AAFA american apparel & footwear association

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October 15, 2012

Donald W. Eiss
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

RE: Federal Register Notice Volume 77, Number 158, Pages 49055-49056 (August 15, 2012) – Request for Public Comments to Compile the National Trade Estimate Report on Foreign Trade Barriers.

Docket Number: USTR-2012-0021.

To Whom It May Concern:

On behalf of the American Apparel & Footwear Association (AAFA), I am submitting the following comments in response to the request for public comments by the Office of the United States Trade Representative (USTR) to compile the National Trade Estimate report on foreign trade barriers.

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 380 American companies which represent one of the largest consumer segments in the United States. The apparel and footwear industry overall represents $360 billion in annual domestic sales and sustains more than four million American jobs.

Thank you for this opportunity to submit comments. Our industry is on the frontlines of globalization. AAFA members produce, market, and sell apparel and footwear in virtually every country around the world. As such, we are also in many cases the first industry to be subject to new restrictions around the world. These restrictions serve as barriers to trade and threaten American businesses and more importantly American jobs.

In order to help sustain the Apparel and Footwear industry and many others in the United States, we ask the Office of the United States Trade Representative to undertake a global strategy in two parts. First, we urge you to work toward the harmonization of global compliance requirements. Second, the U.S. government must address the litany of tariff and no-tariff barriers facing American companies around the world.

In reference to global harmonization of standards, we urge you to work with other nations and governments toward an alignment on standards compliance including chemical management, product safety, and labeling requirements. In today's global supply chain, goods are often manufactured in bulk for a variety of markets all over the world. When every market has their own specific requirements, it makes it very difficult to deliver products efficiently and adds unnecessary delays and costs on manufacturers which eventually trickle down to the consumer level.

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We remain very concerned about the incongruent labeling rules which continue to proliferate regarding apparel, footwear, textiles, and travel goods. We acknowledge and are grateful for recent efforts made by the U.S. Government, and specifically the Federal Trade Commission, to allow the use of International Organization of Standardization (ISO) care symbols within the U.S. market. This is a great step toward a global standard, but only covers one aspect of labeling requirements and does not address the more serious underlying issue of future changes to worldwide regulations which would affect U.S. businesses.

In this regard, we were pleased when the United States, along with the European Union, proposed an ambitious labeling harmonization initiative in the World Trade Organization (WTO) as part of the Doha Round. However, in light of what seems to be a stalemate in the Doha Round, we encourage you to continue this effort as future opportunities arise, for example, as part of the ongoing negotiations towards a Trans-Pacific Partnership (TPP) Free Trade Agreement or during the discussions between USTR and the European Commission in the United States – European Union High Level Regulatory Cooperation Forum.

At the same time, we are concerned about the increasingly aggressive use of trade remedy laws, safeguard measures, and other restrictions against imports of apparel, footwear, and textiles by a fast-growing number of countries. As I mentioned previously, U.S. apparel and footwear companies make and sell everywhere around the world, including selling clothes and shoes made in China, Vietnam and other Asian countries into Europe, Mexico, Brazil, India, Turkey, Argentina, Indonesia, and other major markets around the world. These so-called "third country exports" support thousands of U.S. jobs, employing American workers in design, research and development, sourcing, marketing, sales and logistics. When the U.S. government considers whether to address the restrictions outlined below, we urge the U.S. government to give serious time and consideration to slowing the aggressive use of trade remedy laws, safeguard measures, and other restrictions not only against U.S.-made products, but also against U.S.-branded products made in other countries.

Please find below a sampling of some of the most egregious and arbitrary restrictions U.S.-branded and U.S.-made apparel, footwear and textiles face around the world today.

Argentina

Argentina stands as the worst offender of trade restrictions in today's global market. As AAFA noted just a few weeks ago in comments to USTR addressing the initiation of the WTO dispute settlement process by the United States (comments attached as addendum 1), increased protectionist measures on the part of Argentina's government transcend from onerous challenges for importers to trade policies that, not only make the Argentine market nearly impossible for importers to penetrate, but harm those who are manufacturing within Argentina as well. These policies range from import quotas and non-automatic import licenses to minimum pricing and intentionally slow and thorough processing of imports.

Since discussing all of Argentina's indiscretions in detail would take several pages on their own, I will outline the most worrisome aspects. First and foremost, most of Argentina's restrictions stem from an overly burdensome and out-of-date "import-balancing" policy in Argentina which requires companies to export the same dollar amount as they import. The intent behind this policy is to encourage manufacturing within Argentina; however, it is currently doing the exact opposite. Argentine companies, and several U.S. companies who have begun manufacturing in Argentina, are unable to import the raw materials and machinery they need to sustain production because of this policy. Ironically, this "import balance" policy went into effect after Argentina was denied access to international credit markets due to defaulting on its loan obligations to several creditors including several in the United States, which also led to the United States suspending Argentina's GSP benefits earlier this year.

Argentina implements a non-automatic importing license (NAIL) system which requires each individual shipment to receive authorization from two separate government agencies before import and can often cause delays of several months. While this system has affected apparel and footwear for years, it has now been expanded to more than 4,000 products in 600 Harmonized Tariff Schedule (HTS) lines. As of January 2012, imported shipments must submit a *Declaración Jurada Anticipada de Importación* (DJAI) – advance customs and excise statement – proving they paid the right amount of taxes. This also must be approved by two different agencies and adds additional delays as these agencies often do not communicate and give conflicting answers as to what is required of importers.

Additionally, duties on apparel and footwear must be paid on reference prices rather than actual prices, only specific ports of entry can be used for specific types of goods, and requirements routinely change without prior warning or written notice. It is also important to note that the political and economic environment in Argentina today is almost as worrisome as the policies themselves. In many cases, when U.S. companies have approached the Government of Argentina to express concerns, they face even tougher restrictions on their business in the country. Those smaller companies which cannot afford the risk are forced to swallow unfair practices in fear of even rougher retaliatory actions.

AAFA applauds the United States for taking steps to resolve these issues by requesting consultations under the WTO dispute settlement process. From our perspective, Argentina's current policies seem to violate the regulations set out by not only the WTO, but by the U.S. – Argentina Bilateral Investment Treaty as well by preventing U.S. companies to invest in Argentina. Furthermore, Argentina's actions set a dangerous precedent for other countries in the region and around the world.

Brazil

Regrettably, Argentina's much larger neighbor to the north, Brazil, has been taking lessons from its southern neighbor. Brazil's restrictions are most detrimental on imports of footwear. As we noted last year and the year before, Brazil has imposed dumping duties of U.S. $13.85 per pair on virtually all Brazilian imports of Chinese footwear. Much of this footwear is U.S.-branded footwear supporting thousands of U.S. jobs. Brazil, however, did not stop there. Brazil has imposed a NAIL scheme (similar to that of Argentina) and certificates of origin requirements on non-MERCOSUR footwear imports. Brazil also requires that footwear imports must be imported directly from the footwear's country of origin, even if the footwear has the correct certificate of origin. Finally, just last month, in September of 2012, Brazil increased import duties on 100 HTS lines including footwear parts imported from anywhere in the world.

Many of these egregious and arbitrary restrictions, including the use of NAILs, have now been expanded to Brazilian imports of apparel and textiles as well. In August 2011, Brazil imposed new regulations on apparel and textile imports including additional monitoring, enhanced inspection, and delayed release of targeted goods. For good measure, Brazil also imposed new increases in customs fees on imports apparel, textiles, and footwear. What is most worrisome here is the tendency of Brazil's government to frequently change import procedures and increase tariffs without prior notice or explanation.

The only intention of these schemes is to make it next to impossible to sell U.S.-made and U.S.-branded apparel, footwear and textiles into the Brazilian market, the largest market in Latin America. I urge the U.S. government to take every effort to stop these WTO-illegal measures. Again, these measures not only affect U.S.-branded product trying to enter Brazil, but exports of U.S.-made product to Brazil. U.S. exports of textiles and apparel to Brazil reached $285.2 million for the year-ending August 2012. These exports of U.S.-made apparel and textiles are in serious jeopardy because of these new restrictive measures.

