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PRESS STATEMENT

NCTO Files Public Comments on NAFTA Renegotiation

U.S. Textile Industry Eager to Work with Trump Administration to Improve Deal

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WASHINGTON, DC – Today, the National Council of Textile Organizations (NCTO) filed public comments with the Office of the U.S. Trade Representative (USTR) outlining the U.S. textile industry's priorities in the forthcoming renegotiation of the North American Free Trade Agreement (NAFTA).

"The U.S. textile industry welcomes President Trump's decision to renegotiate NAFTA," said NCTO Chairman William V. McCrary Jr., Chairman and CEO of William Barnet & Son, LLC, a synthetic fiber/yarn/polymer firm headquartered in Spartanburg, South Carolina.
"It is in America's national interest to modernize the agreement and NCTO is eager to work with President Trump to make it even better," McCrary continued.

"Let me be clear: NAFTA is vital to the prosperity of the U.S. textile industry, and NCTO steadfastly supports continuing the agreement. With that said, NAFTA can be improved to incentivize more textile and apparel jobs and production in the United States, Canada, and Mexico," McCrary added.

"Eliminating loopholes that shift production to third-party countries like China and devoting more customs enforcement resources to stop illegal third-country transshipments are two changes that would make the agreement better," McCrary said.

"We look forward to working with our industry partners throughout the NAFTA region to improve this agreement for all," McCrary finished.

U.S. Trade Representative Robert Lighthizer formally notified Congress on May 18, 2017 that President Trump intended to renegotiate NAFTA. This action triggered a request for public comments found at 82 FR 23699 and dated May 23, 2017 (Docket: USTR–2017–0006). That public comment period closes today.

NCTO is a Washington, DC-based trade association that represents domestic textile manufacturers.

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Public Comments of the U.S. Textile Industry Regarding Docket USTR–2017–0006, Negotiating Objectives Regarding Modernization of North American Free Trade Agreement with Canada and Mexico (NAFTA Negotiations)

June 12, 2017

These comments are provided on behalf of the National Council of Textile Organizations (NCTO) in response to the Federal Register request for public comments found at 82 FR 23699 and dated May 23, 2017 (USTR–2017–0006).

NCTO represents the entire spectrum of the United States textile sector, from fibers to yarns to fabrics to finished products, as well as suppliers of textile machinery, chemicals, and other such sectors that have a stake in the prosperity and survival of the U.S. textile sector. NCTO's headquarters are in Washington, DC. www.ncto.org

Overview of the U.S. Textile Industry and Key Statistics

As the data provided below will indicate, the U.S. textile industry and its suppliers and customers along the value chain comprise an important component of the U.S. economy found in every region of the country. The industry provides much-needed jobs in rural areas and has functioned as a springboard for workers out of poverty into good-paying jobs for generations.

The industry is also a key contributor to our national defense, supplying more than 8,000 products to our men and women in uniform. Finally, the industry is a driving force in high-tech innovation. Textile products are now major components in everything from heart valves and stents to aircraft bodies and advanced body armor.

U.S. Textile Industry Key Facts

- The U.S. textile industry supply chain - from fibers to apparel and other sewn products - employed 565,000 workers in 2016. One textile job supports three other jobs in the United States.
- U.S. textile and apparel output totaled $74.4 billion in 2016.
- The U.S. is the fourth largest exporter of textile-related products in the world. Fiber, textile, and apparel exports combined were $26.3 billion in 2016.
- The U.S. textile industry exported to more than 200 countries, with 26 countries importing $100 million or more.

- Domestically, the U.S. textile industry invested $17.9 billion in new plants and equipment from 2006 to 2015.
- U.S. textile mills have increased productivity by 52% since 2000.
- The United States is the world leader in textile research and development, producing advanced materials with technical, medical, military, aerospace, athletic, and myriad other applications.

Recommended NAFTA Modernization Objectives for Textiles and Apparel

NCTO welcomes the opportunity to provide input to USTR as it develops its negotiating objectives and positions relevant to the pending modernization of the North American Free Trade Agreement (NAFTA). We strongly support President Trump's intention to reopen NAFTA, and it is our view that the agreement can be modernized and improved to significantly enhance U.S. textile production and employment, while expanding exports to our NAFTA partners.

