american apparel & footwear association

we wear℠ jobs

September 24, 2012

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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,

Kevin M. Burke

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