Indonesia

Following what we fear to be a growing trend, Indonesia also applies a NAIL system on an ever-expanding list of products which includes textiles, apparel, and footwear, which costs importers both time and money to comply. Our main concern with Indonesia arrived in the form of a Ministry of Trade decree issued May 1, 2012 which limits the importation of finished goods. Decree 27 limits importers who hold a General Importer Status to importing goods within only one category of the Indonesian Goods Classification System (i.e. can import only textiles and textile products, or only footwear and footwear products, but cannot import textiles and footwear). Most AAFA member companies, and most apparel and footwear companies in general, sell a combination of product categories and this decree seriously limits their ability to do business within Indonesia.

Furthermore, in 2009, Indonesia's Ministry of Trade issued new regulations requiring all labeling on apparel, footwear, and travel goods to be in Bahasa Indonesian. While many countries have certain language requirements for labels, Indonesia has gone a step farther and requires the name and address of the manufacturer to also be in Indonesian, a challenge that is often hard to meet and significantly reduces the manufacturer's ability to produce a product for the global marketplace. Finally, Indonesia has begun to limit the ports through which certain products

may enter the country. Although this limit has not yet been imposed on the major products of our industry, without interference it is likely to occur very soon.

Mexico

I urge you to address Mexico's arbitrary use of trade remedy laws to close its market to footwear and apparel imported from China. In December 2011, Mexico removed longstanding safeguard duties on imports of apparel and footwear from China. In exchange of the footwear safeguard duties, Mexico reached an agreement with China to implement a price-referencing system for footwear imports. Most of this footwear is produced by U.S. brands, severely impacting their ability to sell into one of the largest consumer markets in Latin America.

The lack of transparency that exists within many of Mexico's trade policies is outrageous. For example, the Mexican government did not release any public information concerning the aforementioned price-referencing agreement for several months after it went into effect, leaving companies in the dark on how to comply with the requirements of the agreement. We have been told by our members that a similar price-referencing system is in place for imports of apparel, but we, nor our members, have received any information on how this process is being implemented.

A final concern with Mexico relates to burdensome import documentation used to substantiate preference claims. There have been numerous instances over the past year when Mexican authorities have performed audits on U.S. companies and sought documentation in excess of that which is required under the North American Free Trade Agreement (NAFTA).

After many complaints from American businesses and the U.S. Government 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. Regrettably, however, AAFA members have not seen any of the promised changes. Instead, several AAFA members are still struggling with the burdensome and arbitrary SAT audits and are even facing seizures of their product for not providing documentation they were never told they needed. While we understand the need for proper enforcement, this zealousness, by exceeding the scope of the requirements, has damaged the ability of U.S. textile exporters to ship to Mexico under NAFTA.

Turkey

In 2011, Turkey imposed safeguard duties on apparel and textile imports. The measures impose safeguard duties of 30% on all imports of apparel and 20% on all imports of woven fabrics, including on Turkish imports of U.S.-made fabrics and apparel. Countries with which Turkey has free trade agreements or least-developed countries (LDCs) face somewhat lower safeguard duties. These safeguard duties are imposed on top of Turkey's normal duties of 12% for apparel and 8% for fabrics. The Turkish government has repeatedly failed to demonstrate the need for these safeguard measures and the measures, on their face, violate World Trade Organization (WTO) rules.

Thankfully, the strong efforts of the U.S. Department of Commerce's Office of Textiles and Apparel (OTEXA), in conjunction with the U.S. Embassy in Ankara, succeeded in lowering the final safeguard duties significantly from the Turkish government's initial proposal of 40% duties. However, more must be done to completely eliminate these unjustified safeguard measures. Again, these safeguard measures not only affect U.S. apparel brands selling into Turkey, but U.S. apparel and textile manufacturers selling U.S.-made apparel and fabric into Turkey. For the year ending August 2012, the month the safeguard measures were imposed, U.S. apparel and textile exports to Turkey equaled$86.9 million. These U.S. exports are in serious jeopardy because of these new safeguard measures.

Ecuador

I urge you to work to ensure Ecuador eliminates its continued draconian restrictions on U.S. apparel and footwear imports. As you know, on January 22, 2009, under the guise of an effort to improve its Balance of Payments, Ecuador imposed a $10 per pair duty (on top of normal duties) on all Ecuadorian imports of footwear. At the same time, Ecuador imposed a $12 per kilogram duty on all Ecuadorian imports of apparel. These measures effectively eliminated all access to the Ecuador market for U.S. apparel and footwear brands. The good news is that Ecuador, on July 23, 2010, did remove these "Balance of Payment" measures as promised. The bad news is that Ecuador replaced these measures with something almost as bad, if not worse.

Ecuador instead has imposed a new "mixed" ad valorem and specific duty on all imports of footwear. The new rate is 10% + US $6 per pair duty on the FOB value of imported footwear. For apparel, Ecuador has established a new minimum pricing scheme to replace the “Balance of Payment” measures. For footwear, Ecuador claims the new "mixed" duty meets their WTO bound tariff rates for footwear, which are 30 percent. However, in the case of footwear based on our calculation, that would mean the FOB price for footwear entering Ecuador would have to be, at a minimum, US $30 per pair.

We are also concerned with burdensome labeling requirements imposed on imports to Ecuador. Ecuadorian law (INEN 013) requires U.S. footwear companies to make a special label on every pair of shoes shipped to Ecuador. All labels have to have identical information in Spanish such as size, upper, sole, lining, and footbed. Although some of these requirements may be mitigated by using internationally accepted pictograms, required information still includes the importer's name, address and RUC # (Ecuadorian tax ID number). This means U.S. footwear companies need to make special production runs for Ecuadorian shipments (because labels are done and applied to the upper during an early part of the footwear assembly) or have to attach on finished product, which also requires a lot of additional labor opening up boxes, and repacking. Similar concerns manifest themselves with respect to apparel. Compounding the problem, such shipments need to be inspected before they leave the country. Among other things, this often requires companies to ship product to a third country – solely for the purpose of inspection – before onward export to Ecuador.

Venezuela

With respect to Venezuela, we are very troubled by burdensome new regulations which require vendors to supply legalized certifications from each individual factory, replacing established procedures which previously permitted blanket certifications from vendors. The new regulations require the following steps:

1. Letter from each factory, issued by the actual factory itself in the country where the factory is located. Each letter must be issued on stationery paper from the factory and must contain the factory seal.
2. Each letter must be issued in Spanish. If this is impossible, the original letter must be translated by an authorized public translator. Then the letter has to be notarized.
3. Each letter must contain a clear identification of the person issuing the letter including: position, name of company (factory), address, telephone and fax numbers, and email address of the contact of the factory.
4. Each letter must be presented to a public authority with the faculty to authorize such document (i.e., Venezuelan Consulate or Embassy in the country where the factory is located).

In addition to being costly and time-consuming, the factory information for individual companies is proprietary. There is no question that this regulation is meant to deny U.S. companies market access for their exports to Venezuela.

Japan

In regards to what may be the longest ongoing issue for our industry, I urge you to continue including, as has been the case since the report's inception in 1988, a strong reference to an issue of particular concern to AAFA's footwear members –Japan's continued tariff rate quota (TRQ) restricting imports of leather footwear. Further, I strongly encourage the U.S. government to take concrete action on this issue. Despite the efforts of AAFA as well as the U.S. government over the last few years to address this issue, Japan still maintains an extremely restrictive TRQ on imports of leather footwear. This TRQ hurts Japanese consumers, U.S. footwear manufacturers, and U.S. footwear brands alike and is a clear and longstanding violation of WTO rules and norms.

