



December 3, 2010

Marilyn R. Abbott
Secretary to the Commission
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

RE: Docket No. 1210-5 - Possible Modifications to the International Harmonized System Nomenclature

Dear Ms. Abbott:

This is a joint submission of the American Apparel and Footwear Association (AAFA), Footwear Distributors and Retailers of America (FDRA), Rubber and Plastics Footwear Manufacturers Association (RPFMA) and Sporting Goods Manufacturers Association (SGMA) (the "Associations"). The members of the Associations account for virtually all of the sports and athletic footwear manufactured, imported, distributed and sold in the United States. They also account for a significant percentage of global sales of this footwear. The members include adidas, American Sporting Goods, Asics, New Balance, Nike, Puma, Reebok and Under Armour, among others.

The Associations wish to state at the outset that our support is premised on the fact that the below proposal would not impact the current tariff rate structure on U.S. Imports of athletic footwear in any way. As stated below, the sole purpose of this proposal is to 1) reflect changes in the trade and in technology regarding athletic footwear since the inception of the WCO and 2) provide more accurate and detailed information on the athletic footwear trade worldwide. The Associations pledge to work with the U.S. government to ensure that the results of this process, and this proposal, in no way affect the current duty rates imposed on U.S. imports of athletic footwear.

Further, the Associations urge the U.S. government to take the lead at the WCO on the below proposal.

In Docket No. 1210-5 the Commission requested proposals to amend the International Harmonized Commodity Description and Coding System (the "HS"). Among the

reasons for seeking proposals is to ensure that the HS remains current in light of changes in technology and trade patterns.

The Associations request that the treatment of “tennis shoes, basketball shoes, gym shoes, training shoes and the like” (hereafter “athletic footwear”) in heading 6404 of the HS be extended to HS headings 6402 and 6403. At present, HS heading 6404 provides for athletic footwear along with sports footwear (as defined in Subheading Note, Chapter 64, HS) at the six-digit level. Athletic footwear is not provided for in either heading 6402 or 6403.¹

The Associations believe that providing for athletic footwear at the six-digit level in headings 6402 and 6403 will eliminate the potential for confusion that now exists.

Sports and athletic footwear generally are manufactured and distributed by the same firms and are considered part of the same industry sector. For example, the product lines of most of the firms mentioned here include both sports and athletic footwear. Providing for athletic footwear in heading 6402 and 6403 will ensure that all footwear in this category will be treated in a consistent manner, regardless of the material of the upper.

More importantly, athletic footwear with plastic uppers (6402) and leather uppers (6403) is today lumped in with completely unrelated footwear, from boots and dress shoes to house slippers and sandals. This mixing of completely unrelated footwear makes it practically impossible in most countries to track trade in athletic footwear. Even in the United States, the Harmonized Tariff Schedule (HTS) does not even break out athletic footwear under 6402 or 6403 until the 10-digit statistical level.

The Associations do not know what accounts for the inconsistency in treatment. They speculate that at the time of the drafting of the relevant provisions, athletic footwear, which is generally lighter than sports footwear, was made principally with textile uppers. Since then, however, there has been a significant increase in the proportion of athletic footwear made with uppers of plastics and leather. This has been brought about in part because of advances in the manufacture of plastics and leathers suitable for use in light weight athletic footwear.

The preamble to the International Convention on the Harmonized Commodity Description and Coding System recognizes “the importance of ensuring that the Harmonized System is kept up-to-date in light of changes in technology or in patterns of international trade”. Since the likely reason for the inconsistency in the first place, *i.e.* that “tennis shoes, basketball shoes, gym shoes, training shoes and the like” were generally not made with leather or rubber/plastics no longer holds because of technological advances, we have a change in technology that warrants an amendment to

¹ The Harmonized Tariff Schedule of the United States (“HTSUS”) provides for athletic footwear at the statistical or 10-digit level in headings 6402 and 6403.

the HS. This technological development has led to a significant change in international trade patterns, another justification for amending the HS.

The Associations note that the United States provides for athletic footwear in HTSUS headings 6402 and 6403 at the statistical level. Making the change requested here would ensure consistency at the international level and will allow for an accurate comparison of trade statistics.

The change requested by the Associations is not controversial as evidenced by the participation of the four Associations, who, as noted above, account for virtually all United States activity in sports and athletic footwear. Further, as noted at the outset, we support the changes only if there is no impact on U.S. duty rates. The undersigned associations will work with the U.S. government to ensure that this proposal does not have any impact on duty rates, as our support for the changes is premised on that result.

The Associations appreciate the opportunity to express their views and urge that their request be adopted by the United States and submitted to the World Customs Organization. Again, we urge the United States to take the lead on this important matter during the WCO deliberations.

Please contact Matt Priest, President of FDRA, at 202.737.5660 if you have any questions regarding this request.

Respectfully submitted,



Kevin M. Burke
President & CEO
American Apparel & Footwear
Association (AAFA)



Matt Priest
President
Footwear Distributors and
Retailers of America (FDRA)



Marc Fleischaker
Counsel
Rubber and Plastics Footwear
Manufacturers Association (RPFMA)



Tom Cove
President
Sporting Goods Manufacturers
Association (SGMA)

CC: Myles B. Harmon, Director, Commercial & Trade Facilitation Division, U.S.
Bureau of Customs and Border Protection