Preserve and Grow Two-Way Trade

The NAFTA region enjoys vibrant fiber, yarn, and fabric sectors in addition to cut and sew capabilities. As a result, we support building on the successes of NAFTA through seeking common-sense improvements, but not a wholesale cancellation of the agreement, due to the high level of integration in the supply chain that exists today.

This partnership is evidenced by robust and healthy trade flows in our sector. The U.S. textile sector has a demonstrated capability of developing and expanding export markets within the NAFTA region. In fact, Mexico and Canada are the two largest export markets for U.S. textiles. Included below are tables summarizing U.S. textile and apparel exports and the overall trade balance under NAFTA in recent years.

U.S. Textile and Apparel Exports – In Thousand Dollars			
	2014	**2015**	**2016**
To Mexico	$6,208,045	$6,510,071	$5,936,873
To Canada	$5,595,784	$5,246,776	$5,160,422
NAFTA Total	$11,803,828	$11,756,847	$11,097,296

U.S. Textiles and Apparel Trade Balance – In Thousand Dollars			
	2014	**2015**	**2016**
With Mexico	$332,734	$733,797	$279,876
With Canada	$3,492,530	$3,204,811	$3,169,249
NAFTA Total	$3,825,263	$3,938,608	$3,449,126

As the above data demonstrate, domestic textile manufacturers can take advantage of lucrative export opportunities under well-crafted free trade agreement rules that encourage U.S. production. These exports in turn support significant U.S. investment and expand domestic employment. Consequently, making some long overdue improvements to NAFTA will translate into valuable economic contributions to the U.S. economy.

Market Access and Rules of Origin

Textile and apparel import tariffs have been eliminated for NAFTA-qualifying trade for many years now, and we do not foresee a need to reinstate NAFTA-based tariffs in our sector. Instead, we recommend that focus be placed on reviewing the rules of origin through a lens of fostering increased NAFTA value add and removing incentives that promote non-NAFTA inputs. Doing so will better ensure that the lucrative tariff benefits granted under NAFTA are more appropriately reserved for manufacturers within the NAFTA region.

NAFTA is based on a yarn-forward rule of origin for textile and apparel trade, a key driver for the regional integration and robust two-way trade that exists today. Yarn forward was originally devised under NAFTA and is the accepted rule of origin for the domestic textile industry because it reserves key benefits for manufacturers within the signatory countries. A yarn-forward concept is also markedly easier to enforce versus a value-added rule of origin. Although most U.S. FTAs are built on yarn forward as the basic structure, damaging exceptions to yarn forward exist in many agreements as well, including NAFTA.

Tariff Preference Levels (TPLs)

TPLs allow for products to be shipped duty free among FTA partner countries even though the components within the products are sourced from nations that are not signatories to the agreement. For example, a cotton top, made from Chinese yarn and fabric, can be cut and sewn in Mexico and shipped duty free to the United States under the TPL. Consequently, TPLs circumvent the yarn-forward rule of origin and directly undermine benefits for NAFTA regional textile manufacturers. Worse yet is the fact that TPLs transfer lucrative benefits to non-signatory countries, such as China.

Although TPLs have annual limits, they result in hundreds of millions of dollars of textile and apparel product entering the U.S. market duty free each year under NAFTA that fail to comply with the basic NAFTA rule-of-origin for textiles. TPLs exist for various categories of product, such as cotton and man-made apparel. There are additional NAFTA TPLs for wool apparel, cotton and man-made fiber fabrics and made-up articles, and cotton and man-made fiber yarns.

Overall, Mexico and Canada combined are permitted to ship nearly 236 million square meter equivalents (SME) of apparel, made-ups, and fabric and 12.8 million kilograms of yarn containing third-party components. While the last step of production must be conducted in a NAFTA country, upstream inputs can come from anywhere despite these fiber, yarn, and fabric inputs being available throughout the NAFTA region.

Included below are tables outlining U.S. imports by volume from Mexico and Canada under their respective TPLs. Please note that there are some data discrepancies due to a recent change in the automated system for filing entry documents with U.S. Customs and Border Protection. As a result, the 2016 TPL data appear to significantly undercount actual entries.

