. For 25 years, NAFTA has supported North American, and even global, value chains, throughout this industry. The Committee strongly supports inclusion of Canada in any Agreement going forward and urges all parties to redouble their efforts to ensure the NAFTA remains a trilateral trade pact.

Market Access:

All advisors welcomed the continuation of duty free treatment for originating goods, and they agree on no changes to the market access schedules.

Rules of Origin:

Textile Members: The textile members believe that the rules of origin in the revised Agreement should encourage more use of U.S. yarn and fabric inputs. While expressing appreciation that there was some level of reduction to two of the Tariff Preference Levels (TPLs) with respect to Mexico, members representing domestic textile producers voiced concern that TPL reductions were limited to historically unused portions of the quotas and do not impact current use levels. Given concerns that China is a significant beneficiary under the NAFTA TPL structure and that a goal at the outset of the NAFTA renegotiation effort was to eliminate unnecessary rule of origin exceptions, domestic industry members feel that a significant opportunity was missed to eliminate or at least more substantially scale back the TPLs.

Regarding new chapter rules pertaining to Chapters 61, 62, and 63 requiring the use of North American sewing thread, pocketing, narrow elastics fabrics, and coated fabrics, members representing U.S. manufacturers of these inputs applauded these provisions and foresee clear benefits that will now accrue to U.S. producers formerly left out of the origin requirements under the original NAFTA terms. However, they expressed disappointment with the lengthy transition periods that were included before the new rules will take effect.

Apparel Members: Members representing the apparel industry felt that changes to the rules of origin generally went in the wrong direction. They would have preferred inclusion of more flexibility, rather than less, so that more companies could use the Agreement. For example, they disagree with the reduction of TPLs since those provisions support production in the U.S. and Mexico. While some key levels were preserved, the discussion should have been about increasing levels that were set 25 years ago, not decreasing. Apparel members likewise do not support the inclusion of new chapter rules, particularly since those restrictions undermine the development of a regional industry including Central American partners. They do support the elimination of one outdated chapter rule on linings and welcome corresponding changes to the Special Regime program. They are pleased with the flexibilities for rayon fibers, which are important to the industry and with the inclusion of a 10 percent *de minimis* rule. And while they don't like restrictive rules, they do welcome phase in periods to give companies adequate time to educate, and ensure compliance of, their supply chains.

Restrictive rules of origin, such as the ones included in the Agreement, only discourage companies from using the Agreement. If fewer apparel companies source under the terms of this Agreement, they will buy fewer U.S. textiles, which will hurt U.S. fabric and yarn exports and manufacturing as well. The possibility that Mexico may become even less important to the U.S. apparel industry, and consequently lead to lower demand of U.S. textiles, is particularly concerning since about half of all U.S. yarn and fabric exports go to NAFTA countries for conversion into finished products like apparel.

Footwear and Travel Goods Members: Since the Agreement makes no changes to the rules of origin for these products, Committee members largely expressed no opinion on the changes, although footwear members representing the domestic industry expressed strong support for

the *status quo*. Several members without domestic U.S. production, however, did believe there was a missed opportunity for the rules of origin for these products to be updated to be more flexible as they are in other trade agreements. U.S. manufacturers disagreed with this sentiment.

Customs Matters:

Apparel Members: Apparel members continue to question the value of separate customs enforcement provisions for the textile and apparel industry given the presence of solid customs enforcement provisions for the overall Agreement. With respect to overall customs provisions, apparel members expressed support for the inclusion of many trade facilitation provisions and an increase in Mexico's *de minimis* level (although they would have favored a larger increase). They were disappointed, however, that the restriction on using duty drawback will continue to discriminate against U.S. companies by not allowing companies to deduct extra tariffs they paid on non-originating inputs that are not covered by the rules of origin as is the case in other modern FTAs the U.S. has negotiated.

Footwear and travel goods members: Without expressing an opinion about a separate customs enforcement provision for textiles and apparel, these members aligned themselves with comments in the paragraph above.

Textile Members: The addition of specific textile and apparel customs enforcement provisions consistent with recent U.S. FTAs was also identified as a key improvement.

Proclamation Authority:

Apparel Members: Apparel members suggest that the implementing bill contain language that permits future rule of origin changes to be made without requiring an Act of Congress. Such a situation already occurs in the case of commercial availability and would be needed if updated rules of origin were required to accommodate new fashion or technology trends. Not only would this help prevent a reoccurrence of the past 25 years – when NAFTA was unable to be updated to reflect a changing industry – but it would align the textile and apparel sector with other sectors that permit more flexible rules changes (following negotiated outcomes and consensus consultation with industry and Congress). Apparel members note that the requirement of an Act of Congress before changes could be made to the U.S. Central America Free Trade Agreement (CAFTA) has on multiple occasions delayed negotiated corrections – that had been requested by the textile industry – over the past decade.