In light of Japan's interest in joining the TPP, AAFA and several other concerned parties wrote a letter to Ambassador Kirk and U.S. Secretary of Commerce John Bryson in May of this year, asking both agencies to work toward ending Japan's TRQ practice in advance of any invitation to participate in the TPP, or, at the very latest, shortly thereafter. (Letter attached as addendum 2).

China

As we noted in comments submitted to USTR just last month on China's WTO Commitments (attached as addendum 3), China's membership in the WTO has provided the United States with a well-established framework for addressing

specific concerns, yet we recognize problems in the U.S.-China trade relationship still exist today and China is still not fully meeting its WTO obligations. For example, despite repeated Chinese commitments to the contrary, we have had continued reports from our members of factory licensing schemes which prevent our members from selling in China what they make in China. AAFA members must export their "Made in China" product to Hong Kong and then reimport the product back into China in order to sell that "Made in China" product in China. This right to distribute was one of the fundamental commitments China made when it joined the WTO and it is critical to the success of U.S. footwear and apparel brands as they attempt to penetrate the fast-growing Chinese market.

Furthering compounding these issues, regulations within China are often controlled by state agencies and differ by province. Transparency in all transactions is limited, and thus a barrier to trade. Unofficial reference price lists have been used and tariffs tend to differ depending on the port of entry and importing agents involved. In addition, the actual tariffs are often negotiated with local Customs agents. Our members have also noted that China has a pattern of enforcing various compliance regulations on imports with a much heavier hand than it uses with domestic made goods, although all goods sold within China are subject to the same regulations.

In recent months, we have been encouraged by China's efforts to improve its Intellectual Property Rights (IPR) enforcement regime. Nevertheless, apparel and footwear companies still face serious challenges in China, especially with the rapid growth of "rogue" Web sites. These sites tend to be based in China and have been successful in eluding U.S. Customs inspections due to their ability to ship illicit product direct to the consumer. We are cautiously hopeful that expected changes in China's enforcement and legal regimes will also include greater IPR protection on the Internet. We also note that a number of markets in China continue to sell fake apparel and footwear goods throughout the country.

Like many in the business community, we believe China's currency should ultimately be traded at a market determined exchange rate. We believe this is the surest way to achieve the only "correct" value for the Chinese currency and to structure the most predictable and stable trade relationship. With that in mind, we would hope the Administration continues to pursue a multilateral approach to address China's currency policies. We believe this is the most effective way to bring about the kind of long term, gradual, and sustainable changes that are needed.

AAFA believes, however, that addressing China's currency through legislation, as currently being considered by Congress, will not only not create new U.S. jobs, but could actually hurt current U.S. jobs. History demonstrates there is little, if any, connection between a rising Chinese currency and U.S. job creation. In fact, during the last period of China currency appreciation, where China's currency appreciated over 20 percent versus the U.S. dollar between 2005 and 2008, there is no evidence this appreciation affected U.S. jobs one way or another.

Further, proponents argue that, as currency appreciation makes it too expensive to manufacture in China, those manufacturing jobs will necessarily return to the United States. This is extremely unlikely because China and the United States do not trade in a vacuum. In apparel and footwear, and in thousands of consumer and other products, dozens of countries stand ready to pick up any production diverted from China. Apparel is the best example of this situation, where there are suppliers in at least a half dozen other Asian countries alone that today can compete with China on price. Any appreciation of China's currency that makes China less attractive will simply divert production to those other countries –not back to the United States.

Canada

Finally, our industry is subject to a plethora of regulations that are promulgated in the name of "public safety" but amount to nothing more than a trade barrier. The best example of these new regulations in our industry comes from our neighbors up North –Canada. The Upholstered and Stuffed Articles regulations are actually maintained not by the Canadian government, but by three Canadian provinces (Quebec, Ontario, Manitoba). However, owing to its recognition within the Canadian Agreement on Internal Trade and the nature of modern distribution systems, they represent a de facto national standard, one which is of great concern to our industry.

These regulations require the registration of factories and the payment of annual fees to one or more provincial agencies. While historically they may have been considered as a means of ensuring public safety, since these regulations refer to no objective technical standard they have no current purpose in terms of product safety. More importantly, the Canada Consumer Product Safety Act, which was implemented last year, has brought Canada's

product safety regime into line with equivalent U.S. legislation, rendering these provincial regulations completely unnecessary.

On a practical level, because the terms "padding" and "stuffing" are loosely defined, the applicability of these regulations to specific products is arbitrary and punitive. To put it simply, our members' companies are continually frustrated in efforts to clarify whether these regulations apply to our products.

The U.S. has a very good trade relationship with Canada, and AAFA specifically has benefited from generally transparent regulations and experiences with our neighboring country. Almost for this reason, nuisance regulations which serve no greater purpose stand out as barriers to what, otherwise, is a great trade opportunity for U.S. companies.

In addition, it should also be noted that imported products (from the United States or any other country) are discriminated against by these regulations. Canadian manufacturers have the ability to register their products in a single province while imported products must be registered in three separate jurisdictions (and pay three registration fees). I urge the U.S. government to aggressively pursue resolution of this critical issue and put other countries on notice that regulations in the name of "public safety" must be transparent, non-discriminatory, and scientifically-based.

In closing, I urge you to work closely with the U.S. Department of Commerce's Office of Textiles & Apparel (OTEXA) in identifying and combating foreign trade barriers. OTEXA has a strong track record of identifying new foreign labeling requirements, safeguard measures, and other restrictions that could affect the U.S. apparel, footwear, and textile industry. OTEXA also partners with our industry to combat and prevent these protectionist measures around the world.

As is often the case, we expect to receive on-going information from members on barriers affecting their exports in key markets around the world. As we develop that information, we will continue to provide that to USTR and other appropriate agencies for action.

Through difficult economic times, AAFA's members have struggled to keep their doors open and remain productive members of the American economy as producers, consumers, and employers. The main sustaining factor in this struggle has been trade. For this reason, AAFA will continue to work on overcoming barriers to trade and promoting the growth of American companies. I hope that we may be able to continue to work with the U.S. Government and specifically the office of the U.S. Trade Representative on these shared goals.

Thank you for your time and consideration in this matter. Please do not hesitate to contact AAFA if we can be of any help to you. Please feel free to contact me or Marie D'Avignon of my staff at 703-797-9038 or by e-mail at @wewear. if you have any questions or would like additional information.

Sincerely,

Kevin M. Burke
President & CEO

Attached:

1) September 27, 2012 - AAFA comments to the U.S. Trade Representative (USTR) supporting the request of consultations with the Government of Argentina by the Government of the United States under the dispute settlement process of the World Trade Organization concerning Argentina's restrictive import policies.

2) May 10, 2012 – Multi-association letter to the Obama administration from the associations representing the entire U.S. footwear industry -- U.S. manufacturers, U.S. brands, and U.S. retailers, and the one million U.S. workers employed by our industry – requesting that the administration strongly urge Japan to address its long-standing TRQ on leather footwear imports before providing any invitation to Japan to join the Trans-Pacific Partnership (TPP).

3) September 24, 2012 - AAFA comments to U.S. Trade Representative (USTR) for USTR's annual report on China's compliance with its WTO commitments.

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September 27, 2012

Ambassador Ron Kirk
United States Trade Representative
Office of the United States Trade Representative
600 17thStreet, NW
Washington, DC 20508

RE: FR Notice Volume 77, No. 171 Page 53959 (September 4, 2012) – Request for Comments on WTO Dispute Settlement Proceeding Regarding Argentina – Measures Affecting the Importation of Goods.

Docket Number: USTR-2012-0023.

Dear Ambassador Kirk:

On behalf of the American Apparel & Footwear Association (AAFA), I am submitting the following comments in response to the request for public comments by the Office of the United States Trade Representative (USTR) on the issues concerned with the August 21, 2012 request for consultations with the Government of Argentina by the Government of the United States under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement").

