



January 25, 2010

Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the United States Trade Representative  
600 17th Street, N.W.  
Washington, DC 20508

**RE: FR Notice Volume 74, Number 240, Page 66720 (December 16, 2009) – Request for Comments Concerning Proposed Trans-Pacific Partnership Agreement**

To Whom It May Concern:

Thank you for providing us this opportunity to submit this statement concerning the proposed Trans-Pacific Partnership Free Trade Agreement (FTA).

As you know, the American Apparel & Footwear Association (AAFA) is the national trade association representing the apparel and footwear industries, and their suppliers. Our members produce and market sewn products throughout the United States and the world, including the potential partners that would be a part of this Trans-Pacific Partnership (TPP). In short, our members make everywhere and sell everywhere.

We support the negotiation of this FTA because we believe it will have a positive impact on our industry and on the United States. As we move into a full FTA partnership with our TPP partners, we can:

- create markets for U.S. inputs and finished products in new countries such Vietnam, New Zealand and Brunei, since U.S. exports and U.S. branded products will now qualify for duty free status in some of the fastest growing and richest countries in Asia and the Pacific;
- foster alternative sourcing opportunities for U.S. clothing and footwear companies eager to develop new partnerships and cultivate new supplier relationships;
- harmonize and simplify wildly divergent customs requirements and rules of origin that govern trade between the United States and many of the TPP countries to make it easier for existing levels of trade to occur and allow new trade to grow; and
- promote business certainty and investment predictability through a permanent trade relationship.

At the same time, this agreement poses minimal risk of injury to the United States. Import penetration in our industries is considerable, reflecting the economic reality that apparel and footwear is, for the most part, no longer produced in the United States. In 2008, for example, U.S. imports supplied 99 percent of the U.S. footwear market and 97 percent of the U.S. apparel market.

Production that is still based in the United States tends to follow niche domestic or export markets, supply the U.S. military (through the Berry Amendment), or exist to serve certain quick response requirements of the U.S. market. The Trans-Pacific Partnership would not likely displace this U.S. based production and would likely offer that production new export opportunities. Instead, this FTA would help the United States and TPP countries remain competitive on its existing trade flows – particularly in light of the current economic downturn – or even increase trade with the TPP countries by diverting trade flows from other countries without FTAs with the United States.

Moreover, while certain TPP countries are significant suppliers of footwear and apparel to the U.S. market, the TPP region does not represent a significant source of apparel or footwear for the U.S. market. For the year ending November 2009, U.S. imports from all of the TPP countries combined accounted for LESS THAN 8 PERCENT of total U.S. apparel imports and LESS THAN 5.6 PERCENT of total U.S. footwear imports.

Meanwhile, the TPP countries combined comprise one of the world's largest markets for apparel, textiles and footwear, importing over \$20 billion worth in 2008 (the most recent data available). U.S. cotton growers, yarn spinners, fabric mills and apparel manufacturers have a small, but growing slice of this huge market. U.S. cotton exports to the TPP countries reached \$250 million in 2009, more than doubling in just the last two years alone. The region is now the 5th largest customer of U.S. cotton in the world. U.S. yarn and fabric exports surpassed \$300 million for the year ending November 2009, making the TPP countries the 7th largest buyer of U.S.-made yarn and fabric in the world. In fact, the TPP countries have doubled their purchases of U.S. yarn and fabric just since 2002.

If negotiated properly, an FTA will continue to anchor the trade that already enjoys duty free status, while creating enough incentives to stimulate new trade and investment linkages. The more flexible and simple the rule of origin is with respect to the FTA, the more likely we will see existing production and investment stay, and new production and investment created. Under this scenario, we can easily envision U.S. imports from and U.S. exports to TPP countries continuing to grow, both in absolute levels and in terms of market share. As previously noted, this FTA will lead to continued demand for U.S. inputs, which will positively affect U.S. companies and their U.S. workers, especially in the current economic climate.

But the benefits to the United States and its TPA partners that are outlined above are severely diminished if this agreement is implemented in a manner that is too restrictive or complicated. The economic incentives offered by duty free access to the U.S. market are very powerful. But if the cost of achieving that duty free status – through burdensome compliance, costly customs procedures, and expensive input requirements – exceeds the margin of the duties saved, the incentive quickly evaporates. We would encourage the negotiation of an FTA with simple and flexible rules of origin, commonsense customs procedures that reflect and facilitate predictable business operations, and market access provisions that commence with a duty free environment immediately.

With regard to textiles and apparel, we do not view the model that the United States negotiated in a number of recent agreements – including those with the TPP countries of Chile, Singapore, Australia, and Peru – as being viable enough to encourage trade and investment in this industry. We would strongly discourage this approach in this FTA and in future agreements. With regard to footwear, as we outline in more detail below, we see the rule of origin negotiated in the U.S./Central America Dominican Republic Free Trade Agreement (CAFTA-DR) and the Korea/U.S. Free Trade Agreement (KORUSFTA) as the precedent for this FTA and for all future agreements.

As you know, many of the TPP countries and the United States are important players in the highly integrated and interconnected global apparel, textile and footwear markets. While many TPP countries are significant suppliers of finished apparel and footwear, the region is also a major importer of these products as well as a major importer all of the cotton, yarn, leather, fabric and other findings and trimmings that go into these products. Likewise, while the United States is a major manufacturer of high quality yarns, fabric and other textiles, it is also a major importer of those products as well as the finished apparel and footwear that those products help make. The TPP countries both sell these products to and buys these products from not only the United States, but also many of the same countries that the United States sells to and buys from – whether they are neighbors in the region or across the ocean.