MEXICO TPL Fill Rates	Negotiated Level	Utilization		
		2014	**2015**	**2016**
1) Cotton/MMF Apparel	45,000,000 SME	44,912,035 99.80%	43,256,479 96.13%	38,304,257 85.12%
2) Wool Apparel	1,500,000 SME	1,499,995 100.00%	1,463,489 97.57%	668,910 44.59%
3) Cotton/MMF Fabrics & Made-Ups	24,000,000 SME	12,103,594 50.43%	14,160,571 59.00%	8,996,839 37.49%
4) ....Knit Sub-Level	18,000,000 SME	7,577,234 42.10%	11,900,457 66.11%	8,064,255 44.80%
5) ....Woven Sub-Level	6,000,000 SME	4,526,360 75.44%	2,260,114 37.67%	932,584 15.54%
6) Cotton/MMF Spun Yarns	1,000,000 KG	0 0%	0 0%	0 0%

CANADA TPL Fill Rates	Negotiated Level	Utilization		
		2014	**2015**	**2016**
1) Cotton/MMF Apparel	88,326,464 SME	22,630,315 25.62%	24,142,636 27.33%	12,709,441 14.39%
2) ....Non-NAFTA Fabric Sub-Level	63,060,603 SME	18,702,218 29.66%	20,028,804 31.76%	10,375,689 16.45%
3) Wool Apparel	5,325,413 SME	2,659,456 49.94%	2,641,363 49.60%	1,385,524 26.02%
(4) ....Wool Suit Sub-Level	5,016,780 SME	952,035 18.98%	814,806 16.24%	519,686 10.36%
5) Cotton/MMF Fabrics & Made-Ups	71,765,252 SME	48,445,682 67.51%	62,876,762 87.61%	35,390,563 49.31%
6) ....Woven Sub-Level	38,642,828 SME	32,767,436 84.80%	20,494,060 53.03%	13,198,254 34.15%
7) ....Knit Sub-Level	38,642,828 SME	15,651,809 40.50%	26,771,640 69.28%	18,495,952 47.86%
8) Cotton/MMF Spun Yarns	11,813,665 KG	4,299,792 36.40%	4,476,545 37.89%	2,004,182 16.96%

Note that there are also TPLs for U.S. exports to Mexico and Canada. The following chart outlines the negotiated annual levels; however, utilization data are not available from either the U.S. or Mexican government.

<u>U.S. TPLs in Mexico</u>	Negotiated Level
Cotton/MMF Apparel	12,000,000 SME
Wool Apparel	1,000,000 SME
Cotton/MMF Fabrics & Made-Ups	2,000,000 SME
Cotton/MMF Spun Yarns	1,000,000 KG

Data on U.S. TPL exports to Canada are published by the Canadian government and summarized below. Except for the cotton and man-made fiber apparel TPL, which the United States typically fills annually, usage has been sporadic.

<u>U.S. TPL Fill Rates in Canada</u>	Negotiated Level	Utilization		
		2014	2015	2016
Cotton/MMF Apparel	9,000,000 SME	8,999,621 100%	8,999,404 100%	8,999,630 100%
Wool Apparel	919,740 SME	185,589 20%	400,952 44%	446,693 49%
Cotton/MMF Fabrics & Made-Ups	2,000,000 SME	1,999,930 100%	667,912 33%	259 0%
Cotton/MMF Spun Yarns	1,000,000 KG	49,875 5%	674,998 67%	463,783 46%

Source: http://www.international.gc.ca/controls-controles/textiles/index.aspx?lang=eng

<u>**NCTO TPL Recommendation:** Eliminate the TPL system for all parties under NAFTA.</u>

Additional Rule-of-Origin Provisions

Single Transformation: There is a "single transformation" rule for specific apparel items under NAFTA, including certain men's dress shirts, cotton nightwear and underwear made from fine count knit fabric greater than 100 metric, brassieres, and silk and linen apparel. Single transformation grants these garments duty-free treatment based on the assembly stage only. The justification for granting these items cut and sew status was based on a determination that key yarns or fabrics for these products were not "commercially available" in the NAFTA region at the time the agreement was negotiated. Despite the low NAFTA value-add, single transformation items are afforded the same duty-free treatment given to products that fully comply with the yarn-forward rule of origin.

Special Regime: NAFTA includes a special version of the 9802 concept (HTS 9802.00.90) under which the fabric must be formed in the United States and the finished good (apparel or made-up article) is duty free versus a reduction to the dutiable value under the regular 9802 program. On one hand, this is more liberal than yarn forward because NAFTA yarn is not required (i.e. yarn can be spun or extruded in a non-NAFTA country). On the other hand, all components must be woven or knit in the United States – not just the essential character fabric as under yarn forward.