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 380 American companies which represent one of the largest consumer segments in the United States. The apparel and footwear industry overall represents $360 billion in annual domestic sales and sustains more than four million American jobs.

Thank you for this opportunity to submit comments. The U.S. apparel and footwear industry is on the frontlines of globalization. As such, we are also in many cases the first industry to be subject to new restrictions around the world. AAFA members produce, market, and sell apparel and footwear in virtually every country around the world, including Argentina which currently stands as the worst offender of such trade restrictions.

Over the past few years we have seen increased protectionist measures on the part of Argentina's government transcend from onerous challenges for importers to trade policies that, not only make the Argentine market nearly impossible for importers to penetrate, but harm those who are manufacturing within Argentina as well. AAFA fully supports the U.S. effort to draw attention to and find resolution for Argentina's trade-restrictive policies under the auspices of the World Trade Organization (WTO).

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Please consider the list below of the most egregious examples of these policies which range from import quotas and non-automatic import licenses to minimum pricing and intentionally slow and thorough processing of imports. We feel these actions are not compliant with WTO regulations and should be considered as the dispute settlement process moves forward.

1) Under resolution MEOSP 17/99, Argentina requires importers to obtain an import license (*Licencia Automática de Importación* or LAPI) for many products, including textiles, apparel, and footwear, to go through customs clearance. A separate license is required for each customs classification code of goods. While an import license requirement is not uncommon, Argentina employs of system of non-automatic import licenses (NAILs) which lengthens the time it takes for imported goods to clear Argentine customs procedures. Rather than have a standardized path for clearance, each individual shipment must be examined by authorities – a process which often takes an extraordinary amount of time. While this system has affected footwear and apparel products imported into Argentina for several years, at the beginning of this year, the Argentina government expanded the list to almost 4,000 products in 600 Harmonized Tariff Schedule lines, affecting a broad range of U.S. exports including textiles, footwear, apparel, toys, auto parts, and electronics. These NAILs come on top of extensive quotas in place for products like footwear which are already hurting U.S. companies.

   Furthermore, there are two separate federal entities which regulate imports in Argentina – the Directorate General of Customs, or *La Dirección General de Aduanas* (DGA) and the Ministry of Industry – and both must approve requests for import licenses. There is often a lack of communication between the two agencies and companies are forced to submit documents multiple times and frequently receive conflicting answers on requirements from the two agencies. Any costs caused by the delay of shipment incorrectly submitted documentation are attributed to the importers.

   NAILs systems like that in Argentina are permitted under the WTO Agreement only if the licenses are processed within 60 days and are not trade distorting. However, this is not the case in Argentina. Many U.S. companies have had shipments delayed by this system for months, preventing the companies from fulfilling sales and orders to retailers in Argentina, and leading to other related problems. For example: A certificate of origin is required to accompany all imported goods. While this is not uncommon for importation in many countries, including the United States, and obtaining a certificate of origin is not usually a difficult process – the certificate need only be certified by an Argentine consulate – such a certificate in Argentina is valid for only 180 days and the extreme delays on products which are subject to NAILs often last longer than the period of time in which the certificate is valid.

   We understand this issue rose to the top when the United States requested consultations with Argentina. The following issues are just as relevant to U.S. companies and we hope they will be addressed as well as the dispute settlement proceedings go forward.

2) Many of the challenges related to importing into Argentina, including the import license system mentioned above, stem from an overly burdensome and out-of-date "import-balancing" policy in Argentina which requires companies to export the same dollar amount as they import. The intent behind this policy is to encourage manufacturing within Argentina; however, it is currently doing the exact opposite. Argentine companies, and several U.S. companies who have begun manufacturing in Argentina, are unable to import the raw materials and machinery they need to sustain production because of this policy. They need to import these items before they can begin exporting.

Ironically, this "import balance" policy went into effect after Argentina defaulted on its loan obligations to the Paris Club as well as several other creditors including ones in the United States and were denied access to international credit markets. This just goes to show that one bad decision often leads to another and two wrongs undoubtedly do not make a right. This kind of behavior is certainly not representative of the WTO, let alone a member of the G-20.

3) On January 10, 2012, Argentina's Federal Administration of Public Revenue, or *La Administración Federal de Ingresos Públicos* (AFIP) published AFIP General Resolution 3252, which requires importers to file a *Declaración Jurada Anticipada de Importación* (DJAI) – a sworn advance customs and excise statement – and receive prior approval by not only AFIP but also the office of Domestic Trade in Argentina before importers can proceed with business. This process must be undertaken for each individual shipment and takes a considerable amount time and money to coordinate between the two separate government entities. If cargo arrives without a DJAI document, the goods will be refused by Customs.

4) Argentina applies reference prices for more than 50 categories of products, including textiles, apparel, and footwear which establish a minimum price for market entry. Importers must pay duties calculated on the reference price of goods, rather than the actual price, forcing higher tariff rates onto U.S. companies.

5) The points of entry specific products may use to enter Argentina are restricted for several classes of sensitive goods including textiles, apparel, and footwear through specialized customs procedures for these goods. Many U.S. and other businesses import multiple types of goods (for example: footwear and handbags) but are unable to efficiently ship the products together as they must enter through separate ports.

6) Finally, and probably most frustrating, Argentina's import requirements are known to change within a short period of time without prior warning. These requirements are not codified in law or regulation and are often reported to companies informally by the Argentine government through telephone calls or other undocumented forms of communication.

Beyond the overt import restrictions listed above, importers of textiles, apparel, and footwear – AAFA's membership – must comply with specific other requirements when accessing the Argentina market, including shipment documentation, labeling requirements, product safety requirements, restricted substances, and trademark registration. These requirements in Argentina are far beyond what is required in most other countries and serve as additional barriers to trade. AAFA has recently undertaken a project to provide our members with insight into how to access the markets of highly sought-after or, in Argentina's case, difficult to penetrate countries. We have created "country profiles" which address the key features that are unique to a country but necessary for foreign businesses to understand when looking to sell textiles, apparel, or footwear within that country's borders. AAFA's country profile for Argentina is attached as an addendum to these comments, to give an example of how challenging it is to access the Argentina market. The profiles also provide a rating scale of one to five, with five being the greatest, which represents ease of doing business within the chosen country. Please note Argentina has received a rating of zero for both apparel and footwear – a first in AAFA history.

It is also important to note that the political and economic environment in Argentina today is almost as worrisome as the policies themselves. In many cases, when U.S. companies have approached the Government of Argentina to express concerns, they face even tougher restrictions on their business in the country. Those smaller companies which cannot afford the risk are forced to swallow unfair practices in fear of even rougher retaliatory actions.

AAFA applauds the United States for taking steps to resolve the policies that serve as barriers to trade. Argentina's current policies seem to violate the regulations set out by not only the WTO, as noted above, but by the U.S. – Argentina Bilateral Investment Treaty as well by preventing U.S. companies to invest in Argentina. Furthermore, Argentina's actions set a dangerous precedent for other countries in the region and around the world.

Today's supply chains are based on the reliable and efficient movement of goods from all over the world. Argentina's trade-restrictive policies serve as serious impediments to that movement and the global supply chain in general. The policies are perilous for U.S. manufacturers and manufacturers of U.S.-branded products looking to access the Argentine market, for manufacturers in Argentina, and to the consumers all over the world who will ultimately be forced to pay the additional costs which result from delays in shipments, including increased transaction costs and inventory investments.

One of the most prominent challenges faced by the U.S. Government over the past three years has been creating and sustaining American jobs. To this accord, we would like to underline a point mentioned at the beginning of these comments: 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. Without a significant effort to reduce trade barriers in Argentina and around the world, these American jobs will be threatened.

Through difficult economic times, AAFA's members have struggled to keep their doors open and remain productive members of the American economy as producers, consumers, and employers. The main sustaining factor in this struggle has been trade. For this reason, AAFA will continue to work on overcoming barriers to trade and promoting the growth of American companies. I hope that we may be able to continue to work with the U.S. Government and specifically the office of the U.S. Trade Representative on these shared goals.

