June 8, 1998

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION[1]

Bill no., sponsor, and sponsor's state: H.R. 3377 (105th Congress), Representative Faleomavaega (AS).

Companion bill: None.

Title as introduced: To clarify the rules of origin for textile and apparel products from American Samoa.

Summary of bill:[2]

This bill would create an exemption from generally applicable rules of origin for certain textile and apparel products made in American Samoa (a U.S. insular possession) and exported to the United States. Without amending any other provision of law, the bill would reinstate the rules of origin and administrative practices and rulings that were in effect on June 30, 1996, for textiles and apparel made from U.S. fabrics and cut in American Samoa. On July 1, 1996, as mandated by section 334 of the Uruguay Round Agreements Act (URAA), the U.S. Customs Service implemented new rules governing the determination of the country of origin of textile and apparel imports for duty, quota, and marking purposes. Under the old rules, articles made from U.S. fabrics that were cut in American Samoa, when such cut components were sewn together in a third country (primarily China), were generally considered to be a product of American Samoa. Under current rules, the country of origin of the finished good is the country in which the article is sewn together (e.g., China).

Effective date: The date of enactment.

Retroactive effect: None.

Statement of purpose:

The sponsor of the bill stated in the *Congressional Record* that the bill would aid the development of the apparel industry in American Samoa.[3] He said that, although the industry only began operations in 1995 and currently employs only 500 American Samoans, it is the first new industrial investment in American Samoa since the 1960's. He stated that the apparel firm currently operating in American Samoa is planning

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[1] Industry analyst: Mary Elizabeth Sweet (202-205-3455); attorney: Jan Summers (202-205-2605).
[2] See appendix A for definitions of tariff and trade agreement terms.
[3] March 5, 1998, p. E318.

an expansion to include a facility for dyeing U.S.-made fabrics and another for knitting U.S. yarn. The sponsor said that the bill would "grandfather" the [former] rules of origin for textiles and apparel for the growing American Samoan apparel industry and make the expansion plans feasible. He estimated that, with the expansion, an estimated $5 million to $7 million a year in additional fabric shipments would be generated for the mainland U.S. textile industry.

Product description and uses:

Textiles and apparel: This bill would affect any textile and apparel product made from U.S. fabrics that were cut in American Samoa. U.S. imports of all textiles and apparel from this insular possession rose from $134,000 in 1995, the first year of apparel operations in American Samoa, to $18 million in 1996, and $29 million in 1997. The imports in 1996 and 1997 consisted almost entirely of apparel, especially knit shirts and blouses (83 percent of the total) and women's pants (17 percent).

A representative of the U.S. firm that owns the apparel plant in American Samoa stated that his firm began production there in 1995.[4] He stated that the Samoans quickly learned to cut fabric into garment parts and are in the process of developing sewing skills. Consequently, the firm developed the practice of cutting the fabric into garment parts in American Samoa, shipping the parts abroad (primarily to China) for assembly, and then returning the garments to American Samoa for finishing. Under the rules of origin in effect at that time, apparel produced in this manner qualified as originating in American Samoa and could be shipped to the U.S. mainland exempt from duty and labeled "Made in the USA." However, since the new rules of origin under URAA section 334 became effective on July 1, 1996, garments made in this manner are considered to originate in the country where they are assembled (sewn). This change has meant that the goods not only are subject to duty as products of most-favored-nation trading partners, but also often are subject to quotas, depending on the product category and the country of assembly.

The representative of the U.S. firm stated that because the firm could not find enough native workers in American Samoa with the necessary skills to sew apparel, the firm built a dormitory and hired temporary workers, mainly from China, to sew apparel. The firm's managers believe that if the rules of origin that applied to apparel imports from American Samoa prior to July 1, 1996, were reinstated, the firm would be able to substantially increase its employment of cutters and finishing workers there.

Tariff treatment:

Qualifying imports from American Samoa and other U.S. insular possessions are exempt from duty under general note 3(a) of the Harmonized Tariff Schedule of the United States (HTS), which sets forth the

[4] Richard Myers, BCTC Corp., Los Angeles, CA, conversation with USITC staff, Apr. 24, 1998.

criteria for such duty-free treatment.[5] In general, a textile or apparel product from an insular possession is eligible for the duty exemption if the value of foreign materials contained in the product does not exceed 50 percent of its total customs value at the time of entry.

