



**Statement of Kevin M. Burke  
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**Before the U.S.-China Economic and Security Review Commission**

**China and the WTO: Assessing and Enforcing Compliance  
February 3-4, 2005**

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Thanks you for providing us this opportunity to submit a statement for the record in connection with this hearing.

The American Apparel & Footwear Association (AAFA) is the national trade association representing apparel and footwear companies, and their suppliers. AAFA members produce, market, distribute and sell clothing and shoes in virtually every country in the world, including China and the United States.

Our comments are structured to offer commentary on the role of China in the post textile and apparel quota world as well as the role of China as a potential consumer market for U.S. footwear and apparel companies. We will then make recommendations on U.S./China trade policy, particularly with respect to China's compliance of its World Trade Organization (WTO) obligations.

**Role of China in the Post Quota World**

On January 1, 2005, the United States and other WTO member countries discontinued the use of quotas to restrain imports of textile and apparel products from WTO and many non-WTO countries. The end of quotas has generated considerable anxiety among textile and apparel interests worldwide as the prevailing view, reinforced by a number of academic studies and some industry assessments, is that China will become a dominant player in the industry in the coming years. While many developing countries have traditionally viewed quotas as a policy tool to limit their exports to the United States, they have only recently begun to view them as a mechanism that prevented one country from gaining a single dominant share in the marketplace.

We have made no official assessment of how China will perform in the post has quota world. While statistics on some products freed from quotas in the past few years and other anecdotal evidence derived from other industries backs up the view that China will gain an enormous share of the U.S. import market, equally compelling facts show that China will have difficulty assuming this role. Many companies are reluctant to commit additional orders to China because

they want to achieve diversity in their sourcing. Companies cite many reasons for retaining business in other countries, including proximity to markets, uncertainties in China, preferential trade arrangements, and pre-existing partnerships with factories.

Much attention has focused recently on the role that China safeguards – negotiated as part of China’s accession package to the WTO -- can play in the coming four years. The United States has already invoked the safeguard on four occasions and, pending a legal dispute, may consider an additional dozen or so cases. With all the hype surrounding these cases, it is important to understand several issues relating to the safeguard tool.

**First**, although many in the textile industry support their aggressive use, safeguards on imports of textile articles from China are not likely to promote textile and apparel manufacturing in the United States. Imports already supply 96 percent of the U.S. apparel market, so quotas on imports from China will merely divert some Chinese made apparel imports to other countries, primarily those in Asia. Moreover, safeguards only restrict the cutting and sewing of Chinese made apparel, and not whether that apparel contains Chinese fabrics. The safeguards may succeed in shifting some apparel operations from China to other countries but those diverted garments may still contain Chinese textiles. At a minimum, safeguards on Chinese apparel do not promote the use of US inputs.

This is a critical point to understand as there is considerable expectation that quotas on China will result in increased business in the United States. Up until the beginning of last month, the United States maintained quotas on hundreds of textile and apparel articles from dozens of countries. Many of these quotas were in place for several decades. During that time, apparel import penetration grew to high levels while U.S. textile and apparel employment fell steadily. If quotas on dozens of countries for 30 years did not help protect the U.S. textile and apparel industry, it is unlikely that quotas on a single country for only four years will now accomplish that goal.

**Second**, the safeguard tool is intended to be used when there is market disruption in the United States that has occurred because of Chinese imports. In other words, it is intended to stop market disruption when the source of that disruption can be traced directly back to China. It is not intended, as some argue, to address real or perceived concerns with the Chinese economy or to encourage Chinese adherence to its WTO obligations. In fact, use of the safeguards as an enforcement tool, without data to show an explicit Chinese role in US market disruption, may cause the WTO to find that the US is violating its own WTO obligations with respect to China.

**Third**, there is an unintended side effect of quota restraints on China that should be more fully understood by the Commission. Efforts to restrain imports from China, or encourage the Chinese government to impose additional taxes on their textile and apparel exports to the United States, do indeed result in an additional cost. That cost is either borne by the US apparel company or passed on to the US consumer. In either case, that cost represents a transfer of funds from US citizens to the Chinese government. We fail to understand why a policy promoting such a financial transfer is in the best interest of the United States, especially when the quota restraints achieved do not promote US jobs.

### **Role of China as Consumer Market**

With a middle class of over 200 million people and growing, China represents the next great market for U.S.-made and U.S.-branded products. Many of our members, including such well-known household names as Reebok and New Balance, have already blazed the trail for American

brands by aggressively pursuing the Chinese consumer. Even so, multiple obstacles abound that restrict the access of U.S. footwear and apparel brands to this lucrative and growing market.

While we applaud the huge strides China has already made in meeting its WTO obligations, China has fallen short in two important areas that directly affect both our footwear and apparel members.

