

105TH CONGRESS }
2nd Session

COMMITTEE PRINT

{ WMCP:
105-11

SUBCOMMITTEE ON TRADE
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS
ON
**H.R. 4526, A BILL WHICH WOULD
CHANGE CUSTOMS RULES-OF-ORIGIN
FOR CERTAIN TEXTILE PRODUCTS**



DECEMBER 9, 1998

Printed for the use of the Committee on Ways and Means by its staff

U.S. GOVERNMENT PRINTING OFFICE

52-054 CC

WASHINGTON : 1998

COMMITTEE ON WAYS AND MEANS

BILL ARCHER, Texas, *Chairman*

PHILIP M. CRANE, Illinois	CHARLES B. RANGEL, New York
BILL THOMAS, California	FORTNEY PETE STARK, California
E. CLAY SHAW, Jr., Florida	ROBERT T. MATSUI, California
NANCY L. JOHNSON, Connecticut	BARBARA B. KENNELLY, Connecticut
JIM BUNNING, Kentucky	WILLIAM J. COYNE, Pennsylvania
AMO HOUGHTON, New York	SANDER M. LEVIN, Michigan
WALLY HERGER, California	BENJAMIN L. CARDIN, Maryland
JIM McCRERY, Louisiana	JIM McDERMOTT, Washington
DAVE CAMP, Michigan	GERALD D. KLECZKA, Wisconsin
JIM RAMSTAD, Minnesota	JOHN LEWIS, Georgia
JIM NUSSLE, Iowa	RICHARD E. NEAL, Massachusetts
SAM JOHNSON, Texas	MICHAEL R. McNULTY, New York
JENNIFER DUNN, Washington	WILLIAM J. JEFFERSON, Louisiana
MAC COLLINS, Georgia	JOHN S. TANNER, Tennessee
ROB PORTMAN, Ohio	XAVIER BECERRA, California
PHILIP S. ENGLISH, Pennsylvania	KAREN L. THURMAN, Florida
JOHN ENSIGN, Nevada	
JON CHRISTENSEN, Nebraska	
WES WATKINS, Oklahoma	
J.D. HAYWORTH, Arizona	
JERRY WELLER, Illinois	
KENNY HULSHOF, Missouri	

A.L. SINGLETON, *Chief of Staff*

JANICE MAYS, *Minority Chief Counsel*

SUBCOMMITTEE ON TRADE

PHILIP M. CRANE, Illinois, *Chairman*

BILL THOMAS, California	ROBERT T. MATSUI, California
E. CLAY SHAW, Jr., Florida	CHARLES B. RANGEL, New York
AMO HOUGHTON, New York	RICHARD E. NEAL, Massachusetts
DAVE CAMP, Michigan	JIM McDERMOTT, Washington
JIM RAMSTAD, Minnesota	MICHAEL R. McNULTY, New York
JENNIFER DUNN, Washington	WILLIAM J. JEFFERSON, Louisiana
WALLY HERGER, California	
JIM NUSSLE, Iowa	

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

	Page
Text of H.R. 4526	iv
Advisory of Monday, September 14, 1998, announcing the request for written comments on H.R. 4526, a bill which would change Customs rules of origin for certain textile products	1
American Apparel Manufacturers Association, Stephen Lamar, letter	2
American Textile Manufacturers Institute, statement	3
Fashion Accessories Association:	
Gail T. Cumins, letter	4
Gail T. Cumins, letter and attachments	5
Joint Industry Group, Evelyn Suarez, letter	5
Mead Corporation, statement	6
National Retail Federation, Erik O. Autor, letter	8
Pakistan, Islamic Republic of, Farrakh Qayyum, letter	9
United States Association of Importers of Textiles and Apparel, Laura E. Jones, statement	10

105TH CONGRESS
2D SESSION

H. R. 4526

To amend section 334 of the Uruguay Round Agreements Act to clarify the rules of origin with respect to certain textile products.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1998

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

A BILL

To amend section 334 of the Uruguay Round Agreements Act to clarify the rules of origin with respect to certain textile products.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. RULES OF ORIGIN FOR TEXTILE AND APPAREL**
4 **PRODUCTS.**

5 (a) IN GENERAL.—Section 334(b)(2) of the Uruguay
6 Round Agreements Act (19 U.S.C. 3592(b)(2)) is amend-
7 ed to read as follows:

8 “(2) SPECIAL RULES.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (1)(D) and except as provided in sub-
3 paragraphs (B) and (C)—

4 “(i) the origin of a good that is classi-
5 fied under one of the following HTS head-
6 ings or subheadings shall be determined
7 under subparagraph (A), (B), or (C) of
8 paragraph (1), as appropriate: 5609, 5807,
9 5811, 6209.20.50.40, 6213, 6214, 6301,
10 6302, 6303, 6304, 6305, 6306, 6307.10,
11 6307.90, 6308, or 9404.90; and

12 “(ii) a textile or apparel product
13 which is knit to shape shall be considered
14 to originate in, and be the growth, product,
15 or manufacture of, the country, territory,
16 or possession in which it is knit.

17 “(B) CERTAIN OTHER TEXTILES.—Fabric
18 of silk, cotton, man-made fiber, or vegetable
19 fiber shall be considered to originate in, and be
20 the growth, product, or manufacture of, the
21 country, territory, or possession in which the
22 fabric is dyed and printed if at least 2 of the
23 following finishing operations are performed in
24 such country, territory, or possession: bleach-
25 ing, shrinking, fulling, napping, decating, per-

1 manent stiffening, weighting, permanent em-
2 bossing, or moireing.

3 “(C) SILK ACCESSORIES.—(i) Silk acces-
4 sories classified in HTS subheading 6117.10,
5 6213.10, or 6214.10 shall be considered to
6 originate in, and be the growth, product, or
7 manufacture of, the single country, territory, or
8 possession in which the fabric for the accessory
9 is cut into parts and assembled into a com-
10 pleted good.

11 “(ii) If the fabric of a silk accessory classi-
12 fied in HTS subheading 6117.10, 6213.10, or
13 6214.10 is not cut into parts and assembled in
14 a single country, territory, or possession, the
15 silk accessory shall be considered to originate in
16 the country, territory, or possession in which
17 the fabric for the accessory originates.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section applies to goods entered, or withdrawn from
20 warehouse for consumption, on or after the date of the
21 enactment of this Act.

