



**we wear<sup>SM</sup> jobs**

September 4, 2012

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**RE: FR Notice Volume 77, Number 141, Page 43133 (July 23, 2012) –  
Request for Comments on Negotiating Objectives With Respect to  
Mexico's Participation in the Proposed Trans-Pacific Partnership  
Trade Agreement**

To Whom It May Concern:

On behalf of the American Apparel & Footwear Association (AAFA), I am writing in strong support of Mexico's participation in the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement. First and foremost, Mexico's participation in the TPP will provide an opportunity to address critical supply chain issues that are severely impacting the normally mutually-beneficial apparel, footwear, and textile relationship between the United States and Mexico. Further, Mexico's participation in the TPP not only provides an opportunity to greatly expand the benefits of the TPP for U.S. workers, U.S. businesses, and U.S. consumers, but also provides the opportunity for a much-needed update to the current North American Free Trade Agreement (NAFTA), to bring the agreement in line with today's market realities.

The American Apparel & Footwear Association (AAFA) is the national trade association representing apparel, footwear, and other sewn products companies, and their suppliers, which compete in the global market. Our membership consists of 350 American companies – both large and small – which represent one of the largest consumer segments in the United States. Our members also produce, market, and sell apparel and footwear in virtually every country around the world, including Mexico.

The U.S. apparel and footwear industry directly employs more than four million U.S. workers. These important jobs include industry executives, textile mill workers, logistics specialists, compliance managers, sourcing managers, wholesalers, retail floor associates, technical designers, and marketing professionals, just to name a few. The industry also supports countless other U.S. industries, like the more than 37,000 transportation jobs it requires to move products from the port to the sales floor and the 235,000 dry cleaning jobs required to maintain and protect the industry's quality product. The U.S. apparel and footwear industry represents more than three percent of the entire U.S. workforce.

Mexico is a strong partner to many U.S. apparel, footwear, and textile, manufacturers, brands, and retailers. This relationship supports thousands of U.S. jobs. AAFA continues to take steps to encourage a strengthened economic relationship between the United States and Mexico. Last year, AAFA joined other associations in urging the U.S. Department of Transportation to restart the cross-border long-haul trucking pilot program and continue to urge that it be made permanent. AAFA believes the ability to move product quickly, safely, and efficiently across the border is critical to the future success of the U.S.-Mexico apparel, footwear, and textile partnership.

AAFA has consistently supported Mexico's participation in the Trans-Pacific Partnership (TPP) Free Trade Agreement. Nevertheless, while the U.S.-Mexico apparel, footwear, and

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textile partnership remains relatively strong and healthy today, a number of critical supply chain issues must be addressed if it is to remain so and should be noted when considering Mexico's possible entrance into TPP.

Over the past two years, we have witnessed several initiatives by the Mexican government that target our industry with damaging and costly policies that erode the competitiveness of U.S. companies and undermine their ability to employ U.S. workers. These harmful actions include the imposition of burdensome requirements for imports, the threat of new anti-dumping duties on footwear, and an overall lack of transparency within the system of rulemaking.

### **Critical Supply Chain Issues Must be Addressed before Mexico Joins the TPP**

Mexico over the last two years has imposed burdensome import documentation requirements to substantiate preference claims under NAFTA. There have been multiple instances over the last two years where Mexican authorities have performed audits on American textile companies and sought documentation well in excess of what is required under NAFTA. While AAFA understands the need for proper enforcement, this zealotry, by exceeding the scope of the requirements, has severely damaged the ability of U.S. textile exporters to ship to Mexico under NAFTA.

After many complaints from American businesses and the United States Department of Commerce regarding these outlandish requests for documentation, representatives of Mexico's revenue body—the *Servicio de Administración Tributaria* (SAT)—promised to make several changes to their auditing process. The promised changes would supposedly lessen paperwork and other burdens on U.S. textile mills and apparel companies to comply with the audits. This would be a welcome move within our industry.

Regrettably, however, AAFA members have not seen any of the promised changes. In addition, assurances were made to U.S. government officials that details of the new auditing process would be published on the SAT website in February 2012, over 7 months ago, but this information also has yet to be provided.

Instead, several AAFA members are still struggling with the burdensome and arbitrary SAT audits. These companies are not seeing any relief nor are they being provided information on how to successfully comply with SAT's requirements.

Frankly, we are dumbfounded that this issue has not been fully resolved. Notwithstanding our strong support for Mexico's participation in the TPP, Mexico's continued pursuit of these burdensome audits, given the likelihood that they are in violation of their NAFTA commitments, raises serious questions as to whether the Mexican Government is fully prepared to take on commitments necessary to make it a full partner in the TPP.

Furthermore, AAFA remains concerned with the Mexican government's history of imposing unjustified and/or WTO-illegal restraints on apparel, footwear, and textile imports through such mechanisms as dumping or safeguard duties or new customs documentation requirements or procedures. AAFA applauds Mexico for achieving a strong first step in addressing this issue when it removed, as scheduled, longstanding safeguard duties on imports of apparel and footwear from China in December 2011.

Earlier this year, AAFA learned of an agreement made between Mexico and China that would avoid a re-imposition of safeguard duties and instead created a solution that is beneficial for all parties involved. Many AAFA members source footwear in China for the Mexican market and therefore have a strong interest in this agreement. However, details of the agreement did not surface until several months after the agreement took effect and there has still been very little communication from the Mexican government on what foreign companies must do to satisfy the agreement's strict requirements. AAFA has asked the Mexican Ministry of Economy to provide AAFA and our members with clear information about this agreement but we have not yet received an answer.

