

April 6, 2004

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./Morocco Free Trade Agreement, reflecting diverse advisory opinions on the proposed Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Lamar", followed by a vertical line.

Stephen Lamar
Chair
Industry Sector Advisory Committee
on Textiles and Apparel (ISAC-15)

The U.S./Morocco Free Trade Agreement (FTA)

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

April 2004

March 19, 2004

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./Morocco 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, encompassing divergent opinions held by the various sectors of this industry (fiber, yarn, textiles, textile bag manufacturers, and apparel, including those with vertical textile interests). These opinions reflect the various import, export, manufacturing, and marketing interests that members hold, and which are described further in Section III. The most significant interest revolves around the rules of origin and the issue of whether these rules might become a precedent for other trade agreements. Here there is a division of opinions.

Morocco is generally not viewed in the Committee as a major textiles and apparel trading partner with the United States. It is seen as neither lowest cost nor having an immediate quick response capability, except with respect to the European market. As a consuming market, Morocco is disadvantaged with a low per capita income and a low apparel and sewn products consumption rate. An FTA with Morocco has the potential to reorient textile and apparel trade between the United States and this country, and thus stimulate trade between two countries. However, the provisions in the agreement itself, which may be offset by economic pressures arising from the

global elimination of textile and apparel quotas among WTO member countries, suggest that the trade and investment benefits for this sector will be minimal and difficult to realize.

In general, the **fiber, yarn and textile** members believe the U.S.-Morocco FTA is not likely to significantly enhance U.S. business, and may have a negative impact. The majority of the yarn and textile ISAC members applauds the yarn forward rule of origin (modeled after the NAFTA, Chile, and Singapore agreement template), and believe it provides the best basis to be reciprocal and to create parity between the U.S. and its FTA partners. But, while these rules are intended to ensure that the majority of the benefits accrue to the signatories of the agreement, they argue that the size of the Trade Preference Level (TPL) negates many of these benefits. They believe that the TPL creates new opportunities and another route for third party countries to gain duty and quota-free access to the attractive U.S. market, at the expense of U.S. mills and to the disruption of Western Hemisphere value chains on which many of these mills depend. These third parties can be “free riders” and not have to offer the U.S. industry any reciprocal access. Since the TPL is much larger than the total current trade in textiles and apparel, they believe that all new business in the short term will be directed toward third party yarns and fabrics utilizing existing supply chains rather than stimulating new business for U.S. fibers, yarns, and fabrics. While some textile members view the TPL to be unnecessary and potentially damaging, other textile members believe it makes the agreement unacceptable. Textile members believe such TPLs should not be included in future agreements. Additionally, textile members continued to voice concern over what they believe to be a proliferation of free trade agreements at a time when U.S. textile producers are trying to adjust to the final phase of the 10-year quota elimination, much of which occurs at the end of this year, which has the potential to be devastating to the textile industry. These members believe that the U.S./Morocco FTA will exacerbate the U.S. trade deficit, due to the significant disparity in income and purchasing power of U.S. versus Moroccan consumers.

Apparel members, including those with textile operations, expressed disappointment with the FTA, because they believe the NAFTA/Singapore/Chile-style rule of origin is restrictive and is made worse by additional complications and burdens. They argue that the rule of origin is restrictive and discourages apparel trade among the beneficiary countries, which will in turn diminish sales opportunities for U.S. fabric and trim suppliers. Although they believe these restrictions are eased somewhat by the provision of a Tariff Preference Level (TPL), they feel the agreement lacks other needed flexibilities, including the ability to use many inputs that are already in short supply or that may be determined to be in short supply in the near future. They are also concerned there is no clear linkage to the U.S./Jordan and U.S./Israel FTAs that are already in force. Apparel members are also disappointed that the FTA does not provide for immediate and reciprocal duty free access for all textiles and apparel articles during the first year of the agreement, but note that a tariff rate quota formulation may initially capture some of these existing trade flows under a zero duty framework. They urge that the rule of origin and duty phase out schedule in this FTA not be seen as a precedent for other FTAs.

Committee members disagree over the impact of the FTA and the benefits it holds for the U.S. economy, and for this sector in particular. The Committee is divided over whether this

agreement advances U.S. economic interests or achieves significant equity and reciprocity for U.S. textile and apparel companies.

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 26 members from the textiles and apparel industry sectors. The Committee is comprised of different perspectives, demographics, geography, and company size. They represent a full spectrum of textile and apparel 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 a U.S. business in the fiber, 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 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 U.S.-based manufacturers and importers of textile and apparel products and their inputs. Because ISAC 15 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 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 on January 1, 2005, the final stage of the 10 year long phase out of the Agreement on Textiles and Clothing, will have a tremendous impact on the consumer and associated textile and apparel industries in countries producing and consuming textile and apparel products.

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 textile and apparel 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 long-anticipated changes in the world trade system. 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/enforcement requirements so firms doing business under specific trading regimes can do so with predictability and certainty.

The Committee believes that the next few months and years represent a critical period for the U.S. textiles and apparel industry as it absorbs the impact of the quota elimination later this year. Many anticipate that there will be an enormous consolidation of production globally, with China, India, and Pakistan potentially emerging as major supplier nations. 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.

The Committee would also like to better understand the fit of these individual FTAs among each other and into a cohesive, market responsive textiles and apparel trade policy. 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.

V. **Advisory Committee Opinions on Agreement**

1. **Comments from members representing the Textiles Sector**

From the perspective of the textile members, there are a number of aspects of the agreement that are viewed very positively as supporting U.S. business:

- They view this as an effort to provide parity amongst U.S. trading partners by using the basic NAFTA/Chile/Singapore template;
- A yarn forward rule of origin that requires significant value added processes, and has some tightening of what they believe to be loopholes in NAFTA (brassiere 75% fabric rule, and inclusion of all elastomeric textile yarns under the rules of origin);
- Strong customs enforcement measures;
- A safeguard mechanism to deal with the potential for damaging imports; and
- Preservation of the Berry Amendment for U.S. military procurement, requiring fibers, yarns, and textiles be of U.S. origin.