○

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE

CONTACT: (202) 225-6649

September 14, 1998

No. TR-30

Crane Announces Request for Written Comments on H.R. 4526, a Bill Which Would Change Customs Rules-of-Origin for Certain Textile Products

Congressman Philip M. Crane (R-IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written public comments for the record from all parties interested in H.R. 4526, a bill which would restore a pre-existing rule-of-origin for certain dyed and printed fabrics, and certain silk accessory products.

BACKGROUND:

Section 334, the so-called "Breaux-Cardin" amendment, of the "Uruguay Round Agreement Act" (P.L. 103-465) directed the U.S. Department of the Treasury to prescribe new regulations for determining the country-of-origin of textile and apparel products. As a result, certain fabrics, silk handkerchiefs and scarves are considered to originate where the base fabric is knit and woven, notwithstanding any further processing. H.R. 4526 would revert the rule-of-origin for these products to the rule that existed prior to enactment of P.L. 103-465. The original rule permitted the processes of dyeing and printing to confer origin, when accompanied by two or more finishing operations.

As part of the settlement of a complaint brought by the European Union (EU) against the new "Breaux-Cardin" rules-of-origin, the United States and the EU agreed to a "proces-verbal" prepared on July 15, 1997. H.R. 4526, which was introduced by Rep. Benjamin Cardin (D-MD) on September 9, 1998, at the Administration's request, is intended to implement this agreement.

Because of the short time remaining in the legislative session, Chairman Crane requests that all comments be filed with the Committee by no later than Monday, September 28, 1998.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record should submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format, with their name, ad-

dress, and comments date noted on label, by the close of business, Monday, September 28, 1998, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format, typed in single space and may not exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS MEANS/.

AMERICAN APPAREL MANUFACTURERS ASSOCIATION
September 28, 1998

The Hon. Philip Crane, Chairman
House Ways and Means Trade Subcommittee
1104 Longworth House Office Building
US House of Representatives
Washington, DC 20515

RE: Request for Written Comments (TR-30) on HR 4526

Dear Chairman Crane:

On behalf of the American Apparel Manufacturers Association (AAMA), I am writing in connection with the Subcommittee's recent request for written comments on legislation to change rule of origin requirements for certain textile products (HR 4526). Thank you for providing me an opportunity to submit AAMA's views on this important issue.

As you know, AAMA is the national trade association for the apparel industry. Our members are located in every state and produce about 85 percent of the apparel sold at wholesale within the United States each year. AAMA members produce products throughout the United States, in the Caribbean Basin and Mexico, and in many other parts of the world.

AAMA has several concerns about the approach outlined in HR 4526, and would oppose enactment of this bill as it is currently drafted.

First, the legislation does not appear to resolve fully the complaint brought by the European Union (EU) against the Breaux-Cardin rules-of-origin. To avoid dispute settlement proceedings on Breaux-Cardin before the WTO, the United States reached an agreement in July 1997 with the EU to restore the rule of origin require-

ments for certain dyed and printed fabrics and products. We understand, however, that the EU does not believe the legislation satisfies the commitments of that agreement and that it will seek further proceedings before the WTO if the legislation is left unchanged. Before the Congress approves this bill, it should assure itself that the legislation appropriately resolves the EU concerns. We expect our trading partners to swiftly implement the changes to which they agree in such agreements. We should do no less.

Second, aspects of the legislation seem to have a regressive nature. For some silk products, origin is conferred in the country where dyeing and printing and two other finishing processes occur. For other silk products, even though they may undergo identical finishing processes, origin reverts to the country where the fabric was formed. We are unclear as to the logic driving this distinction and believe this flaw may trigger further confusion.

Third, we are troubled over the possible precedent that may be set by the legislation, if enacted. With rule of origin harmonization talks expected to resume next year, we are concerned that this rule of origin change for a specific set of products might undermine negotiating positions in those future talks. To protect these negotiations, we would argue strongly that the legislative history of this provision clearly reflect that this change is intended as a one-time fix undertaken to implement a specific exception.

Fourth, we applaud the Trade Subcommittee's recent decision to send a signal by approving draft legislation designed to implement the required marking changes called for in the 1997 decision with the EU. However, we would prefer that this change be considered as part of legislation that effects all the changes required by that agreement. Although piecemeal changes would demonstrate our good faith to the Europeans, such an approach only makes sense if it forestalls further action in the WTO.

From time to time, AAMA has supported special rules of origin for individual products. However, we do so only when the product is of such complexity, unique design, or commercial significance that it demands an exemption. The NAFTA single transformation rule for bras is one such example that we strongly support. In such cases, we believe it is imperative that the Congress commit to and adhere to such rules lest their periodic review and modification be the source of consumer confusion and market disruption.

If the Congress decides to enact a rule of origin change for these dyed and printed fabrics and products, it should do so only if it believes the exemption has merit and if it is willing to abide by the terms of the exemption for some years to come. To the greatest extent possible, rules of origin should reflect continuity, consistency, transparency, and predictability.

Thank you for providing AAMA an opportunity to submit these views.

Sincerely,

STEPHEN LAMAR
Director of Government Relations

Statement of the American Textile Manufacturers Institute

This statement is submitted by the American Textile Manufacturers Institute (ATMI), the national association of the textile mill products industry. Our member companies consume nearly 80 percent of the textile fibers used in the U.S. Therefore, ATMI and its members have an on-going, vested and keen interest in rules of origin pertaining to imported textile and apparel products.

ATMI wholeheartedly supports the rules of origin for imported textile and apparel products incorporated as Section 334 of the Uruguay Round Agreements Act ("Breux-Cardin"). These rules recognize and reflect the commercial reality of textile-apparel manufacturing and were obviously developed with a great deal of care in order to achieve that end.

Legislation to amend "Breux-Cardin" with respect to certain silk accessories and fabrics which have been dyed and printed has been presented as H.R. 4526. These proposed changes reflect an agreement reached between the United States and the European Union (EU), which claimed that the adoption of Breux-Cardin had unfairly and illegally impaired its trade and was actionable under the Uruguay Round Agreement.

In ATMI's view, the EU's claims of trade impairment are overstated and unsupported by evidence of such impairment and, furthermore, the country of origin of the affected silk accessories and dyed and printed fabrics ought to be and is as stat-

ed in Breaux-Cardin. Nevertheless, ATMI does not object to this proposed amendment of Breaux-Cardin.