Component Exemptions: Certain textile components, such as sewing thread, pocketing, and narrow elastics are not required to originate in the NAFTA region.

NCTO Additional Rule-of-Origin Provisions Recommendation: Each of these provisions should be thoroughly reviewed to determine whether they should be eliminated, adjusted, or, in some cases, added in to enhance the benefits for U.S. textile manufacturers under the agreement.

Loophole Impacting Kissell Amendment

The Kissell Amendment is a Berry Amendment-like, buy-American law for textiles that applies to the Department of Homeland Security (DHS). Like Berry, Kissell requires 100 percent U.S. content with very limited exceptions. In practice, however, DHS only applies Kissell to purchases by the Coast Guard and Transportation Security Administration (TSA) because of U.S. commitments made under the WTO's Agreement on Government Procurement (GPA).

With respect to its application to TSA, Kissell has further been diluted. This is because the U.S. government decided not to notify Mexico and Canada under the terms of NAFTA, as well as Chile under the Chilean FTA, that the United States was reserving TSA from the GPA when TSA was created. Thus, the United States has taken the position that those countries are acceptable as U.S. sources under Kissell. This in effect allows for cumulation (i.e. sharing of components) among the United States, Mexico, Canada, and Chile in meeting the content requirements of the Kissell Amendment for TSA contracts. As a result, assembly can take place in either the U.S., Mexico, Canada, or Chile from components made in any of those four countries or a combination thereof.

The TSA loophole in Kissell translates to a significant weakening of U.S. buy-American procurement statues. According to government reports, DHS spent $24 million on clothing and textile items for TSA in FY2016.

NCTO Kissell TSA Recommendation: Utilize the renegotiation effort to close the NAFTA exemption as it relates to application of the Kissell amendment.

Customs Enforcement

During the past 30 years, there has been a systematic deemphasis in terms of commercial fraud enforcement at U.S. Customs and Border Protection (CBP). CBP suffers from both a lack of resources and focus especially noting the uptick in the number of trade agreements and overall trade flows during this timeframe. As a result, the benefits of FTAs, including NAFTA, are siphoned off by third-party countries willing and able to circumvent U.S. trade laws and agreement.

Common methods of duty evasion include misclassification (false product identification), transshipment (false country-of-origin identification), and undervaluation, all of which often go unrecognized and result in unintended access in import-sensitive product categories.

Our sector is especially prone to illegal customs activity, noting that the United Sates collects approximately $14 billion a year in textile and apparel duties, representing 40 percent of all duties collected. Further, over 20 percent of all U.S. importers import textiles and apparel.[1]

Clearly, improving NAFTA customs enforcement should be a major focus in any renegotiation to maximize the benefits of the agreement to NAFTA manufacturers, workers, and consumers. The desired result is a stronger cooperative structure between the NAFTA governments to address false rule-of-origin claims and other instances of customs fraud that dilute the value of the agreement for NAFTA producers. As an added benefit, improving customs enforcement not only pays for itself but also generates increased revenue that is currently going uncollected.

NCTO Customs Enforcement Recommendations: Create a NAFTA customs taskforce to work specifically on textile-related customs fraud. This effort would include an annual government-to-government trade data reconciliation process to analyze statistical discrepancies and detect possible fraudulent activity. Further, an annual public report should be released documenting the activities of the joint customs taskforce and reporting on reconciled import and export data.

Conclusion

In conclusion, there a vibrant textile and apparel production chain that exists today in North America under NAFTA. Consequently, NCTO supports its continuation. With that said, we also believe that that textile manufacturers throughout the NAFTA region would benefit from a modernization effort designed to make common sense improvements to the current NAFTA text that can also serve as a model for future FTA talks. U.S. textile manufacturers and workers will benefit from the elimination of unnecessary exceptions to the yarn forward rule of origin, the proper application of existing Buy America provisions like the Kissell Amendment in government procurement practices, and increased focus on and resources for customs enforcement.

Thank you for your consideration of our views, and NCTO looks forward to partnering with the Trump administration, including working directly with USTR and other relevant agencies, as the NAFTA modernization effort progresses.

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[1] https://www.cbp.gov/sites/default/files/assets/documents/2016-Dec/FY%202016%20-%20Textiles_PTI%20Brochure.pdf