



Testimony of
Title, Organization

**Textiles and Apparel: Effects of Special Rules for Haiti on Trade Markets and Industries
No. TR-5003-1**

USITC Hearing – November 8, 2007

Mr. Chairman and Members of the Commission:

Thank you for the opportunity to speak before you today concerning the impact of the Haitian HOPE Act on the U.S. textile industry and other countries in the Caribbean Basin region. The American Manufacturing Trade Action Coalition (AMTAC) and the National Council of Textile Organizations (NCTO) submit the following remarks jointly as our views and concerns coincide on these issues.

AMTAC is a trade association founded by domestic manufacturers who are committed to maintaining manufacturing in the United States. Our objective is to seek the establishment of trade policy and other measures designed to stabilize the U.S. industrial base and thus preserve and create American manufacturing jobs. AMTAC represents a wide range of industrial sectors, and a significant component of AMTAC's membership consists of producers of yarn, fabric, and apparel.

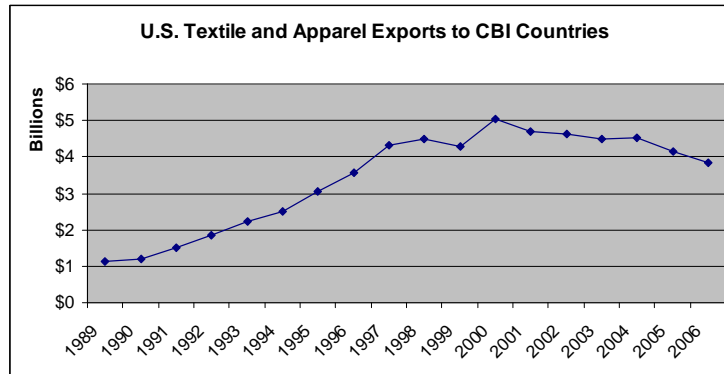
NCTO is a trade association established to represent the entire spectrum of the United States textile sector, from fibers to yarns to fabrics to finished products, as well as suppliers in the textile machinery, chemical and other such sectors which have a stake in the prosperity and survival of the U.S. textile sector.

I. Haiti has been a long-term beneficiary of U.S. Preference Programs:

Haiti has been a long-term beneficiary of U.S. preference programs associated with apparel production. In the 1980's, Haiti was given preferential quota treatment under the U.S./Haiti bilateral textile agreement. This preferential treatment came in the form of Guaranteed Access Levels (GALs), which in essence allowed Haiti to export a virtually unlimited amount of apparel to the United States as long as the garments contained U.S. fabrics. Of course, garment exports under the GAL system also enjoyed partial duty reductions through the 807 tariff program. In the 1990's, Haiti along with other regional suppliers received even more generous preferences through the Caribbean Basin Trade Partnership Act (CBTPA). The CBTPA granted Haiti complete quota and duty free treatment on its apparel exports to the United States, again based on the requirement that the finished product include U.S. components.

These programs were designed to create a symbiotic relationship between the U.S. yarn and fabric sectors and Caribbean regional producers of clothing. Highly efficient U.S. yarn and

fabric producers partnered with highly efficient and low cost apparel makers in the Caribbean Basin to produce reasonably priced and high quality apparel for the lucrative American market. To a great extent, the concept has worked well. U.S. exports of yarns and fabrics to the Caribbean Basin Initiative (CBI) region¹, which includes the CAFTA countries, have grown dramatically over the past two decades. In 2006, the United States exported \$3.8 billion worth of these products to the CBI region. As illustrated in the following chart, between 1989, the oldest data available, and 2000, when U.S. exports were at their peak, U.S. textile companies increased their exports to the region 349 percent.²



Source: U.S. Department of Commerce, Office of Textiles and Apparel (OTEXA)

In addition, U.S. textile and apparel exports specifically to Haiti have grown dramatically over the past two decades, with exports bucking the overall decline to the CBI region during the past six years. U.S. exports more than doubled from 1989 to 2005 when they reached a peak of \$221 million. In 2006, U.S. textile and apparel exports to Haiti declined to \$170 million.