**First**, China continues to delay the issuing of regulations providing foreign firms distribution rights in the Chinese marketplace. In addition, the regulations issued to date allowing foreign firms trading rights in China are vague in many key aspects. As a result, our members must comply with a myriad of often conflicting regulations that can vary from region to region and forces them to enlist a Chinese partner in order to sell their products in China. More importantly, without rules on distribution rights, our members are unable to sell their product in the Chinese market *even if the product is made in China in Chinese factories*. For example, with over 98 percent of the shoes sold in the United States being imported, U.S. footwear firms produce a significant percentage of shoes in China to serve not only the U.S. market but also many other countries around the world. Despite the fact China accounts for over half of the shoes produced worldwide, U.S. footwear firms currently cannot sell the shoes they make in China to the Chinese market. Under current rules, these firms are required to export the shoes out of China and then re-import them back into the country. Until China issues and then enforces a single, simple set of clear and transparent rules granting foreign firms distribution rights, U.S. footwear and apparel brands and the U.S. workers they employ in marketing, distribution, and research & development will continue to lose out on one of the biggest consumer markets in the world.

**Second**, the scourge of counterfeiting continues to run rampant in China, with knock-offs of well-known U.S. footwear and apparel brands sold in markets in virtually every Chinese city and town. Even if U.S. footwear and apparel firms are granted full distribution rights, they will have to compete against these inferior knock-offs that dramatically undercut U.S. brands. Not only are these products priced well-below actual market value, but the low-quality of the counterfeit products also tarnish the hard-earned reputation of U.S. brands.

Again, China has made significant progress in Intellectual Property Rights (IPR) enforcement. However, by all accounts, the most recent rules promulgated by China fall well short of what is needed to ensure that the intellectual property rights of U.S. footwear and apparel firms are protected. Among other problems, the new rules lack the criminal penalties needed to deter counterfeiting.

As you know, many of these same counterfeit products end up on the streets of U.S. cities, hurting U.S. footwear and apparel brands in their own home market. We believe concrete steps, such as those proposed in new bi-partisan legislation introduced in Congress last month, are needed to punish those in the United States that attempt to benefit from Chinese counterfeiting. The Stop Counterfeiting in Manufactured Goods Act, introduced by U.S. Representative Joe Knollenberg (R-MI), requires the mandatory destruction of equipment used to manufacture and package counterfeit goods. In addition, it addresses methods that counterfeiters have used to evade prosecution, such as the selling of patch sets or medallions that can later be attached to generic merchandise and given the appearance of a genuine product.

As the Commission moves forward with its deliberations, we would make several policy recommendations.

**First**, to the extent the Commission and the US government wish to discourage sourcing in China, there are several policy options that are far preferable than the imposition of additional

quotas. Swift implementation of new trade agreements with Central America, such as the U.S.-Dominican Republic/Central America Free Trade Agreement (US-DR/CAFTA), would promote more imports from a region with a demonstrated capability and supply chain that favors US textiles and yarns. This would promote more US textile jobs. Similarly, enactment of programs, such as that proposed in the Tariff Relief Assistance Development Act of 2005 (S. 191), which would eliminate tariffs on countries like Bangladesh, Cambodia, and Sri Lanka, would promote sourcing in poor, developing countries that are highly dependent upon textiles and apparel for employment and foreign exchange revenues.

**Second**, we encourage the Commission to focus on those areas of China's WTO commitments where more progress can be made and where there are demonstrated US commercial interests at stake. From our perspective, we believe greater attention to intellectual property rights (in particular preventing counterfeiting of trademarks or trademarked goods), distribution rights, and market access can promote greater use of US exports or US branded products in China while reducing revenue loss to US intellectual property holders.

We also support resolution of the currency issue, primarily to induce more certainty into the relationship. Some of our apparel members and many of our footwear members are very dependent on China, both to import inputs that are used for US assembly as well as finished products that are sold throughout the United States. Sudden shifts in the currency value would disrupt supply chains in a way that would ultimately harm US interests. Likewise, imposition of additional taxes on imports from China, such as recent Congressional proposals, only raise emotions and uncertainty without making a positive contribution to the bilateral economic policy debate.

**Third**, we believe the China safeguards should only be invoked where the data shows a precise cause and effect between US market disruption and imports from China. We understand the EU is viewing these safeguards as a "last resort" and only when the "measures are fully justified." We would encourage a policy that is more in line with this thinking so that safeguard policy not act as a disruption to the broader commercial relationship. Above all, we believe safeguard policy should be part of a transparent process that leads to predictable, fact-based outcomes.

In conclusion, we are mindful that many in our industry, and many around the country, are concerned over the role that China will play in the coming years. At the same time, we know that many in our industry view China as an important strategic partner. While many disagree over whether China is more a challenge or an opportunity, most agree that the way forward involves a predictable and comprehensive approach that is based on rules and not political imperatives.

Thank you.