SHARRETTS, PALEY, CARTER AND BLAUVELT, P.C.
NEW YORK, NY 10004
September 25, 1998

A.L. Singleton
Chief of Staff, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Singleton:

The Subcommittee on Trade of the Committee on Ways and Means has issued a request for written comments for the record from all parties interested in HR 4526, a bill which would restore the pre-existing rules of origin for, among other items, imported silk accessory products.

This submission in support of the proposed legislation is submitted on behalf of the Fashion Accessories Association (FAA). The FAA is a non-profit trade association comprised of importers and distributors of silk handkerchiefs, shawls, scarves, mufflers and like articles classified in subheadings 6117.10, 6213.10, and 6214.10 of the Harmonized Tariff Schedule of the United States. In most instances, the members of the association purchase the finished silk handkerchiefs and scarves in a country other than the country from which the greige fabric was produced.

Since the enactment of PL 103.465, the Uruguay Round Agreements Act, the country of origin for handkerchiefs and scarves is based solely upon the place where the fabric is woven or knit. Further processing in a second country can not change the origin of the accessories produced from the raw material—the greige fabric. Thus, the concept of substantial transformation, the key stone for origin determinations in this country for the previous ninety-five years of this century, was swept away to be replaced by a simplistic test of origin which fails to acknowledge reality. We submit that HR 4526 corrects this situation.

Only by returning to the pre PL-103.465 origin rules for handkerchiefs and scarves will we recognize importance of the processing of silk greige fabric in a second country. Such processing not only adds significant value to the raw material (in most instances more than twice the value of the greige) but also subjects the material to significant manufacturing operations resulting in the creation of a new and different article of commerce. Indeed, such operations are neither minimal in nature nor insufficient to confer country of origin. These manufacturing operations define what the article is and determine its appeal to the consumer. Accordingly, the FAA believes that the proposed legislation will be beneficial to the consumer since this legislation will result in a more realistic representation of correct country of origin.

Any approach to country of origin which does not recognize the importance of operations which take place in a second country, will result in the continued distortion of international trade by refusing to acknowledge that transforming a starting material into a new and different commodity which has no resemblance to the finished article is insufficient to determine origin.

The restoration of the previous rule of origin for these products will return us to the agreed upon purpose of the Uruguay Round Agreement of Rules of Origin, to create impartial and neutral rules of origin which eliminate restrictive or distorting effects on international trade. Clearly, this is a situation which the members of this committee can and should address if we are to create harmonized origin rules in accordance with the mandate of the WTO.

It is for these reasons that the FAA urges that favorable action be taken on HR 4526.

We thank the committee for providing us with the opportunity to submit these comments and we look forward to seeing this bill enacted during this session of Congress.

Respectfully,

GAIL T. CUMINS

SHARRETTS, PALEY, CARTER AND BLAUVELT, P.C.
WASHINGTON, DC 20036
September 29, 1998

A. L. Singleton
Chief of Staff, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Singleton:

On September 28, 1998, the Fashion Accessories Association (FAA) filed written comments in support of the passage of HR 4526, a bill to restore pre-existing rules of origin for, among other items, imported silk accessory products. In order to enhance your understanding of those comments, attached are samples of: greige silk fabric (usually of Chinese origin) and a scarf that is created from greige silk fabric (usually in Italy or Japan). Under the country of origin rules which HR 4526 is intended to change, the country of origin of the attached finished scarf is China. We submit that these samples are worth a thousand words in explaining why the current country of origin rule, as it applies to silk scarves, should be changed back to the prior rule, as is proposed by HR 4526.

If you have any questions please do not hesitate to contact us.

Very truly yours,

GAIL T. CUMINS

[Attachments are being retained in the Committee's files.]

JOINT INDUSTRY GROUP
September 28, 1998

Mr. A. L. Singleton
Chief of Staff
Committee on Ways and Means
US House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Singleton,

The Joint Industry Group (JIG) thanks you for this opportunity to comment on H.R. 4526, a bill to amend section 334 of the Uruguay Round Agreements Act to clarify the rules of origin with respect to certain textile products.

JIG is a coalition with more than 130 members including Fortune 500 companies, trade associations, professionals and businesses actively involved in international trade. We both examine and reflect the concerns of the business community relative to current and proposed international trade-related policies, actions, legislation, and regulations, and undertake to improve them through dialogue with several Executive Branch departments and agencies and the Congress. JIG membership represents more than \$250 billion in trade.

JIG recommends that H.R. 4526 be amended. In its current form, the bill appears to create an illogical rule of origin for textile products that will not resolve the dispute between the United States and the European Union. Therefore, passage of the bill in its current form would not be a useful exercise. Instead, the Subcommittee should focus its attention on assuring that a logical origin rule is established and that enactment of legislation supports the resolution of the US-EU dispute.

H.R. 4526 reinstates the origin rule that was in effect for fabrics other than wool before July 1996. However, the bill does not cover all "dyed and printed textile and apparel products," which appears to have been the agreement under the process verbal negotiated between the United States and the European Union. That is, the bill omits from its scope products made from fabrics, such as bedsheets, pillowcases, quilts, curtains, and tablecloths. Unless these products are included in the amendment, the bill would establish a rule of origin that cannot be defended.

An example makes this point very clear. As H.R. 4526 is currently worded, the following situation would occur:

Assume that a fabric is woven in Country A. The origin of that fabric is therefore Country A, under the terms of the Breaux-Cardin rules, which states that where a fabric is knit or woven determines its origin.

Assume that fabric is then printed, dyed and finished in Country B. Under H.R. 4526, the origin of the fabric would become Country B because H.R. 4526 states that printing plus dyeing plus two finishing operations constitutes an origin-conferring process.

Assume that printed, dyed and finished fabric is then cut and sewn in Country B to make a fitted sheet. Under Breaux-Cardin, the origin of the fitted sheet would be Country A. H.R. 4526 does not address bed linens, leaving that portion of Breaux-Cardin unchanged, and Breaux-Cardin requires that where the fabric is knit or woven determines the origin for goods classifiable in HTSUS Chapter 63. (Fitted sheets are classified in HTSUS Chapter 63.)

Such a result—requiring that origin go backwards when non-origin-conferring operations such as cutting or simple sewing are performed—simply does not make sense. How can a country, which adds further value to a product, lose the origin that it had already gained by a prior manufacturing operation? That is not how origin rules work. JIG cannot believe that the US and EU negotiators involved in drafting the process verbal intended such a result.