Textile Members: Textile members do not support the proposed request that proclamation authority be added. It is standard practice in previous FTAs that the president's authority to modify by proclamation specific rules of origin pertaining to textile or apparel goods has been expressly limited. This recognizes the fact that the U.S. textile manufacturing sector is highly sensitive, and as such the rules and market access schedules governing textiles and apparel trade are carefully crafted to ensure that U.S. market-opening concessions are balanced and should not be altered without the express approval of Congress.

Committee on Textiles and Apparel:

The construct of a Committee on Textiles and Apparel was also welcomed to address sector-specific issues including customs matters, TPL administration, and barriers to trade. Representatives from the used clothing sector are particularly encouraged that this Committee will serve as a forum to discuss impediments to market access for worn clothing, a long-standing concern for this industry. It is recommended that an early area of work for this Committee focus on long standing issues, including overzealous customs enforcement by the Mexican government and outdated and onerous Customs related trade barriers that Mexico still maintains.

Consultation:

All members expressed their appreciation with USTR, and specifically the textiles office, for ensuring close consultation with advisors during the negotiations. Members also commended the Advisory Center for creating advisory committee briefing sessions at many of the negotiating venues. This access, plus the periodic posting of documents on the cleared advisor website, helped keep advisors informed of many developments on a fast-moving negotiation. Advisors believe they can better perform their role as advisors with timely access to information and the Committee will continue to recommend ways to improve the system.

VI. Membership of Committee

Chairman

Mr. Stephen E. Lamar
Executive Vice President
American Apparel & Footwear Association

Vice-Chairman

Ms. Kathie M. Leonard
President and Chief Executive Officer
Auburn Manufacturing, Inc.

Members

Ms. Patricia (Patti) M. Bates
Vice President, Sales
Glen Raven Technical Fabrics, LLC
Representing The United States Industrial Fabrics Institute

Ms. Sara O. Beatty
Principal, Whitehaven Trade Advisors
Representing National Council of Textile Organizations

Mr. Sean P. Cady
Vice President, Global Supply Chain
and Global Responsible Sourcing
VF Corporation

Mr. Edward G. Cochrane
Vice President and Secretary
Mount Vernon Mills, Inc.

Mr. Shawn J. Dougherty
Director, Strategy and Trade Affairs
Dillon Yarn Corporation

Mr. Dean Draughn
Vice President, Materials and Commercialization, Sourcing
Under Armour, Inc.

Ms. Katherine M. Dutilh
Consultant
Representing Milliken Company

Marc L. Fleischaker, Esq.
Partner and Chair Emeritus
Arent Fox LLP
Representing Rubber and Plastic Footwear Manufacturers Association

Ms. Jessica E. Franken
President
The Franken Group, LLC
Representing INDA: Association of the Nonwoven Fabrics Industry

Monica J. Gorman, Ph.D.
Vice President, Global Compliance
New Balance Athletics, Inc.

Mr. Nathanael "Nate" E. Herman
Director, Government Relations
Travel Goods Association

Ms. Maristella Iacobello
Vice President, Customs Compliance
and Government Relations
PVH Corp.

Mark S. Jaeger, Esq.
Senior Vice President Human Resources,
General Counsel and Secretary Jockey International, Inc.

Ms. Jane L. Johnson
Manager, Government Relations
Unifi, Inc.

Mr. Michael D. Korchmar
Chief Executive Officer
The Leather Specialty Company

Ms. Stephanie H. Lester
Senior Director, Government Affairs
Gap Inc.

Mr. Stephen M. Mostofsky
President and Chief Executive Officer
TTI Global Resources, Inc.

Mr. R. Matthew Priest
President and Chief Executive Officer
Footwear Distributors and Retailers of America

Mr. Charles L. Sanders
Vice President, Customs and Trade Compliance
Union Underwear Company, Inc. dba Fruit of the Loom

Mr. Timothy C. Voit
International Division Manager, Thomaston Mills Division
ATD-American Company

Mr. Eric F. Warshaw
President
ErexCorp
representing Secondary Materials and Recycled Textiles Association

Jeffrey B. Whalen, Esq.
Senior Counsel, Customs and International Trade
NIKE, Inc.