Thank you for your time and consideration in this matter. Please do not hesitate to contact AAFA if we can be of any help to you. Please feel free to contact me or Marie D'Avignon of my staff at 703-797-9038 or by e-mail at mdavignon@wewear.org if you have any questions or would like additional information.

Sincerely,

Kevin M. Burke

Kevin M. Burke
President & CEO

AAFA american apparel & footwear association

we wear global growth

September 2012

COUNTRY PROFILE: ARGENTINA

EASE OF DOING BUSINESS

On a scale of one to five, with five representing the greatest ease of doing business, AAFA gives Argentina a rating of:

APPAREL

FOOTWEAR

AAFA STAFF CONTACT

Marie D'Avignon
(703) 797-9038
mdavignon@wewear.org

Interested in market access issues? Join AAFA's Market Access Team today by contacting Marie or visit wewear.org.

MARKET ACCESS

Argentina has been a member of the World Trade Organization (WTO) since 1995.

Argentina is a member of the southern cone common market, MERCOSUR. All MERCOSUR member countries, Argentina, Brazil, Paraguay, Uruguay, and Venezuela, share common market requirements such as labeling and standards, and products within MERCOSUR are duty-free. For more information on MERCOSUR, please visit http://www.mercosur.int/.

MERCOUSUR has free trade agreements with Israel, Bolivia, Chile, Egypt, and the Palestinian Authority, as well as several framework agreements with other countries. In addition, Argentina has partial preferential trade agreements with Brazil, Uruguay, Mexico, Paraguay, and Chile.

For more information on Argentina's trade agreements, please visit http://www.sice.oas.org/ctyindex/ARG/ARGagreements_e.asp.

Tariffs & Fees

MERCOSUR countries also comprise a customs union and all apply a common external tariff (CET) on most products imported from non-MERCOSUR countries. Argentina, however, has CET exceptions in many categories including apparel, textiles, and footwear. Argentina uses reference pricing to calculate duties and taxes for textiles, apparel, and footwear. Tariff duties are assessed on the cost, insurance, and freight (CIF) value of a product on an ad valorem basis.

Average Rate of Duty for imported goods into Argentina:

- Textiles = 4-35% of CIF (Only chapters 57 and 63 reach 35%, the majority of textile chapters do not pass 26%(
- Apparel = 35% of CIF
- Footwear = 18-35% of CIF

Detailed tariff rates for Argentina and other WTO countries are available online at http://tariffdata.wto.org/ReportersAndProducts.aspx.

Certain products imported into Argentina (from non-MERCOSUR countries), including textiles and footwear, are charged compound rates consisting of ad valorem duties plus specific levies known as "minimum specific import duties" (DIEMs). However, even if a product is subject to DIEM duties plus ad valorem duties, the total combined duties are not supposed to exceed the maximum MERCOSUR-bound rate of 35 percent. Although the DIEMs were set to expire on December 31, 2010, and the government of Argentina has not formally extended them, the United States Trade Representative reports they are still being charged http://www.ustr.gov/sites/default/files/Argentina_0.pdf.

FAST FACTS

DEMOGRAPHICS

Population: 42.2 million
Language: Spanish
2011 Nominal GDP: $725.6 billion
2011 GDP per Capita: $17,700

2011 EXPORTS

Overall: $76.53 billion
Apparel: $76.46 million
Textile: $819.38 million
Footwear: $33.78 million

2011 IMPORTS

Overall: $66.47 billion
Apparel: $584.04 million
Textile: $1.52 billion
Footwear: $447.78 million

Sources: CIA World Fact Book, International Trade Centre
Note: Figures in USD

ADDITIONAL RESOURCES

International Trade Administration, Office of Textiles and Apparel (OTEXA)
http://web.ita.doc.gov/tacgi/overseasnew.nsf/alldata/Argentina#Labeling

Export.gov Doing Business in Argentina
http://export.gov/argentina/doingbusinessinargentina/argentinacountrycommercialguide/traderegulationsandstandards/index.asp

Argentina Ministerio de Economía
http://www.mecon.gov.ar/

Argentina Ministerio de Industria
http://www.indcompyme.gov.ar/

U.S. Trade Representative Argentina Trade Summary
http://www.ustr.gov/sites/default/files/Argentina_0.pdf

In addition to tariffs, there are several supplementary taxes or charges that apply to imports of both apparel and footwear:

- Statistics Fee = 0.5% of CIF (not applicable to MERCOSUR countries)
- Value Added Tax (VAT) = 21% of CIF + tariff + statistics fee
- Anticipated Profits Tax = 3% of CIF.

All duties and taxes should be paid to the Federal Administration of Public Revenue, or La Administración Federal de Ingresos Púplicos (AFIP) at http://www.afip.gov.ar/home/index.html.

More information on MERCOSUR Customs Union can be found at http://www.mercosur.int/t_ligaenmarco.jsp?contentid=289&site=1&channel=secretaria.

Argentina also applies reference prices for many products which establish a minimum price on which duties are calculated. For more information see import restrictions.

Import Procedures

The Directorate General of Customs, or La Dirección General de Aduanas (DGA), is a part of the AFIP, and is responsible for implementing and enforcing legislation on the import and export of goods into Argentina. For more information on Argentina Customs, please visit http://www.afip.gob.ar/aduanaDefault.asp.

Due to the complicated import procedures and restrictions in Argentina, it is recommended that companies employ a local customs broker. A list of customs brokers is available online at http://www.aduanaargentina.com/listado_en.php?seccion=4.

Importers must register with Argentina's exporter and importer registry (Registro de Exportadores e Importadores) through the DGA. The one-time procedure and is valid for export and import operations. Registration can be done by the importer (individual or legal entity) or by a customs broker. Applicants must meet the following requirements in order to register:

- Prove domicile (or corporate headquarters in the case of companies), and constitute domicile in Argentina;
- Be registered with the Argentine Public Registry of Commerce (PRC) either as a trader or company;
- Provide a Tax Registration Number (Clave Única de Identifi cación Tributariaor CUIT) as proof of the trader or company's registration with the AFIP;
- Supply evidence of solvency and provide the DGA with a guarantee for the faithful compliance of obligations if deemed necessary.

For more information, please visit http://www.embassyofargentina.us/v2011/en/economyandtrade/investments/files/investorsguide.pdf.

The following documents are required to accompany any cargo shipments imported into Argentina:

- Commercial invoice (in Spanish, original document plus three copies) including the following information:
  - Invoice number
  - Origin of goods and date of shipment
  - Name and contact information of exporter
  - Name and contact information of exporter of consignee
  - Full description of goods
  - Total price of goods and price per unit
  - Currency used
  - Terms of payment and delivery
  - Mode of transportation
  - Place of entry into Argentina
  - Bill of lading (for maritime shipments) or Airway bill (for air shipments)
- Packing list
- Insurance certificate (if applicable)
- Certificate of origin (required for textiles and footwear under Resolution MEOSP 39/96)

In addition, all commercial invoices must bear the following signed declaration:

"Declaro bajo juramento que los precios consignados en esta facture commercial son los realmente pagados o a pagarse, y que no existe convenio alguno que permita su alteracíon, y que todos los datos referents a la calidad, cantidad, valor, precios, etc., y descripcion de la mercaderia concuerdan en todas sus partes con lo declarado en la correspondiente shipper's export declaration."

("I swear under oath that the prices on this commercial invoice are those really paid or to be paid, and that no agreement exists that permits their modification, and that all data pertaining to quality, quantity, value, prices, etc., and description of the merchandise agree in all their parts with what was declared in the corresponding Shipper's Export Declaration.")

All documents must be in Spanish or carry an accurate Spanish translation.

All documents must be presented for customs clearance within 15 days of shipment.