JIG strongly recommends that the Subcommittee revise H.R. 4526 to avoid this problem, especially since doing so would appear to eliminate the objections being voiced by the EU. An amendment to H.R. 4526 would not be difficult. The amendment should allow for the continuing recognition of printing, dyeing and finishing operations as origin conferring for products that are made from such fabrics. It is JIG's view that this can be accomplished by simply adding the words "and goods of these fabrics" after "fabric of silk, cotton, man-made fiber, or vegetable fiber" in Line 19 of the bill.

That amendment would ensure that both fabrics and products that are made from the named fabrics, but which do not undergo any other origin conferring operations, will have their origin determined by where the fabric was printed and dyed and finished. The origin of all other products will be unaffected. That amendment would create (actually, reinstate the prior) logical origin rule and would allow the dispute between the United States and the European Union to be resolved once and for all.

Sincerely,

EVELYN SUAREZ
Chairperson, JIG Rules of Origin Committee

Statement of the Mead Corporation

Section 334 of the Uruguay Round Agreement Act ("Section 334") amended the Customs country of origin marking statute (Section 304 of the Tariff Act of 1930, 19 U.S.C. 1304) by modifying the rules of origin applicable to textile and apparel products. As part of these revisions to the rules of origin, Section 334 stipulated that certain textile articles shall be considered to originate in the country in which the fabric comprising the article is produced.

This fabric-based rule of origin was, logically, generally applied to "flat" goods, such as handkerchiefs, scarves, sheets, etc.—all goods where the finished product required relatively little fabrication beyond the fabric itself. However, through oversight or inadvertence, the tariff classification applicable to miscellaneous textile articles, not elsewhere specified in the Harmonized Tariff Schedule of the United States ("HTSUS"), was also included among the HTSUS subheadings made subject to the fabric-based rule of origin. More specifically, Section 334 includes HTSUS subheading 6307.90 (Other Made up [textile] articles, other) among the HTSUS subheadings subject to the fabric-based rule of origin. Included within this subheading is the residual "basket" category for all textile articles, HTSUS subheading 6307.90.9989, which covers all remaining textile articles not specifically described in any of the preceding subheadings within the HTSUS textile chapters. Such miscellaneous textile articles are classified under this residual basket category, regardless of the amount of processing of the fabric component required to produce the finished article. In fact, it is likely that a majority of products included in this residual category are fabricated articles, rather than flat goods, since most flat goods are specifically described under preceding subheadings of the HTSUS.

It should also be noted that the products classified under this subheading are not subject to textile import quotas, as are most flat goods. Accordingly, these residual, made up textile goods are not generally regarded to be import sensitive.

The application of a fabric-based rule to fabricated products has caused considerable difficulties for the School and Office Products Division of the Mead Corporation ("Mead") with respect to the country of origin marking of certain foreign-produced components and finished school and office products imported into the United States. It has been impossible to reconcile the U.S. textile rules of origin with the otherwise universally-applied country of manufacture or assembly rule of origin, imposed by those foreign countries in which Mead manufactures such products.

As an example, Mead produces nylon zipper school binder covers in China, which are fabricated from fabric produced in Taiwan. These covers are imported into the United States, where they are finished and used to produce three-ring binders, notebooks, and other school and office products for sale in this country and abroad. The binder covers are produced through a relatively complex fabrication process. The fabric is first cut into various pieces. The sides and spine of the binder are made from two layers of fabric, between which polyethylene foam is inserted as a stiffening agent. A zipper is attached and the sides and spine are sewn and formed into a binder cover. The finished covers are not flat, but three dimensional objects, with internal space for in insertion of three ring binder mechanisms and paper documents. The binder cover is a product fabricated well beyond the characteristics of the fabric used to produce the product.

The fabricated binders are deemed to be produced in China or, in other words, to originate in China for purposes of the Customs laws of China. In fact, these products would be deemed to be made in the country of fabrication by most other countries other than the United States. However, under the U.S. textile rules of origin, these products are deemed to originate in Taiwan, since the fabric is produced in that country, even though the fabric is subject to significant processing in China. Under the general U.S. country of origin marking regulations, the fabric is clearly "substantially transformed" in the process of fabricating zipper binder cover.

The Customs authorities in China refuse, for understandable reasons, to permit the binders to be exported from China if they are labeled as made in any country other than China. On the other hand, the U.S. Customs country of origin marking rules, as amended by Section 334, require the binders to be labeled as Made in Taiwan upon importation into the United States. Such inconsistent marking requirements add costly complications to Mead's production processes. Further complications arise when Mead exports zipper binders from the United States to other countries. In such case, the binders must be relabeled as Made in China, since, again, essentially all other countries would consider these fabricated items to originate in China, where the binder covers are manufactured. The inconsistencies of the U.S. textile marking rules and the difficulties which they create for Mead are not unique, but must certainly affect many other U.S. companies which produce and sell made up textile articles in the United States with components sourced abroad.

Mead would urge the Subcommittee to modify H.R. 4526 so that miscellaneous textile articles, not elsewhere specified in the HTSUS, that are fabricated beyond the flat state of the original fabric are deemed to originate in the country in which the fabric for the article is cut into parts and assembled into a completed good. One way of accomplishing this goal would be to adding "subheading 6307.90.9989 (along with a reference to other made up textile articles)" to subparagraphs (C)(i) and (C)(ii) of Section 334(b)(2), as set out in H.R. 4526. This modification of H.R. 4526 would insure that miscellaneous textile articles which were not cut into parts and assembled in a single country would continue to be considered to originate in the country in which the fabric for the article originates.

NATIONAL RETAIL FEDERATION
September 29, 1998

The Honorable Philip M. Crane
Chairman
Trade Subcommittee
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of America's retailers, the National Retail Federation (NRF) respectfully submits the following comments on H.R. 4526, a bill to modify the rule of origin with respect to certain dyed and printed fabrics and silk accessory products.

The rule of origin provisions included in H.R. 4526 would make specific changes to the so-called "Breux-Cardin" origin rule in order to resolve a dispute with the European Union (E.U.) over the origin of certain dyed and printed textile and apparel products. When Breux-Cardin went into effect in July 1996, it stipulated that the origin of these products is the country where the fabric is knit or woven, rather than where final assembly occurs. Thus, for example, products such as fine silk scarves cut, printed, and sewn in France and Italy are considered under Breux-Cardin to be products of China, where the silk fabric is made.