Instead, Mexican Secretary of Economy Bruno Ferrari has made several public statements that Mexico may still re-impose safeguard duties in the future. This continued threat creates an unwelcoming environment for U.S. businesses and an unstable trade relationship.

Finally, Mexico's inclusion in the TPP offers a great opportunity to further one of the unrealized goals of NAFTA, the much needed harmonization of regulations across North America, from labeling and customs requirements to product safety regulations and enforcement.

As with any long-term relationship, there are many other outstanding issues between the two countries which impact this important supply chain. As it approaches Mexico's participation in the TPP, we urge the U.S. government to use as its guide its own annual *National Trade Estimate* reports on Mexico from the last 10 years.

### **TPP – What Should a 21<sup>st</sup> Century Agreement Look Like? Not Like NAFTA!**

In order to support today's global apparel and footwear value chains, and the millions of U.S. workers who depend on them, the TPP must be a "21<sup>st</sup> century agreement." Again, with Mexico's possible participation in the TPP, this means a sharp break with the rules embodied in NAFTA. While NAFTA was "state of the art" in 1994, NAFTA does not reflect the realities of today's global economy. Moreover, NAFTA did not contain any of the mechanisms necessary to make it a "living" agreement. To put this in perspective, is anyone today still using the "state of the art" computer they had on their desk in 1994?

So, what do we mean by a "21<sup>st</sup> century agreement?"

For footwear, this means building upon the successful approach embraced in all of the free trade agreements negotiated over the last decade. For footwear no longer made in the United States, the vast majority of the U.S. footwear market, this means immediate and reciprocal duty-free access under the most flexible rules of origin possible. For those footwear items still produced in the United States, the TPP agreement should recognize this fact and incorporate rules of origin and duty phase-out schedules accordingly. In most recent FTAs, for example, these "sensitive" items were subject to very restrictive rules of origin and very long, back-loaded, duty phase-out schedules.

For travel goods, this means building upon the successful approach embraced in CAFTA-DR and the KORUSFTA, immediate and reciprocal duty-free access under the most flexible rules of origin possible.

For apparel, this means breaking with the 20<sup>th</sup> century paradigm of "yarn-forward" rules of origin, which would require that all of the materials that go into a garment originate and be assembled in a TPP country to receive duty-free treatment. "Yarn-forward" ignores the realities of today's global value chains.

Just as important, "yarn-forward" has failed to provide any of the benefits its proponents claim for U.S. manufacturers and U.S. jobs. "Yarn-forward" is an "all or nothing" approach that requires all yarn and fabric, as well as all linings, sewing thread, elastomers and other trims, to be made in the TPP region. If any one of these inputs does not originate in the region, the whole garment is disqualified from duty benefits. For example, if all of the yarn and fabric is U.S.-made, but the sewing thread comes from Korea, the entire garment loses all duty benefits. Past U.S. FTAs with the TPP countries have shown that such a "yarn-forward" or "all or nothing" approach does not spur new U.S. exports of yarns and fabrics. Instead, combined U.S. yarn and fabric exports to these 4 U.S. FTA partners – Australia, Chile, Peru, and Singapore – have remained virtually unchanged over the last decade. On the other hand, U.S. yarn and fabric exports to countries that are not subject to these "yarn-forward" "all or nothing" rules, but have a vibrant apparel industry, like Vietnam or Malaysia, or even China, have skyrocketed over the last decade.

Instead, the TPP should embrace more flexible and simple rules of origin for apparel. Specifically, the rules should:

- Base the rule of origin (ROO) for apparel on either a change in tariff heading (CTH) or a regional value-content (RVC) requirement. A change in tariff heading would require any product in an apparel chapter (chapters 61 and 62) to be transformed within the region from any heading outside of that chapter. With an RVC rule, the value of those processes (and the

- inputs they create) within the territories must account for a minimum percent [35%] of the total value of the garment with a specific value calculation;
- Limit tougher product-specific ROOs to sensitive products when necessary and appropriate, meaning there is data establishing sufficient availability of inputs in commercial quantities within the TPP territory;
  - Allow outward processing of intermediary products and not penalize products that use TPP-country inputs;
  - Harmonize the ROOs for all TPP countries, including those that currently have FTAs with the United States;
  - Guarantee the “ability to cumulate” among all TPP partner countries to facilitate regional integration;
  - Establish a transparent and commercially meaningful “Commercial Availability” [Short Supply] process; and,
  - Create a process to allow “cumulation” with other countries that have FTAs with all TPP countries.

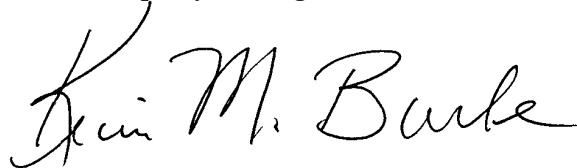
Further, all apparel should receive immediate and reciprocal duty-free entry.

## Conclusion

We believe the TPP can truly be a “win-win-win” for U.S. jobs, U.S. manufacturers, and the U.S. apparel and footwear industry, but only if the TPP is a “21<sup>st</sup> century agreement” that recognizes and embraces the realities of today’s global apparel and footwear value chains and the 4 million U.S. jobs dependent on it. We strongly support the addition of Mexico to the TPP as it can only enhance the benefits of TPP for the U.S. apparel and footwear industry. However, Mexico’s inclusion must be used to address important supply chain issues, such as fixing the current critical problems facing the U.S.-Mexico supply chain and modernizing NAFTA to reflect today’s global realities.

Thank you for your time and consideration in this matter. Please contact Nate Herman of my staff at 703-797-9062 or by e-mail at [nherman@wewear.org](mailto:nherman@wewear.org) if you have any questions or would like additional information.

Please accept my best regards,



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