On the other hand, there are three major areas of concern. First, they believe the size of the **Tariff Preference Level** is large, and that it negates the incentive to use U.S. fibers, yarns, and fabrics. This TPL equals 30 million square meter equivalents, which is 150% of the average of Morocco's last three years' trade with the U.S. It continues at this level for 4 years then phases to zero after the 10th year. They believe that most of the business in the next couple years will be of non-U.S. materials, taking advantage of this TPL.

Second, textile members are also concerned about the mechanism that provides for potential **liberalization of the rules of origin if significant trade does not develop between the countries, or if future agreements between other countries have different rules of origin** for men's and boys' woven underpants, briefs, nightshirts, pajamas, bathrobes, and dressing gowns; women's and girls' slips, petticoats, nightdresses, pajamas, bathrobes, dressing gowns, undershirts, bras, panty girdles, girdles, and corsets. They believe this list includes some very key product categories currently supplied by Western Hemisphere value chains. These committee members fear this provision could simply create a redistribution of existing business to foreign competition at a time when they feel the industry already has excess capacity and is undergoing enormous stress from the phase out of quotas. This group prefers that a short supply mechanism be used if fibers, yarns or fabrics are not available in sufficient quantities.

Third, the textile members are also concerned that the rules of origin for apparel apply only to 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 ensuring the majority of the benefits of

the agreement go 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.

A few textile members believe that the rule of origin would have better served the interests of the textile community if it contained a fabric forward rule of origin or offered other flexibilities.

2. Comments from members representing the Apparel Sector

Apparel members on the Committee (including those who produce some of their own textile inputs) were disappointed with elements of this FTA, particularly since they feel it represents a missed opportunity in this industry. The **rule of origin** in the U.S.-Morocco 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). Although they see this “essential character” approach as far superior to rule of origin embodied in the Caribbean, African and Andean trade preference programs (which measures origin using all fabric elements of a given garment), they feel it is still too restrictive to serve as the foundation for any trade creation with Morocco. Several deviations from the NAFTA rule of origin - with respect to elastomeric yarns and brassieres - also complicate the program. Apparel members note that the rule of origin does not clearly articulate any flexibility with respect to inputs from other U.S. FTA partners, including those in the Middle East, especially since the Administration has stated that one of the goals of the U.S./Morocco FTA is to further such integration. Apparel members see a further missed opportunity to include any kind of meaningful short supply mechanism or permission to use already recognized short supply inputs, such as is the case with the U.S./Central America FTA. Although the FTA features several provisions that provide for origin reviews, such provisions are currently seen as too vague to serve as a foundation for trade and investment.

Apparel members note that the above restrictions in the rule of origin are mitigated somewhat by a Tariff Preference Level (TPL), although they are unclear how that TPL will be allocated or how it will work in conjunction with the unusual **tariff rate quota/duty phase out schedule** that was negotiated. They also note that the TPL expires after a few years. Apparel members believe, especially given the economic pressures created by a quota free world beginning in January 2005, that the FTA would be much more viable, and easier to use, had the agreement provided for full, immediate and reciprocal elimination of all textile and apparel duties in the first year of the agreement.

Apparel companies did react positively to the fact that companies can still avail themselves of duty drawback duty deferral provisions in the agreement. Apparel members were also pleased that the Morocco FTA continues the requirements of the Berry Amendment, as enshrined in other trade agreements, which mandates that all textiles and clothing for the U.S. military must be made in the United States from U.S. inputs

Apparel members still have many questions over how the Customs 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. Apparel members also noted that there is a special safeguard mechanism for textile and apparel products in addition to one in place for all goods under the FTA. They questioned why, given what they feel is a very strict rule of origin that will likely discourage apparel trade with Morocco, 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.

In sum, most apparel members believe the overall rule of origin combined with continuing questions on the duty phase out schedule will make it difficult to build a predictable trade relationship with Morocco under the terms of this FTA.

VI. Membership of Committee

The members of ISAC 15 are: Gerald Andersen, Men’s Dress Furnishings Association, Inc.; James Cook, Sara Lee Branded Apparel; Joe Deadwyler, Haggard Clothing Corporation; Shawn Dougherty, Dillon Yarn Corporation; Robert Ecker, Cordage Institute; Charles Hansen III, Consultant to Pillowtex; Michael Hubbard, American Yarn Spinners Association; Mark Jaeger, Jockey International, Inc.; Jane Johnson, Unifi, Inc.; Robert Kaplan, Clothing Manufacturers Association of the U.S.; Stephen Lamar, American Apparel & Footwear Association; Lance Levine, MFI International Manufacturing, LLC; Connie McCuan-Kirsch, Textile Bag and Packaging Association; Wendy Wieland Martin, Kellwood Company; Richard Martino, Russell-Newman, Inc.; Peter Mayberry, Association of the Nonwoven Fabrics Industry; John Miller III, Esq., Carpet and Rug Institute; Carlos Moore, Consultant to Galey and Lord; John Nash Jr., Milliken and Company; Paul O’Day, American Fiber Manufacturers Association; Theodore Sattler, Phillips-Van Heusen Corporation; George Shuster, Cranston Print Works Company; Karl Spilhaus, National Textile Association; Augustine Tantillo, American Manufacturing Trade Action Coalition; Mary Vane, Invista, Inc.; and Richard Williams, Sr, Williams Companies.