The E.U. requested consultations with the United States regarding this new rule of origin under the dispute settlement rules of the World Trade Organization (WTO). In a *procès-verbal* prepared in July 1997, however, the E.U. agreed to withhold further action at the WTO if the U.S. would change Breux-Cardin before the end of 1998.

U.S. retailers strongly opposed Breux-Cardin when it was originally proposed in 1994 for inclusion in the Uruguay Round Agreements Implementation Act. The industry argued that the change in the rule of origin effected by Breux-Cardin was not required by the Uruguay Round Agreement, would be too disruptive to textile and apparel importers, was unwarranted because of the initiative at the WTO to harmonize rules of origin, and would create a host of needless problems, such as the subsequent dispute with the E.U. Now that Congress is considering changing the Breux-Cardin rule of origin to address some of these problems, U.S. retailers urge Congress to act quickly to resolve the dispute with the E.U. within the time frame stipulated in the *procès-verbal*.

While consistency with the terms of the *procès-verbal* may be an important consideration in determining what changes to the rule of origin may be warranted, a more important consideration is to ensure that any change is logical and avoids creating new problems in administering the rule of origin.

Unfortunately, the *procès-verbal* is no model of clarity with respect to what the agreement between the two parties covers. The United States points to subparagraph 6(i) to support its claim that the commitment was to modify the rule of origin for silk scarves and fabric, which are the only products covered in H.R. 4526. The E.U. points to language in paragraph 2 of the *procès-verbal* to argue that the change in the rule of origin must cover all "dyed and printed *textile and apparel products*" (emphasis added) rather than just silk scarves and fabric.

Even if the United States is correct that the agreement in the *procès-verbal* to change the country of origin does cover only silk scarves and fabric, the United States should not restrict itself to such a limited legislative change if doing so would only create additional problems and fail to address the underlying problem sufficiently to resolve the dispute with the E.U. Specifically, a legislative change that focuses only on silk scarves and fabric and does not include all dyed and printed textile and apparel products, would have some absurd and illogical consequences. For example, under the proposed legislative modification, Chinese silk shipped to France would be exempt from the country of origin marking requirement if it is printed, dyed, and undergoes two finishing operations in France. However, if the same piece of silk is further processed in France by cutting and sewing to make a handkerchief or a tie, it must still be marked as a product of China. Moreover, the exemption from the country-of-origin marking requirement would not apply to a scarf (or any other textile product) made from any fabric other than silk. In other words, if the fabric from China is satin or cotton, which is printed, dyed, and made into a scarf, bed sheet, or table cloth in France, it must still be marked as a product

of China. Finally, the E.U. has stated that it would continue its action at the WTO if the United States implements such a limited change to Breaux-Cardin.

To avoid these problems, it is NRF's recommendation that Congress not limit the modifications to the current rule of origin only to silk scarves and silk fabric. Rather, Congress should address the problem in a more comprehensive manner by modifying the rule of origin with respect to all dyed and printed textile and apparel products as requested by the E.U.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that includes the leading department, specialty, discount, mass merchandise, and independent stores, as well as 32 national and 50 state associations. NRF members represent an industry that encompasses over 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1997 sales of more than \$2.5 trillion.

Sincerely,

ERIK O. AUTOR
Vice President, International Trade Counsel

[BY PERMISSION OF THE CHAIRMAN]

EMBASSY OF PAKISTAN
September 28, 1998

Subcommittee on Trade
Ways & Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Re: Public Comments on H.R. 4526

On behalf of the Government of Pakistan, the following comments are respectfully submitted with regard to H.R. 4526, legislation to amend the Uruguay Round Agreement Act to clarify the Rules of Origin for certain textile products.

The Government of Pakistan maintains a keen interest in this matter as both a fellow member of the World Trade Organization (WTO), as an active participant in that body's Committee on Rules of Origin, as well as in the World Customs Organization (WCO)'s Technical Committee on Rules of Origin.

As a major textile exporting country, the Government of Pakistan has watched with great interest the dispute settlement process between the European Union (EU) and the United States (US) over the Breaux-Cardin Rules of Origin. Indeed, Pakistan formally joined the consultations on this issue in Geneva as the matter has potential implications for Pakistan's textile exports to the United States.

As introduced, the language of H.R. 4526 does not address the impact of those rules on flat goods such as bed and table linens, nor does it resolve the origin issues affecting accessories made of fabrics other than silk. Like the EU, the Government of Pakistan believes the language of the bill should be broadened to include these products.

In addition, the Government of Pakistan has consistently taken the position before the WTO and the WCO that any one—not two—of the processes such as bleaching, dyeing or printing should be origin-conferring. From a commercial perspective, companies in the trade do not always dye *and* print fabrics. Fabrics could be dyed in solid colors *or* printed without dyeing. The proposed legislation clearly does not take into account the actual operations of the fabric industry. It is important to note that this is not only Pakistan's position but is shared by other major textile exporting countries who are members of the WTO.

The provisions of H.R. 4526 as currently worded, also present a problem for international trading partners in the area of made-up and miscellaneous products. For example, if fabric is woven in Country A, and then printed, dyed and finished in Country B, the origin of the fabric would be Country B. However, if that same fabric was used to manufacture a made-up product such as bedspreads, the origin would return to Country A. Such a result cannot be intentional since it requires that origin go backwards when cutting or simple sewing take place.

The Government of Pakistan is certain that the experienced negotiators from the US and the EU did not intend to introduce the concept of moving origin back to the original country of origin into the WTO's concurrent negotiations to establish internationally harmonized Rules of Origin. Under traditional origin rules, once it

is determined that a manufacturing process is origin-conferring, the origin remains unchanged until another origin-conferring process takes place. H.R. 4526 is completely contrary to this long-accepted principle.

The Government of Pakistan appreciates this opportunity to provide comments to the House Ways & Means Committee. Our purpose is to ensure that when considering H.R. 4526, the Committee understand the broader implications of the proposed language.

We appreciate the efforts of the Committee to resolve the international dispute over the Breaux-Cardin Rules of Origin. However, H.R. 4526 falls short of achieving that goal.