Source: U.S. Department of Commerce, Office of Textiles and Apparel (OTEXA)

¹ Caribbean Basin Initiative members: Antigua, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts-Nevis, St. Lucia, St. Vincent/Grenadines, and Trinidad and Tobago.

² U.S. exports began to decline steadily with the phase-out of quotas beginning on December 30, 2001. The quota phase-out freed major Asian exporters, notably China, from quota restraints, which put strong competitive pressure on the Western Hemisphere trade preference regions. The Asian currency collapse in 1998-99, which caused prices for Asian textile and apparel products to fall sharply, contributed significantly to these pressures.

Clearly the CBI region represents a critical export market for U.S. textile manufactures. In fact, textile and apparel exports to the CBI represent 25 percent³ of total U.S. textile and apparel exports. Exports to Mexico, under the NAFTA agreement, represent another 25 percent of U.S. textile and apparel exports. All told, nearly 50 percent of all U.S. textile and apparel exports are sent to the Mexican, Caribbean and Central American region.

The HOPE Act, which allows for the sourcing of large volumes of non-U.S./non-regional yarns and fabrics, clearly jeopardizes these key existing markets for U.S. exporters. In essence, it upsets a delicate system of preferences and privileges that were specifically design to drive investment and trade on a region-wide basis. In addition, the CBTPA and CAFTA were constructed in a manner to ensure that all parties benefited, including U.S. producers.

It should also be noted, that beyond the United States market, Haiti is eligible under a host of preferences from other developed countries including the European Union and Canada. In fact, according to a recent WTO report on preferences, Haiti is among a small group of countries for which preferential schemes cover over 90 percent of their total exports.⁴

II. Special preferences under HOPE go beyond what is available under CAFTA

The HOPE Act grants duty free preferences to apparel made in Haiti under a set of rules that are significantly more liberal than those that govern either the CAFTA or the CBTPA. The HOPE Act creates two substantial apparel Tariff Preference Levels (TPLs) that clearly undermine the origin rules embedded in both CAFTA and the CBTPA.

The larger of the two TPLs grants duty-free treatment for apparel assembled in Haiti so long as a certain percentage of the garments' value is added in Haiti or any country with which the United States has a free trade agreement or preference program. The combination of Haitian value-added and free trade/preference inputs must equal 50 percent of the value of the garment in Years 1-3, 55 percent in Year 4, and 60 percent in Year 5 of the legislation. The remaining value-added can come from any country in the world. The quantity of the TPL ranges from 1 percent in Year 1 to 2 percent in Year 5 of total U.S. apparel imports in the preceding 12 months. Under this formula, Haiti has a TPL of 238,785,275 square meters for 2007.

The HOPE Act includes a second TPL for woven apparel granting duty-free access for a specific level of apparel sewn in Haiti regardless of the source of the yarns or fabrics. The second TPL is capped at 50 million square meters in Years 1-2 and 33.5 million square meters in Year 3.

To give a sense of the scale of these two TPLs, U.S. apparel imports from Haiti were 252 million square meters in 2006, 37 million square meters less than Haiti's total TPL allotment of 289 million square meters for 2007. In other words, Haiti's TPLs allow it to maintain current levels of exports without using one kilogram of U.S.-made yarn or one square meter of U.S.-made fabric.