## ***RECOMMENDATIONS***

### *Tariffs*

Under any agreement, apparel, footwear and textiles should receive immediate and reciprocal duty-free access.

### *Rules of Origin (ROO)*

For apparel, we strongly believe this FTA should incorporate critical “cumulation” provisions so that it may be integrated easily with other FTAs that the United States and many of the TPP countries have negotiated. The benefit to the United States of this and other FTAs is magnified if the FTAs are negotiated such that they may be linked together, rather than as stand alone ventures. As you know, such “cumulation” is the part of the basis for the United States to pursue the Trans-Pacific Partnership in the first place as the United States already has individual, but very different, FTAs with four of the seven potential TPP partners.

Moreover, for apparel, other provisions that permit the use of non-originating inputs in other circumstances, such as a robust and transparent commercial availability or “short supply” mechanism, are also critical. This is important to ensure that U.S. and regional inputs do not lose sales opportunities because they are combined with those that are not found in commercial quantities in the United States or the TPP countries.

The FTA should also recognize that there are many products that are no longer produced in the United States. Our association has long advocated inclusion of liberal rules of origin for the footwear, clothing and textile products that are no longer produced in the United States.

For apparel and textile products, the agreement should apply a cut and sew rule for certain apparel and textile products that are no longer produced in the United States, nor for which fabrics are produced in the United States or in the TPP countries. The apparel and textile products that received a cut and sew rule in the U.S./Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) and the products that were excluded from quotas under the recently expired U.S./China Bilateral Textile Agreement should receive a cut and sew rule under the TPP agreement.

With footwear, we have worked with other U.S. footwear associations to advocate a simple substantial transformation style origin rule coupled with immediate and reciprocal duty free treatment for all but 19 specific HTS lines. A substantially similar formula is already contained in CAFTA-DR, the KORUSFTA and in the preferential rules for footwear for the Caribbean Basin and the Andean region. This rule should be applied to footwear in the TPP agreement as well.

As with the cumulation concepts, such provisions help generate additional economic activity under the FTA and ensure that the FTA does not grow stale or too rigid as the economy changes.

### *Other Provisions*

Previous FTAs has been bedeviled by burdensome customs and paperwork requirements that have made obtaining duty-free access under those FTAs cost prohibitive and, in turn, rendered those FTAs worthless and ineffective, particularly for our industries. We encourage the U.S. negotiators to carefully consider this experience when negotiating the customs requirements for this agreement.

Further, we support the continued right of U.S. companies to avail themselves of duty drawback and duty deferral programs, as enshrined in the existing preference programs as well as in our agreements with Central America and Australia.

On government procurement, we urge transparent and predictable measures as well as the continued application of the Berry Amendment, which requires the U.S. military to source textiles, clothing and footwear from the United States.

We trust that this agreement will pay particular attention to the vigorous enforcement and continuing needs for widespread observance of intellectual property rights (IPR) in TPP countries, particularly since this issue has been raised in the context of counterfeit brands for both apparel and footwear in many of the TPP countries over the past few years.

We support an FTA that contains labor provisions consistent with the requirements of the May 10<sup>th</sup> agreement. Our members strive to ensure that their products are produced under legal, ethical and humane conditions and want to ensure that our trading partners share these values. On this point, we would encourage the dialogue created by the FTA negotiations to serve as an opportunity to more fully engage the TPP governments on the need for peaceful and democratic change in Burma.

Finally, we note that, even when an FTA is concluded and approved by Congress, the benefits often do not take effect in a meaningful way until after the regulatory process is complete. As the United States pursues this FTA, we encourage approaches that will permit the post-approval regulatory process to proceed quickly and in a predictable fashion so that companies are not forced to place trade and investment decisions on hold because of an uncertain regulatory regime. Delays in issuing customs regulations and unclear guidance documents should be avoided at all costs.

### ***CONCLUSION***

AAFA has long held the view that flexible and simple rules of origin will make any FTA more successful and the proposed Trans-Pacific Partnership is no exception. If apparel and footwear companies have more options as they source their inputs in a particular FTA, they can manufacture a product that can be competitive in the U.S. market while enjoying new opportunities for U.S.-made and U.S.-branded products in other markets. At the same time, the more restrictive and cumbersome the rule of origin is, the more difficult it is to produce an article under the specific terms of the FTA. Although an article may technically qualify for duty free access in the U.S. market, the costs associated with restricted input choices, high customs compliance and verification procedures and incomplete and confusing rule-making can outweigh the duty advantages associated with a particular preference program or FTA.

In today's post-quota world, the marginal benefit of any particular preference program will become even smaller since the quota costs formerly imposed on many non-preference partners will diminish. As a result, it will become increasingly important for the costs associated with using any FTA to diminish as well if we want those programs to remain competitive for textiles and apparel. While there is no similar action forcing event for footwear, the heavy concentration of this industry in China and the critical need for diversification – U.S. imports from China account for almost 85 percent of all footwear sold in the United States – makes a flexible and pragmatic FTA for footwear equally desirable.

In conclusion, we reiterate our very strong support for this FTA and our hope that it will be swiftly negotiated and implemented in a commercially meaningful manner so that the benefits noted above can be quickly realized.

Please accept my best regards,

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive style with a large, stylized initial "K".

Kevin M. Burke  
President & CEO