FARRAKH QAYYUM
Minister (Trade)

Statement of United States Association of Importers of Textiles and Apparel, USA-ITA

H.R. 4526 Should Be Revised to Properly Restore the Pre-existing Rule of Origin For Dyed and Printed Fabrics

SUMMARY:

The U.S. Association of Importers of Textiles and Apparel, USA-ITA, opposes H.R. 4526 in its current form. USA-ITA was extremely disappointed to see that H.R. 4526, and its companion bill in the Senate, S. 2394, were introduced at the request of the Administration to “clarify” the rules of origin with respect to certain fabrics and silk accessories. The bill is not a clarification. The bill fails to properly reinstate the pre-Breaux-Cardin rule of origin for fabrics and in fact creates a bizarre and indefensible rule. Moreover, enactment of this bill will not resolve the underlying dispute that it purports to address.

H.R. 4526 reinstates the pre-July 1996 “printing plus dyeing plus two finishing operations” rule for fabrics other than wool. However, it fails to properly modify Breaux-Cardin to cover all “dyed and printed textile and apparel products” as required under the proces verbal negotiated between the United States and the European Union. Thus, the bill does not cover products made from fabrics, such as bed-sheets, pillowcases, quilts, curtains, and tablecloths.

This omission is significant. As H.R. 4526 is currently worded, the following situation would occur:

If a drapery fabric is woven in Country A, and then printed, dyed and finished in Country B, the origin of the fabric would be Country B. But if that fabric were then cut and sewn to make draperies, the origin of the draperies would return to Country A.

Such a result—requiring that origin go backwards when non-origin conferring operations such as cutting or simple sewing are performed—cannot be defended and cannot have been intended by experienced negotiators obviously cognizant of the World Trade Organization’s concurrent negotiations to establish internationally harmonized rules of origin. Under traditional origin rules, once it is determined that a manufacturing process is origin-conferring, the origin of the product remains unchanged until another origin-conferring process takes place. H.R. 4526 is completely contrary to this long-accepted principle.

The anomalous result is based solely upon the wording of Breaux-Cardin, which currently applies the same origin rule to bed and table linens that is applied to fabric—that is, origin is where the fabric is knit or woven. The problem can be easily avoided, and an international dispute diffused. The Subcommittee can revise H.R. 4526 to maintain the parallel treatment for fabrics and goods made of those fabrics, so that the origin for both is either where the fabric is knit or woven or where it is printed, dyed and finished.

H.R. 4526 can and should be revised 1) to comport with the terms of the proces verbal, 2) to ensure the establishment of a rational rule; and 3) to correct rather than exacerbate one of the wrongs done when the Breaux-Cardin rules were rushed through the legislative process without sufficient consideration and analysis.

DISCUSSION:

USA-ITA, founded in 1989, represents some 200 importers, manufacturers, distributors, retailers, and related service providers, such as shipping lines and cus-

toms brokers. USA-ITA member companies account for over \$54 billion in U.S. sales annually and employ more than one million American workers. USA-ITA members have a strong interest in the establishment of rational, commercially enforceable rules of origin for textile and apparel products.

Historical Context

The poorly considered Breaux-Cardin rules have already cost the United States dearly in terms of credibility within the international trading community. The rules change was put forward by the Administration to soften the blow to the U.S. textile industry of the liberalization required under the World Trade Organization's Agreement on Textiles and Clothing (ATC). The U.S. industry had wanted a 15-year phase-out of the long-standing international quota regime. When the U.S. Administration could deliver only a 10-year phase-out, the Administration perceived a need for an offsetting benefit.

The revised rules were sprung on the U.S. importing community during the House Ways and Means Committee "mark-up" of the Uruguay Round implementing bill in mid-1994. Although almost defeated when the Senate Finance Committee reached a tie-vote on the plan and a "mock-conference" between the Senate and the House failed to reach a resolution about the provision, the Administration nevertheless insisted upon including Breaux-Cardin as Section 334 in its final version of the implementing bill, which became law in December 1994.

No hearing was ever held on the now infamous Breaux-Cardin rules; no careful review or evaluation of the practical impact and workings of the rules was ever conducted prior to their enactment. The import community, and manufacturers abroad, were given a mere 18 months to adjust their operations. And in fact, they were given much less time than that since it took the U.S. Customs Service until September 5, 1995 to issue regulations interpreting Section 334. Then companies had to wait months, in many instances until well after the effective date of July 1, 1996, to obtain rulings specific to their products.

Breaux-Cardin replaced the textile and apparel origin rules that had been in place for more than a decade as regulations, 19 C.F.R. section 12.130. Besides marking the first time that any non-preference U.S. origin rules were codified into law, as opposed to being administratively set, Section 334 constituted a drastic change in practice:

- Under the old rules, the origin of fabrics was determined either by where the fabrics were formed or if the fabrics were subject to both dyeing plus printing plus two finishing operations, where the fabric was so finished. Breaux-Cardin eliminated recognition of dyeing plus printing plus two finishing operations as an origin conferring process. Notably, this change in practice moved the U.S. farther away from the European Union's rules, which consider either printing or dyeing alone to be origin conferring.

- The origin of "made ups" or "flat goods," such as bed linens, quilts, table cloths, draperies, and clothing accessories such as scarves, was changed from where either the fabric was formed or finished or the fabric was subject to substantial sewing operations to where the fabric was knit or woven. Thus, under section 12.130, silk scarves printed in Italy were products of Italy even though virtually all silk fabric is made in China. Also, under section 12.130, a fitted sheet was a product of the country in which it was cut and sewn. Under Breaux-Cardin, those value-added operations are irrelevant; all that matters is where the fabric is woven. As a result of the change, very often the country that last processed a product is no longer considered by the U.S. to be the country of origin; quota and visa requirements applicable to products of the country in which the fabric was formed are imposed on products that have long since left the fabric-making country.

- The U.S. change in its apparel rules created the greatest stir at the time that Breaux-Cardin became law, but in retrospect this change was relatively less shocking than the change in the rules for fabrics and other non-apparel goods. Under the old U.S. rules, the origin of a garment depended upon whether it was a tailored garment or a simple assembly item, such as a t-shirt, or a skirt. Section 12.130 provided that sewing was origin conferring only for tailored clothes. For simple assembly items, section 12.130 stated that the place of cutting to shape was the country of origin. Breaux-Cardin applies an assembly rule to all apparel. Given the substantial amount of multi-country assembly programs in place, confusion reigned while the Customs Service considered on a case-by-case basis which assembly operations were "most important" and therefore origin-conferring. One saving grace of the change in the apparel rules is that Breaux-Cardin arguably moved the U.S. rules closer to those applied by most other countries. Other major countries, such as the European Union only recognize assembly as origin-determinative.