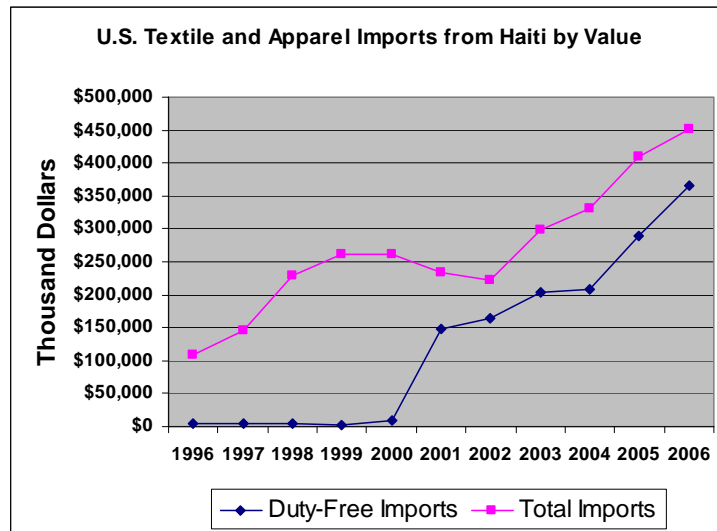
³ 3-year average

⁴ http://www.wto.org/english/res_e/reser_e/ersd200505_e.doc

In contrast, the CBTPA and CAFTA go to great lengths to ensure that the symbiotic relationship between U.S. textile manufacturers and regional apparel producers is maintained. In order to gain duty-free access under CBTPA, apparel must use U.S.-made fabric of U.S.-made yarn with limited exceptions. U.S. dyeing, printing and finishing of fabrics is also required. Under CAFTA, either U.S. or regional yarns and fabrics must be used in order to qualify. There are exceptions for Nicaragua under a 100 million square meter TPL, Costa Rica under a 1 million square meter wool apparel TPL, and limited use of Mexican fabric through the cumulation provision.

The Haiti HOPE rules, which are more generous than CAFTA or CBTPA, will have the following impact. First, U.S. exports of yarns and fabrics to Haiti will suffer dramatically. While it may be too soon to measure the exact impact of the new legislation on U.S. producers, exports of U.S. textiles are off significantly since the beginning of 2007. The latest available data from the U.S. Commerce Department shows a 58.9 percent decline in U.S. textile and apparel exports to Haiti. (Note: While technically defined as apparel products for Customs purposes, such exports are actually cut fabrics.)

Over the first eight months of 2007, U.S. exports of these products totaled only \$51.9 million as compared \$126.6 million over the same period in 2006. Conversely, Haitian exports of apparel to the United States have been increasing significantly since 2002 and are up by 6.4 percent over the first eight months of this year.



Source: U.S. International Trade Commission Dataweb

The second direct impact associated with the HOPE Act, is that production of apparel will shift within the region. Since Haiti now enjoys more generous origin rules, orders that were at one time given to other regional suppliers, will be re-directed to Haiti. In fact, while Haiti has experienced export growth to the United States this year, CAFTA countries as a whole have seen their total textile and apparel exports to the United States decline by 3.8 percent this year. The next effect for the U.S. industry is more lost export sales since the U.S. is the main source of yarns and fabrics to the CAFTA countries.

To cite specific example, a U.S. textile company lost a long-standing order for fine cotton yarns because its customer moved the garment order to Haiti. This allowed the customer to source Asian yarns which were eight percent cheaper. Another company reported that their sales of trouser fabric to the Dominican Republic were being cancelled because their customer was moving the garment business to Haiti and would be sourcing Chinese fabrics.

Another major concern with the Haiti Hope Act is that this legislation continues a growing and very disturbing trend of adopting major changes in U.S. trade law on a rapid and uncoordinated basis. The seemingly never-ending stream of significant policy changes on the part of the U.S. government makes it nearly impossible for U.S. companies to define and implement strategic plans. Consequently, long range planning and investment are often made obsolete by policy concessions that undermine regions, such as CAFTA, that are supposedly designated for special preferences.

For example, a large U.S textile company made a major investment decision to expand regional fabric production based on the successful conclusion of CAFTA. This company made a \$100 million investment in Nicaragua to produce bottom weight fabrics, commonly used in trouser production. Based on CAFTA's rule-of-origin, these fabrics could only be sourced from either the United States or one of the other CAFTA participants.

In essence, this was the realization of one the most important goals imbedded in CAFTA -- to spur investment and job creation in the region in order to improve overall regional working and economic conditions.

The investment went forward as planned in 2005 as construction began on an entirely new and modern fabric plant in one of the most depressed countries in our hemisphere. One year later, in late 2006, Congress adopted the Haiti HOPE Act. The HOPE Act allows Haiti to source these fabrics outside of the region. As result, Haiti can now siphon business from CAFTA trouser producers who are required to operate under the CAFTA rule-of-origin. Consequently, the provisions of the HOPE Act have substantially undermined the entire strategic planning associated with the Nicaraguan investment.