[5] See appendix B for HTS general note 3 (a).

Structure of domestic industry (including competing products):

Apparel: The domestic apparel industry is highly fragmented and has almost 18,000 establishments, most of them small. Approximately two-thirds of the 18,000 apparel establishments employ fewer than 20 workers; only 10 percent employ 100 or more. The industry employs just over 900,000 workers and is located primarily in the Southeastern States, New York, New Jersey, Pennsylvania, and California.

Private-sector views:

The Commission contacted the principal trade associations that represent the U.S. textile and apparel producers.[6] The associations had not submitted any written comments as of the date of preparation of this report.

U.S. consumption:

Cotton and manmade-fiber knit shirts and blouses:[7]

	1995	1996	1997
	($ million)		
U.S. production	10,970	11,031	10,907
U.S. imports	6,403	7,067	8,654
U.S. exports	1,214	1,296	1,512
Apparent U.S. consumption	16,159	16,802	18,049

Principal import sources: Dominican Republic, El Salvador, Honduras, Hong Kong, Korea, Mexico, Pakistan, Taiwan.
Principal export markets: Canada, Dominican Republic, El Salvador, Honduras, Japan, Mexico.

Effect on customs revenue:

Future effect: The likely effect of this bill on customs revenues cannot be computed; changes in rules of origin apply to, and duties are imposed on, individual shipments depending upon circumstances and values. However, to the extent that textiles and apparel imported from American Samoa are now being considered and entered as products of China or another column 1-general source, but would under the bill be eligible for the insular possessions tariff preference and enter free of duty, customs revenues would likely decrease. Such goods are classifiable in numerous tariff subheadings at varying rates of duty, so that an

[6] Charles Bremer, Director of International Trade, American Textile Manufacturers Institute, Apr. 24, 1998, and Patrick Kilbride, Director of Government Relations, American Apparel Manufacturers Association, Apr. 24, 1998.
[7] These shirts and blouses accounted for 83 percent ($24 million) of the $29 million of textiles and apparel imported from American Samoa in 1997. Imports of these shirts and blouses from American Samoa were negligible in 1995 and $18 million in 1996.

estimate is difficult. Moreover, the foreign content limitation set forth in the HTS may prevent some shipments from receiving the tariff preference.

Retroactive effect: None.

Technical comments:

We note that the proposed bill does not amend section 334 of the URAA, and that the two provisions of law would appear to be in conflict. It might be preferable to add a new subdivision to that section of the URAA to make this exemption transparent to our trading partners and easier for everyone to locate and apply. Also, we note that it might help the Customs Service administer this special provision of law if a new tariff provision, similar to heading 9802.00.90 (which provides a duty and quota exemption for goods assembled in Mexico of U.S.-cut-and-formed fabric), were added to subchapter II of chapter 98 of the HTS. This might facilitate the tracking necessary to ensure compliance. We would be happy to consult with Customs officials in this regard and to assist in drafting such a provision. Last, we note that the universe of "rulings and administrative practices in effect on June 30, 1996" is quite large and may be open to dispute. It is possible that the addition of a tariff heading might help clarify at least some of the rules pertaining to these products, and reduce administrative problems for Customs.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the Tariff Schedules of the United States (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994

by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

APPENDIX B

SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

(Appendix not included in the electronic version of this report.)

I

105TH CONGRESS
2D SESSION

H. R. 3377

To clarify the rules of origin for textile and apparel products from American Samoa.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1998

Mr. FALEOMAVAEGA introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To clarify the rules of origin for textile and apparel products from American Samoa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, on and after the date of the enactment of this Act, section 334 of the Uruguay Round Agreements Act (19 U.S.C. 3592) shall not affect, for purposes of the customs laws and administration of quantitative restrictions, the status of textile and apparel products that are cut in American Samoa from fabric wholly formed in the United States and, under rulings and administrative practices in

effect on June 30, 1996, would have originated in, or been the growth, product, or manufacture of, American Samoa.

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