Practical Ramifications of Breaux-Cardin

The change in the U.S. rules of origin caused an international uproar. As an obvious attempt to undermine the liberalization required under the ATC, by moving the origin to countries that either were not participating in the ATC or had very tight quotas, the balance of trade was greatly upset. In addition, many (properly, we believe) viewed the U.S. action as contrary to the standstill obligation inherent in the origin rules harmonization program also agreed upon as part of the Uruguay Round Agreements.

The practical consequences of the rules change soon became clear. African factories producing bed linens from Pakistani-made fabric were forced to shut down, because the product they were making was no longer considered African; it was now Pakistani. (Of course they could not obtain a quota allocation or an export license (visa) from the Pakistani fabric mill.) Philippine makers of fine embroidered table linens faced the loss of their livelihood, since much of the base fabric was woven elsewhere. Canadian quilt makers were furious when they realized that their extensive cutting, sewing and stuffing operations would be rendered irrelevant under the new U.S. rules. [In fact, in July 1996, this Committee heard from an irate American quilt maker, who could not believe that because he was using Chinese-made shell fabrics, the quilts being cut, stuffed and sewn in the U.S. with union labor were going to have to be marked "Made in China."] And, European makers of silk scarves bearing status labels were incensed by the notion that the U.S. thought their products should be marked "Made in China." German fabric finishers and Spanish makers of bed linens also had to face the threat to their businesses if they were not using European made fabrics. These European makers were furious that they, who had been safely doing business in the U.S. market without the hassles of quotas or visas, were suddenly supposed to obtain visas and quotas from the countries from which they obtained their fabrics, a practical impossibility.

Not surprisingly, a steady line of governments approached U.S. textile negotiators, seeking quota adjustments and compensation. Citing a provision of the ATC that calls for consultations "with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustment" if there are administrative changes that "adversely affect the access available to a Member," (ATC Article 4) each sought to undo the damage presented by the new rules. For a long while, the U.S. successfully resisted the demands, saying that it was incumbent upon supplier governments to provide specific proof of the square meters and dollars impacted by the new rules.

Eventually, the U.S. began to relent, albeit in small ways and, in some cases, without conceding that it was providing compensation or with large price tags attached. Thus, the U.S. agreed to increase Pakistan's cotton sheets and pillowcases quotas to account for the additional trade that would be assigned to Pakistan under the new rules, but Pakistan had to agree to a new quota on man-made fiber sheets and pillowcases for the remainder of the ATC. To offset the losses to the Philippine embroidery industry, the U.S. agreed to drop the Philippine quota on babies' garments in 1997, a year before that category was scheduled to be removed from the quota system, and to provide additional flexibility in other quotas. To mollify Canada, the U.S. dropped the Pakistan visa requirement that applied to quilts made from Pakistani-made shell fabrics. That way, Canadians would not have to seek a visa from Pakistan to export their quilts to the U.S. market.

U.S.-EU Negotiations Over the Rules Change

The EU also came forward to defend the interests of its silk scarf manufacturers, as well as its fabrics and home furnishings producers. The EU demanded that the U.S. exempt its products from the new fabric rule in order to ensure that European processed goods would remain immune from the U.S. quota program. The U.S. repeatedly offered partial solutions. For example, at first the U.S. proposed to create special provisions in the U.S. tariff schedule to identify certain dyed and printed woven man-made fiber staple fabrics and to then remove those items from the U.S. quota program.

A partial deal was reached between the U.S. and EU in September 1996. Under that deal, the U.S. agreed that three categories of man-made fiber fabrics that are dyed and printed with a "discharge printing process" would be placed outside any visa requirements, if the fabrics were woven in Thailand, Malaysia and Indonesia. The U.S. apparently insisted upon the discharge printing limitation based upon its understanding that such a manufacturing process is performed only in Europe and Japan.

However, the larger issues remained unresolved and in November 1996 the EU Commission initiated an investigation under its domestic trade barriers law to de-

termine whether there was a basis for the EU to challenge the U.S. origin rules before the WTO. At the conclusion of that investigation, with the EU apparently prepared to initiate WTO dispute settlement proceedings, the U.S. stepped forward with another proposal. This time, the U.S. offered to permit labels indicating that silk scarves were produced in a European country from Chinese silk, but the EU continued to press for full resolution of the issues.

In May 1997, the EU formally requested consultations with the U.S. under WTO dispute settlement rules. Within weeks, Japan, India, Pakistan, Hong Kong, Honduras, Switzerland, the Dominican Republic, Canada, and Costa Rica, had each filed letters with the WTO requesting to join in the consultations. Shortly thereafter, the U.S. for the first time proposed to exempt from quota requirements some cotton fabrics, if they were produced in Turkey or Egypt, but that was apparently not sufficient to convince the EU to suspend its WTO action.

The Proces Verbal

On July 15, 1997, the eve of the scheduled formal WTO consultations, a deal was struck, in the form of a "process verbal." The terms of that agreement reveal that two matters were uppermost on the minds the negotiators: the fact that legislation would be necessary to make any significant changes in the Breaux-Cardin rules and the concurrent harmonization negotiations, which neither side wanted to upset or unbalance.

The process verbal noted: 1) Returning to the rules of origin in place before July 1996 would require an amendment to U.S. law; and 2) the two countries were both involved in the WTO's negotiations to harmonize internationally the rules of origin for all products. The note therefore stated, in Paragraph 2, that it was agreed that it would be best if any legislative change by the U.S. awaited the conclusion of those harmonization talks, which were scheduled to end July 20, 1998.

The scope of the proces verbal is set forth in the first sentence of Paragraph 2: "dyed and printed textile and apparel products."

Also in Paragraph 2, the U.S. promised that it would put forward in the WTO harmonization forum its pre-July 1996 origin rules for silk accessories and silk fabrics, and for dyed and printed cotton, man-made fiber, and vegetable fiber fabrics.

In Paragraph 3 it was provided that the U.S. Administration would propose to the U.S. Congress an amendment to the law either reinstating the old origin rules "for the above products" or implementing whatever rules had been agreed upon in the WTO exercise. The reference to "the above products" has, unfortunately, turned out to be an unclear statement, as will be discussed in greater detail below.

In any event, whether it was an internationally harmonized rule, or simply reinstatement of section 12.130 as a statutory rule in place of Breaux-Cardin, Paragraph 3 further provided that the legislation was to be introduced in time for it to be considered and acted upon before the Congress adjourned for the year.

