

May 11, 2004

Ms. Marilyn R. Abbot
Secretary
U.S. International Trade Commission
500 E Street, SW – Room 112
Washington, DC 20436

RE: U.S.-Thailand Free Trade Agreement: Advice Concerning the Probable Economic Effect of Providing Duty-Free Treatment for Imports (Inv. Nos. TA-131-29 and TA-2104-12)

Ms. Abbot:

The National Council of Textile Organizations (NCTO) welcomes this opportunity to submit comments concerning a potential free trade agreement (FTA) between the United States and Thailand, (Inv. Nos. TA-131-29 and TA-2104-12).

NCTO is a new group designed to represent the entire unified spectrum of the U.S. textile sector, from fibers to finished products, including yarn, fabric, man-made fibers, cotton, textile machinery and chemicals and others concerned with the prosperity and survival of the U.S. textile industry.

As a matter of principal, given the rash of free trade agreements that have been recently concluded or are currently being negotiated, NCTO believes it would be prudent to step back and assess the agreements already in place, as well as the likely state of world textile and apparel trade if quotas are lifted at the end of this year, before proceeding with this agreement.

However, should the U.S. government proceed with negotiations on a U.S.-Thailand FTA, or for that matter on any free trade agreement, we believe such agreements must be tightly crafted to benefit only those in signatory countries, not manufacturers in third party countries. To do otherwise reduces or eliminates any possible opportunities for the U.S. textile industry to export its goods to FTA partners. Thailand is already a significant textile exporter, shipping the U.S. an average of 1.2 billion square meter equivalents (SMEs) annually over the past two years. NCTO views with great concern the potential for this figure to expand greatly if duty-free treatment is accorded to items from Thailand.

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Moreover, NCTO is very concerned about the likelihood of even greater levels of imports from Thailand at the expense of U.S. production and jobs if this agreement does not meet five very clear standards. Specifically, we believe any agreement must:

- (A) contain a strict, yarn-forward rule of origin, with no exceptions that would benefit manufacturers located in non-participating countries;
- (B) include effective enforcement mechanisms, including a kick-out clause to penalize countries that do not enforce the agreement's requirements;
- (C) permit an effective textile safeguard in the event of import surges;
- (D) contain effective rules to protect intellectual property rights; and
- (E) provide for reciprocal and concurrent phaseout of duties.

Meeting these five objectives will be critical to determining how the U.S. textile industry will be affected by this agreement, and what our position will be.

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o elaborate further on these objectives, we offer the following, more detailed comments:

(A) Textile and Apparel Rule of Origin

NCTO strongly urges inclusion of a yarn-forward rule of origin for textiles and apparel in any U.S.-Thailand FTA. Under the yarn-forward rule of origin, all the major components of a textile or apparel product must be produced in one or both of the signatory countries. The yarn-forward rule is the only way to ensure that textile manufacturers and workers in the participating countries are the beneficiaries of the agreement, not yarn and fabric makers in third party countries.

Tariff preference levels (TPL's), the concept of cumulation that first appeared in the recent U.S.-CAFTA accord, and any other exceptions or loopholes that undermine the basic rule of origin must not be included in the agreement. Further, a strict short supply provision modeled on the language in the U.S.-CAFTA agreement is also needed to preserve U.S. textile export opportunities while still providing flexibility sought by apparel makers in Thailand needing textile inputs truly not made in either the U.S. or Thailand.

(B) Effective Customs Enforcement Measures

The U.S.-Thailand FTA must have effective enforcement mechanisms, and both the U.S. and Thailand must be willing to use those rules. We urge inclusion of language to provide for the use of production verification teams, enable U.S. Customs and Border Protection (Customs) personnel to inspect factories in Thailand without prior notice, and authorize the development of tracking systems, including a certificate of origin. Annual plant visits, records audits, and yearly certification requirements should be required, and Customs should also be required to file annual reports with the Congress and the President detailing its efforts in Thailand to ensure that textile and apparel rules of origin are enforced.

NCTO also urges the U.S. to insist upon a "kick-out clause," to withhold duty-free benefits from Thailand if they do not enforce the agreement's rules. To date, agreements have only allowed companies who are caught violating agreements from being excluded from duty-free treatment. And without adequate enforcement by participating countries, companies are free to break the rules without any real fear of getting caught. Thus, we need a kick-out clause in this and all future FTAs that will expressly allow the United States to withhold duty-free benefits if the Thai government fails to enforce the provisions of the agreement.

Finally, the Congress must also provide appropriate funding support for U.S. Customs personnel to enforce this FTA. The recent General Accounting Office report on textile transshipment highlights the need for improved efforts in this area to combat transshipment from China and thus restore U.S. textile industry confidence in the ability of the U.S. government to adequately police trade agreements.

(C) Textile safeguard

In light of Thailand's current and potential textile and apparel capacity, NCTO believes that this FTA must include an effective textile safeguard along the lines of the special China textile safeguard, but with a shorter time for decision-making and a longer effective duration. This would permit the re-imposition of tariffs or the imposition of quantitative restraints, should imports of textile or apparel products from Thailand cause or threaten to cause market disruption.

There is already an enormous amount of transshipment through various countries of goods actually originating in China. Accordingly, we are very concerned that China's proximity to Thailand, coupled with the duty-free status an FTA with Thailand would confer, would be irresistible to those seeking to avoid duties that are imposed on China by transshipping through Thailand. This makes a safeguard mechanism (as well as more effective enforcement provisions) all the more essential in this agreement.

(D) Effective enforcement of intellectual copyrights and designs of textile products

The U.S. textile industry has long voiced our concerns regarding copying and theft of U.S. textile designs and copyrights, particularly in the home furnishings, upholstery and decorative fabric sectors. We have estimated that at least \$100 million in domestic and export textile sales are lost each year to intellectual property theft from China alone. Thus, we urge that strict rules and penalties be included in any U.S.-Thailand FTA to prevent this problem from spreading.

(E) Reciprocal and Concurrent Phaseout of Duties

As the Office of the U.S. Trade Representative noted in its *2003 National Trade Estimate Report on Foreign Trade Barriers*, "Thailand's applied tariff rates for U.S. textile exports are very high, ranging from 25 percent to 40 percent for fabrics, 10 percent to 25 percent for yarns and 35 percent to 45 percent for apparel. In addition, Thailand applies specific unit duties on one-third of all textile tariff lines that make effective rates even higher." Accordingly, while we do not expect significant export opportunities to be created by a U.S.-Thai FTA, we will have almost no opportunities at all unless there are provisions

ensuring that duty eliminations are reciprocal and concurrent, given the high applied and effect tariffs Thailand currently imposes on U.S. textile exports.

In conclusion, NCTO is concerned that the U.S.-Thailand FTA will directly reduce domestic sales and thus reduce U.S. textile production and jobs. We are also concerned that it will also reduce foreign orders for our products and thus employment here in the U.S. by displacing garment imports from countries in the Caribbean and Central America – countries with which we have already established preferential trading arrangements for apparel made of U.S. yarns and fabrics. All of this damage can at least be reduced if the agreement meets the five objectives we have noted above. However, if any of these objectives are not adequately met, the U.S. textile industry, which has already lost over 200,000 jobs in the past five years, will suffer further economic dislocation, including reduced sales, domestic plant closings and American job losses.

Sincerely,

Cass Johnson
President

National Council of Textile Organizations

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