III. Enforcement of HOPE rules nearly impossible

As noted earlier, the HOPE Act establishes an extremely elaborate value added rule of origin for the larger of the two apparel TPLs. Enforcement of the value-added rule of origin in the HOPE Act will be extremely difficult for two main reasons.

The first is the complicated nature of the value-added rule of origin itself. This rule states that at least 50 percent of the value of the finished apparel must be from the United States, Haiti or any other country with which the U.S. has a free trade agreement or preference arrangement. As a result, over 60 countries would be qualified to ship yarns and fabrics to Haiti. It will be virtually impossible for the U.S. Customs and Border Patrol Agency (CBP) to track whether these inputs actually came from one or more of the eligible free trade countries. More complicating is the fact that once a garment is assembled and shipped, it is impossible for a Customs agent to determine the precise value of components used in a garment. Documentation

can be easily falsified with very little ability for Customs to question assigned values associated with a particular garment. In short, the ill-conceived value rule-of-origin in the HOPE Act simply invites widespread abuse.

Secondly, U.S. Customs can expect little to no assistance in enforcing the HOPE Act requirements from their counterparts in Haitian Customs. Past experience indicates that the Haitian Customs service is at best inadequate and at worse, notoriously corrupt. In 2005, two former executives of American Rice, Inc. were sentenced in U.S. courts for violating the Foreign Corrupt Practices Act by paying off Haitian customs officials in return for reduced duties on their rice exports to Haiti.⁵ The U.S. State Department website also reports issues with Haitian customs agents trying to extract bribes from U.S. church groups traveling to Haiti with foreign aid supplies.⁶ The global anti-corruption coalition Transparency International ranks Haiti last on its government transparency scale behind 162 other countries including Myanmar (Burma), Sudan and Iraq.

Moreover, the inclusion of a value base origin rule in the HOPE Act runs directly counter to advice and direction for the past two decades from the U.S. Customs Service itself. Noting the inability to effectively enforce value based rules, U.S. Customs, working with the Chief Textile Negotiator at USTR and the Committee for the Implementation of Textile Agreements worked to preclude such rules from textile related trade agreements. As a result, no value-based rules were incorporated in the textile chapters of the NAFTA or CAFTA agreements. In addition, based on a compromise struck between components of the U.S. industry and key Congressional Representatives, no value-based rules were included in the CBTPA.

Yet, despite our strongest advice as industry advocates, our pleas to Congressional advocates of the HOPE Act to preclude value-based rules were completely ignored. As a result, we have in place legislation that fails a critical fundamental test – that the rules governing the system in question must be enforceable.

In regard to this issue of enforceability, it should be noted that often times the real victims are the parties the bill was intended to help in the first place. Failure to enforce the HOPE Act means less value for Haiti and Haitian apparel workers as unscrupulous parties take the benefits for themselves.

IV. Conclusion

In conclusion, we strongly believe that the Haiti HOPE Act will have the following long-term, adverse ramifications. The Act will:

- Lead to a dramatic decline in U.S. yarn and fabric exports to Haiti, costing U.S. producers a market that as recently as 2005 topped \$221 million.
- Lead to production shifts from other Central American and Caribbean producers who are key export customers for U.S. yarn and fabric producers.

⁵ http://goliath.ecnext.com/coms2/gi_0199-5135341/The-Foreign-Corrupt-Practices-Act.html

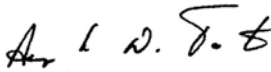
⁶ <http://www.state.gov/g/drl/rls/irf/2006/71464.htm>

- Invite widespread fraudulent activity due to the inability to effectively enforce the value based rule of origin.

For all these reasons, we call upon both the Executive and Congressional Branches of the U.S. Government to develop an alternative program of support for Haiti. One that helps restore the symbiotic relationship between U.S. and Haitian textile and apparel manufacturers; restores the delicate balance of concessions and preferences among the various free trade partners in the region; and constructs a logical and enforceable program from a Customs standpoint.

Thank you for your consideration of our views on this important matter.

Sincerely,



Augustine Tantillo
Executive Director, AMTAC



Cass Johnson
President, NCTO