Import Licenses

Under resolution MEOSP 17/99, Argentina requires importers to obtain an import license (Licencia Automática de Importación or LAPI) for many products, including textiles, apparel, and footwear, to go through customs clearance (import licenses are not required if the total value of the imports is less than FOB $800).

A separate license is required for each customs classification code of goods.

Textiles, apparel, and footwear are now subject to non-automatic import licensing which requires approval from the government of Argentina before a shipment is approved. See import restrictions.

As of February 1 2012, Importers must declare the value of shipments they wish to import into Argentina prior to shipping. This is done through the Anticipated Imports Sworn Statementor Declaración Jurada Anticipada de Importación (DJAI). If cargo arrives without a DJAI license, the goods will be refused by Customs. For more information, please visit http://www.afip.gob.ar/genericos/novedades/declarJuradaAnticipada.asp or https://www.wewear.org/assets/1/7/argentina-import-restrictions_feb_2012.pdf.

Import Restrictions

Argentina's system of Non-Automatic Import Licenses (NAILs) previously affected only footwear apparel products, but has now been expanded to almost 600 product categories of Argentinian imports. The NAILs often cause delays anywhere from days to months and the importers are responsible for any costs associated with delays. The full list of product affected is available online at http://export.gov/argentina/build/groups/public/@eg_ar/documents/webcontent/eg_ar_043618.pdf.

Argentina has imposed an import export balance (i.e. companies are required to export the same dollar value as they import), which has led to problems for companies attempting to import raw materials or equipment before they are able to export finished product.

There are two separate federal entities which regulate imports – the DGA and the Ministry of Industry – and both must approve requests for import licenses. However, there is often a lack of communication between the two agencies and companies are often forced to submit documents multiple times and receive conflicting answers on requirements.

Argentina's import requirements are known to change within a short period of time without prior warning. These requirements are not codified in law or regulation and are often reported to companies informally by the Argentine government through telephone calls or other undocumented forms of communication.

Argentina applies reference prices for more than 50 categories of products, including textiles, apparel, and footwear which establish a minimum price for market entry. Importers must pay duties calculated on the reference price of goods, rather than the actual price. A full list of reference prices is available online at http://www.afip.gov.ar/aduana/valoracion/valores.criterios.pdf.

The points of entry specific products may use to enter Argentina are restricted for several classes of sensitive goods including textiles, apparel, and footwear through specialized customs procedures for these goods. A full list of products affected and the ports of entry applicable to those products is available online at http://www.infoleg.gov.ar/infolegInternet/anexos/130000-134999/131847/norma.htm.

As stated under the Import Procedures section, a certification of origin is required to accompany all imports. Obtaining a certificate of origin for imported goods is not usually a difficult process. The certificate need only be certified by an Argentine consulate. However, the certificate is valid for only 180 days and extreme delays on products which are subject to NAILs often last longer than the period of time in which the certificate is valid.

In 2008 and 2009, Argentina established two administrative mechanisms (through Customs External Notes 87/2008 and 15/2009) which restrict the entry of sensitive products which come from "high risk" nations. High risk nations are those deemed by the Argentina government likely to commit valuation or trademark fraud. Text of the Customs External Note is available online at http://www.infoleg.gov.ar/infolegInternet/anexos/145000-149999/145766/norma.htm. The Note does not describe how these mechanisms are put into effect, but it likely coincides with the reference pricing system mentioned above.

Argentina's import restrictions have been accused of violating WTO regulations. In the Spring and Summer of 2012, the United States, the European Union, Japan, and Mexico have each separately initiated cases against Argentina within the WTO.

LABELING

All products imported into Argentina must be labeled in accordance with Law 22802/83 of Lealtad Comercial which establishes basic minimal mandatory requirements:

- Name of the product
- Quality
- Country of origin
- Net content

Information on labels must be in metric system units.

Apparel and Textiles

Argentina has adopted the common MERCOSUR requirements for textile labeling as established in *MERCOSUR Resolución No. 9/2000 que establece el Reglamento tecnico de Mercosur de etiquetado de productos textiles* (http://www.planetaius.com.ar/foroderecho/mercosur-gmc-res-n-9-2000-a-38765),which was implemented in June, 2001 (*Resolución 287/2000 de la Secretaria de Industria incorporando en el ordenaminetojuridico nacional la Resolucion Mercosur 9*). These requirements apply to products consisting exclusively of textile fibers or textile filaments, or both, in a raw, processed or semi-processed, manufactured or semi-manufactured, prepared or semi-prepared state.

Textile and apparel products composed of at least 80% fibers that are imported for consumption or produced in Argentina (and all MERCOSUR countries) will require the following information on a permanent label that is affixed to the product:

- Name or registered brand and tax identification and address of the domestic producer or importer
- Country of origin
- Fiber content
- Care instructions in words or symbols
- Size or dimensions, as applicable

This information must be written in Spanish for Argentina, but may also be in other languages.

The writing on the products' labels should be clear, permanent and indelible. The size of the letters cannot be smaller than 2mm. The information can be written on either one side or both sides of the label.

Footwear

Footwear sold in Argentina must be permanently labeled with the following information:

- Care instructions in words or symbols
- Upper composition*
- Outsole composition*
- Lining composition*
- Sock-liner composition*
- Country of origin
- Importer CUIT (tax ID number, see import procedures)

*If the upper, outsole, lining, or sock-liner contains more than one material, you must list the percentages for each material, i.e. an outsole that is 100% rubber can just say "outsole rubber," but an upper consisting of multiple textile materials should say "60% nylon 40% polyester."

The care instructions may be on a separate label, but all composition and importer information must be on one label.

The only acceptable care symbols for Argentina are those created by GINETEX and are copyright protected. For more information on the use of care symbols, visit the GINETEX website at http://www.ginetex.net/labelling/care-labelling/care-symbols/.

PRODUCT SAFETY & RESTRICTED SUBSTANCES

Argentina participates in the development of MERCOSUR standards and regulations. The MERCOSUR Standards Association, AMN (previously known as the Comite MERCOSUR de Normalizacion) -- composed of the standards institutes of Argentina, Brazil, Paraguay, and Uruguay -- develops and harmonizes standards.

Argentina's Product Safety landscape is made up of voluntary standards which are created by several standard setting bodies such as Instituto Argentino de Normalizacion – IRAM (http://www.

iram.org.ar/), Organismo Argentino de Acreditación – OAA (http://www.oaa.org.ar/), and the Instituto Nacional de Tecnologia Industrial - INIT(http://www.inti.gov.ar/). As a member of MERCOSUR, Argentina also participates in the development and harmonization of standards with other MERCOSUR countries through the Asociacion MERCOSUR de Normalizacion – AMN (http://www.oaa.org.ar/).

Argentina has mandatory requirements for protective clothing under Resolution 896/99 (http://www.taccahnos.com.ar/images/res896.pdf) which requires compliance with standards developed by IRAM, MERCOSUR, EU, or ISO. The manufacturer must also obtain certification of compliance and an "S-mark" from an entity recognized by the DNCI (Direccion Nacional de Comercio Interior, national domestic trade office).

Due to the rapidly changing nature of chemical management regulations, please refer to AAFA's Restricted Substance List (RSL) which contains the most up-to-date and comprehensive list of chemical restrictions worldwide. AAFA's RSL is available online at https://www.wewear.org/industry-resources/restricted-substances-list/.

For information on global drawstring regulations, please see AAFA's International Drawstring Regulations List available online at https://www.wewear.org/drawstrings.

TRADEMARK REGISTRATION

The National Institute of Industrial Property (INPI) is the entity charged with registering trademarks in Argentina. The registration of a trademark gives its holder exclusive use for 10 years. Applicants are required to complete an Application for Trademark Registration. INPI will then review the application to ensure compliance with the law. Registration forms are available online at http://www.inpi.gov.ar/pdf/Marcas_Registro.pdf.

Applications are published in the Trademark Gazette usually 46-60 days after application has been filed. Without any opposition, an application can take between one year and eighteen months from application to registration.

An applicant may also renew the trademark indefinitely using this form at http://www.inpi.gov.ar/pdf/Marcas_Renovacion.pdf.

Fees

Registration - $86
Renewal - $104

For more information, please visit http://www.inpi.gov.ar/templates/marcas.asp.

May 10, 2012

The Honorable John Bryson
Secretary
US Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Ambassador Ron Kirk
U.S. Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: TPP and Japan's Leather Footwear TRQ

Dear Secretary Bryson and Ambassador Kirk:

As we contemplate additional partners for the Trans Pacific Partnership (TPP), we are writing on behalf of the entire U.S. footwear industry -- U.S. manufacturers, U.S. brands, and U.S. retailers, and the one million U.S. workers employed by our industry -- to strongly urge that the Administration make it a top priority to eliminate a tariff rate quota (TRQ) that Japan applies to imports of U.S.-made and U.S.-branded leather footwear.

Currently, Japan only permits a minuscule amount of leather footwear imports under the TRQ – only 12 million pairs – even though the total market for leather footwear in Japan is about a billion pairs a year. For imports above the quote level, Japan applies an expensive 4,300 yen per pair specific-rate. At today's exchange rates, this surcharge is equal to a duty of over $53 per pair, which amounts to a 100 to 300 percent surcharge per pair on imports of most leather footwear.

This issue has been identified by the U.S. footwear industry numerous times over the past several decades. Moreover, it has been identified in the annual National Trade Estimates (NTE) report yearly since the report's inception in the 1980's.

In the 2012 NTE report, issued a few weeks ago, the Japan chapter states:
"Japan continues to apply a TRQ on leather footwear that substantially limits imports into Japan's market, and it sets these quotas in a nontransparent manner. The U.S. Government continues to seek elimination of these quotas. "

This TRQ hurts Japanese consumers and U.S. footwear manufacturers, and U.S. footwear brands alike and is a clear and longstanding violation of World Trade Organization (WTO) rules and norms. We believe that Japan should end this practice in advance of any invitation to participate in the TPP, or, at the very latest, shortly thereafter.

We look forward to working with you to eliminate this significant market barrier to U.S.-made and U.S.-branded footwear.

Thank you very much for your consideration.

Sincerely,

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

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

Frank Hugelmeyer, President & CEO
Outdoor Industry Association (OIA)

Marc Fleischaker, Trade Counsel
Rubber & Plastics Footwear Manufacturers Association (RPFMA)

american apparel & footwear association

we wear℠ jobs

September 24, 2012

Donald W. Eiss
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

RE: FR Notice Volume 77, Number 161, Page 50206 (August 20, 2012) – Request for Comments and Notice of Public Hearing Concerning China's Compliance with WTO Commitments

To Whom It May Concern:

Thank you for providing us the opportunity to submit this statement in relation to the investigation cited above – China's compliance with WTO Commitments.

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 apparel and footwear, and the inputs for those products, throughout the United States and the world, including China. In short, our members make everywhere and sell everywhere.

AAFA fundamentally believes that the U.S./China relationship has benefited the U.S. economy – from U.S. workers to U.S. consumers.

While many problems remain, China's economy over the past ten years has become significantly more open, predictable, transparent and market-based, opening the world's fastest growing market, with over 400 million middle-class consumers, to U.S. products, U.S. brands and U.S. retailers. China's accession to the World Trade Organization (WTO) in 2001 led to much of this change.

What has this sea change done for our industry? China is now the fastest growing market for U.S. apparel and footwear brands. Sales of U.S.-branded footwear and apparel in the Chinese market, even if those clothes and shoes are not made in the United States, support thousands of U.S. jobs – high-value jobs in research and development, marketing, logistics, sales, and other fields. In fact, in this time of economic uncertainty, China in many cases is the only growing market for U.S. brands and retailers. This holds true for many other U.S. industries.

Just as important, China is the fastest-growing market for U.S.-made and U.S.-produced products not only in the apparel and footwear industry, but in all industries – from U.S.-made yarn, fabric, waterproof textiles, and rubber soles to U.S.-made machinery and high technology products and from U.S.-produced cotton to U.S.-produced soybeans and poultry. In many cases, China is the largest market for these U.S.-made and U.S.-produced products. For example, China is the largest and fastest growing export market for U.S. cotton, with exports surpassing $2.7 billion for just the first seven months of 2012 alone, a record. China is also now the 2nd largest export market for U.S.-made yarn and the 3rd largest market for U.S.-made fabric, with China buying over $1.2 billion in U.S. textiles in the year-ending July 2012 alone.

U.S.-China trade benefits not only the U.S. farmers, manufacturers and brands, but also U.S. consumers. Today, virtually all clothes and shoes sold in the United States are

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imported. Over 80 percent of all footwear and over 35 percent of all apparel sold in the United States is imported from China. Similar situations exist for a multitude of other consumer products used every day by U.S. consumers. The bottom line is trade with China helps hardworking American families buy affordable clothes and shoes, life necessities, for themselves and for their children.

The benefits of U.S.-China trade are not limited to just U.S. consumers, U.S. manufacturers, U.S. farmers, and U.S. exporters. U.S. imports of clothes and shoes from China benefit U.S. workers, U.S. businesses and the U.S. economy. The "Made in China" label for clothes and shoes is misleading. As many recent studies – from the Federal Reserve Bank of San Francisco, the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), the Heritage Foundation, the TPP Apparel Coalition, and others – have shown, as much as 70-80percent of the retail value of the clothes and shoes sold in the United States stays in the United States. The "Made in China" label in most circumstances only represents the assembly of the clothes and shoes as well as some of the inputs used in that assembly. Meanwhile, 70-80 percent of the retail value supports millions of U.S. jobs at both the front end – research and development, design, sourcing, compliance (product safety, sustainability, social responsibility, quality) – and the back end – compliance (customs, importing, labeling), transportation and logistics, warehousing, marketing, sales – of the supply chain. The reality is imports work for American workers and American businesses as well as U.S. consumers and the U.S. economy.

China's Accession to the WTO

China's membership in the WTO has provided the United States with a well-established and respected framework for addressing specific concerns. The United States has used these tools effectively in many circumstances. The resolution of the U.S. intellectual property rights (IPR) and famous brands subsidies cases through the WTO dispute settlement mechanism are perfect examples of this.

Moreover, China's accession to the WTO equipped the United States with new tools which could be used to address concerns raised by China's accession to the WTO. For example, although AAFA opposed the use of quotas in this circumstance, the United States utilized the "textile-specific" safeguard several years ago to respond to concerns raised by certain domestic textile companies at a key time when global apparel quotas were being eliminated. More recently, the United States utilized the so-called "product specific" safeguard to react to concerns related to increased imports of tires. Finally, the United States does not even have to begin considering the concept of granting Market Economy Status to China in trade remedy cases until later this decade.

AAFA recognizes that problems in the U.S.-China trade relationship still exist today and that China is still not fully meeting its WTO obligations. These problems are very real problems which negatively impact the U.S. apparel and footwear industry, and the 4 million U.S. workers we employ, every day.

With this in mind, I would respectfully request that you keep the following insights from our industry in mind as you are conducting this investigation.

Opening the Chinese Market to U.S. Apparel and Footwear Brands
There Has Been Progress, but More Must be Done

U.S. apparel and footwear firms recognize that 95 percent of the world's population lives outside the United States. Some of our fastest growing markets are no longer in the United States or Europe, but in China, or India, or Brazil. U.S. apparel and footwear firms are on the frontlines of globalization – they buy and sell clothes and shoes all over the world.

Our industry was one of the biggest supporters of China's enterance into the WTO, not just because of our relationship with China as a supplier to the U.S. market, but because we wanted to use WTO rules as a means to open China – with the world's largest middle class of 400 million people and growing – to U.S. brands. Since China's WTO accession, our industry has worked closely with the U.S. government and the rest of the U.S. business community to ensure that China lives up to its commitment in opening up its distribution and retail sectors. Thanks to the efforts of the U.S. government, China has largely lived up to those commitments, opening the doors to U.S. brands to sell into the vast Chinese market.

While U.S. brands have had some success in China because of these efforts, significant restrictions still exist in our sectors. We hope the Chinese fully live up to their commitments in the following areas.

Retailing/Distribution Rights & Licensing
Despite repeated Chinese commitments to the contrary, we have had continued reports from our members of factory licensing schemes that prevent our members from selling in China what they make in China. Members still report they must export their Made in China product to Hong Kong and then re-import the product back into China in order to sell that Made in China product in China. This right to distribute was one of the fundamental commitments China made when it joined the WTO and it is critical to the success of U.S. footwear and apparel brands as they attempt to penetrate the fast-growing Chinese market.

Intellectual Property Rights (IPR)
In recent months, we have been encouraged by China's efforts to improve its Intellectual Property Rights (IPR) enforcement regime. We are further encouraged by proposed changes to the trademark registration process and look forward to their ratification by the People's Congress. Nevertheless, apparel and footwear companies still face serious challenges in China, especially with the rapid growth of "rogue" Web sites. These sites tend to be based in China and have been successful in eluding U.S. Customs inspections due to their ability to ship illicit product direct to the consumer. We are cautiously hopeful that expected changes in China's enforcement and legal regimes will also include greater IPR protection on the Internet. We also note that a number of markets in China continue to sell fake apparel and footwear goods throughout the country. We encourage China to work with provincial governments to conduct more raids on the local level.

The Currency Issue – A Costly Distraction from the Real Problems at Hand
Like many in the business community, we believe China's currency should ultimately be traded at a market determined exchange rate. We believe that is the surest way to achieve the only "correct" value for the Chinese currency and to structure the most predictable and stable trade relationship. With that in mind, we would hope that the Administration continues to pursue a multilateral approach to address China's currency policies. We believe this is the most effective way to bring about the kind of long term, gradual, and sustainable changes that are needed.

AAFA believes, however, that addressing China's currency through legislation, as currently being considered by Congress, will not only not create new U.S. jobs, but could actually hurt current U.S. jobs.

History demonstrates there is little, if any, connection between a rising Chinese currency and U.S. job creation. In fact, during the last period of China currency appreciation, where China's currency appreciated over 20 percent versus the U.S. dollar between 2005 and 2008, there is no evidence this appreciation affected U.S. jobs one way or another.

Further, proponents argue that, as currency appreciation makes it too expensive to manufacture in China, those manufacturing jobs will necessarily return to the United States. This is extremely unlikely because China and the United States do not trade in a vacuum. In apparel and footwear, and in thousands of consumer and other products, dozens of countries stand ready to pick up any production diverted from China. Apparel is the best example of this situation, where there are suppliers in at least a half dozen other Asian countries alone that today can compete with China on price. Any appreciation of China's currency that makes China less attractive will simply divert production to those other countries –not back to the United States.

In the interim, the political capital that would be wasted on "fixing" China's currency through legislation would mean that any real, practical initiatives to increase U.S. jobs, through exporting U.S.-made and U.S.-branded products to the world's fastest growing market or to remove the real and significant problems listed above, would be pushed aside, or might even go backwards. Moreover, as described below, the response to enacting such legislation could actually hurt U.S. workers.

Ensuring WTO Compliance, The Right Way and The Wrong Way

As we noted, China still has a long way to go in meeting its international obligations – as both a major economic power and as a major market for U.S. brands and U.S. products. We fully support the current administration's efforts to address these many issues through dialogue. As we also noted, however, our industry has and will continue to support further actions in specific instances where dialogue continues to produce less than desired results.

We would, however, caution those who would propose certain "remedies" for the purpose of resolving many of these issues. First, many of the proposed "solutions" clearly violate U.S. obligations under international trade rules. While many might not be concerned about this, this violation is of critical concern to our industry. As I mentioned previously, U.S. apparel and footwear firms make and sell everywhere around the world, including selling clothes and shoes made in China into major markets like Europe, Brazil, and India. Any action taken by the United States against China that violates international trade rules would not only be closely watched by these countries but quickly replicated, closing these important markets to U.S. brands. In fact, this "copying" is already happening in many key markets around the world, including Brazil, Turkey, Argentina, and Mexico.

Second, many of these proposed "remedies" would impose significant penalties, in the form of punitive duties or other restrictions, on many U.S. imports from China. As previously stated, virtually all clothes and shoes sold in the United States are imported, with a significant portion being imported from China. Similar situations exist for a multitude of other consumer products used every day by hardworking American families. If such "remedies" are imposed, those remedies would amount to a huge new tax on hardworking American families – at a time when many of these families can least afford it. The recent Section 421 tire case clearly bears this out as hardworking American families must now pay a much higher price for lower-cost tires.

Third, as noted above, remedies provide no guarantee that jobs will be brought back to the United States. In fact, those imports, and the jobs which go with them, are much more likely to go to third countries. Again, the Section 421 tire case is a great example. Definitive studies prove production of lower-priced tires did not return the United States after the imposition of duties. Instead, that production moved to other countries, like Mexico.

Finally, such actions could actually hurt the very U.S. manufacturing base these measures are supposedly trying to protect. Regrettably, recent history has repeatedly demonstrated this fact. Our members' products – U.S.-made textiles, apparel, and footwear – figured prominently on foreign country retaliation lists in both the WTO dispute over Foreign Sales Corporations (FSC) and in the WTO dispute over the Byrd Amendment. These punitive measures severely crippled what remains of the U.S. apparel and footwear manufacturing industries as it essentially closed their primary export market to U.S.-made footwear and apparel – Europe. In this case, China is one of the largest and fastest growing markets for U.S. exports of all types – again this means anywhere from yarn and fabric to machinery and high technology products and from cotton and soybeans to poultry. As you know, China launched anti-dumping investigations into U.S. exports of poultry and autos to China shortly after the 421 tire decision. (Please note the United States again correctly used the tools available to it under China's WTO accession, recently taking the China poultry case to the WTO.)

Even when the United States does take action against China to protect and promote certain domestic manufacturers, such actions don't actually work. The aforementioned "textile-specific" safeguard quotas the United States imposed on U.S. apparel and textile imports from China from 2005-2008 is the perfect example. The safeguard quotas did not promote manufacturing in the United States – the stated goal – or even shift production back to the Western Hemisphere – the unstated goal. Instead, the safeguard quota only served to shift production from China to other countries in Asia. Meanwhile, U.S. consumers and shareholders ended up transferring over $4 billion dollars in a direct subsidy to the government of China to pay for the quotas.

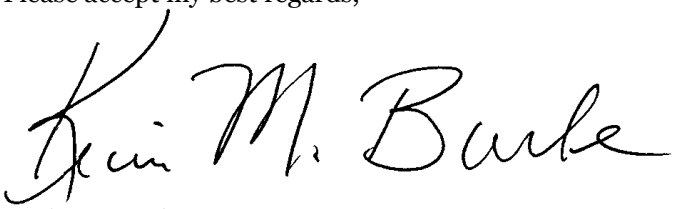
Conclusion

The U.S. apparel and footwear industry recognizes that many important issues exist in the U.S.-China relationship – issues which directly affect U.S. apparel and footwear firms. However, as in the case of our

industry, the relationship between the United States and China is one that is critically important to and intimately intertwined with the U.S. economy. Therefore, we urge the U.S. government to carefully consider all aspects of this vital and complicated relationship before establishing new policy and to focus its efforts on those policies that can have a real and positive impact on U.S. workers and the U.S. economy.

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 if you have any questions or would like additional information.

Please accept my best regards,



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