In another part of the proces verbal (Paragraph 6(i)) the U.S. also agreed to immediately seek legislation exempting from U.S. marking requirements silk scarves and silk fabrics. Also included in the proces verbal was confirmation that the U.S. would create new provisions in the U.S. tariff schedule covering discharge printed cotton fabrics and then exempt from quotas any such fabrics, if the fabrics were woven in Egypt, Turkey, Thailand, and Indonesia (Paragraph 6(ii)). And the proces verbal confirmed the provision agreed to for man-made fiber discharge printed fabrics made in Malaysia, Indonesia or Thailand (Paragraph 6(iii)).

In early 1998, the U.S. Administration took two actions to meet its responsibilities under the proces verbal. First, in the WTO harmonization talks, USA-ITA understands that the U.S. did put forward a proposal to recognize dyeing plus printing plus two finishing operations as an origin conferring process for all fabrics except wool. That constituted a change in position for the U.S., which had before that time limited its offer to an origin rule based solely upon the weaving or knitting of the fabric. In that context, the U.S. did not appear to limit its offer to goods that would enter another market as fabrics and gave no indication that its proposal should be interpreted that narrowly. Under traditional rules of origin concepts, origin rules are cumulative. That means that origin is assigned to a product by virtue of certain processing having occurred until such time as another origin-conferring process occurs. The U.S. proposal remains "on the table," and the issue of the proper rule of origin for fabrics remains outstanding, with participants in the negotiations continuing to debate whether printing or dyeing alone should be considered origin conferring, and whether certain finishing processes also should be required.

Second, the Administration put forward a bill to exempt silk scarves and silk fabrics from U.S. marking requirements. That bill, H.R. 3294, was introduced by Mr. Matsui, by request. It appears to conform to that aspect of the proces verbal.

Legislative action by the Administration on the origin rules for fabrics was postponed pending completion of the WTO harmonization talks. Unfortunately, the WTO harmonization talks failed to meet the July 20, 1998 deadline for completion. No resolution is likely on that front through 1999, if then.

How H.R. 4526 Fails To Honor the Proces Verbal

The U.S. Administration then put forward the legislation that is the subject of this request for comments by the Subcommittee. H.R. 4526 reinstates the printing plus dyeing plus two finishing operations rule for fabrics other than wool. However, it fails to properly modify Section 334 either to cover all “dyed and printed textile and apparel products” or to ensure that once such an origin conferring operation takes place, origin stays with the fabric until another origin conferring process takes place. That failure means that the legislation does not conform to the terms of the proces verbal.

Section 334 currently specifies a weaving or knitting rule of origin for home furnishings (HTSUS chapter 63), that is, where the fabric is knit or woven determines the origin of a bedsheet or a quilt. That rule for home furnishings is workable when the fabric rule also specifies weaving or knitting as solely origin conferring for fabrics. But it does not make sense when fabrics are subject to a more “liberal” rule, such as when printing, dyeing and finishing are also recognized as constituting an origin conferring process. That is the situation created by the current wording of H.R. 4526.

H.R. 4526 would result in a situation in which the following absurd conclusions would be required: If a fabric were printed, dyed and finished in Italy, it would be Italian, but if that same fabric were then cut and sewn to produce a tablecloth or a bedsheet, it would become a product of the country in which the fabric had been woven. In effect, H.R. 4526 would require origin to go backward if additional, non-origin-conferring, operations were performed after printing and dyeing.

Clearly, that is contrary to all common understandings about origin rules and could not have been the intent of the negotiators.

The text of the proces verbal makes clear that the EU had good reason to believe that adoption of the printing plus dyeing plus two finishing operations rule would suffice to address most but not all of its concerns about fabrics and home furnishings. Thus, sentence one of Paragraph 2 refers to a “return to the rules of origin set forth in 19 C.F.R. section 12.130 for dyed and printed textile and apparel products.” Sentence two of Paragraph 2 refers to what the U.S. committed to propose in the harmonization talks—the prior rules for silk accessories and fabrics other than wool. Paragraph 3 then refers to the commitment of the U.S. to “propose to Congress . . . an amendment to the US rules of origin for the above products.” The Administration now contends the “above products” refers only to those for which it would propose its prior rules in the harmonization talks (the second sentence). The EU, and USA-ITA, believes that the reference had to be to all of the products mentioned in Paragraph 2 (both sentences), including “dyed and printed textile and apparel products,” the more inclusive product description in Paragraph 2.

The fact that the U.S. committed to propose the old section 12.130 origin rules in the harmonization exercise indicates that the U.S. could not have expected to have those rules apply only to goods that entered the U.S. market as fabrics. As noted above, origin rules are cumulative, and no experienced negotiator in origin rules would assume that origin “disappears” or “evaporates” if further non-origin conferring operations are performed after an origin-conferring operation has taken place. Thus, in the context of the WTO harmonization talks, the proposal by the U.S. that printing plus dyeing plus two finishing operations equals an origin-conferring process meant that the U.S. also agreed that other products made from those fabrics would bear the origin of the country in which those processes occurred, unless another later-in-time origin-conferring process was performed.

The only reason that this issue is arising is because of the unique terms of Section 334. In order to eliminate the section 12.130 rules for home furnishings, which recognized cutting and substantial sewing as origin conferring operations, Section 334 contains specific language addressing HTSUS Chapter 63 products (among a few others). These rules, set forth in Section 334(b)(2)(A) states that instead of the “assembly” rules, the products in the specified list of tariff classifications are subject to the fabric rule. To implement the proces verbal faithfully and logically, this aspect of Section 334 also must be addressed. All products subject to the fabric rule under Section 334 should be—must be—subject to the revised, or reinstated, fabric rule. H.R. 4526 fails to do this and for that reason must be revised.

Proposed Revision of H.R. 4526

Correcting H.R. 4526 to properly reinstate the pre-Breaux-Cardin rules of origin for fabrics and establish a logical origin rule is simple. The words “and goods of these fabrics” should be added to the paragraph describing “certain other textiles,” proposed paragraph (B) of the “special rules.” Specifically, USA-ITA recommends that the proposed paragraph (B) of the special rules read as follows:

“(B) CERTAIN OTHER TEXTILES.—Fabric of silk, cotton, man-made fiber, or vegetable fiber *and goods of these fabrics* shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which the fabric is dyed and printed if at least 2 of the following finishing operations are performed in

By adding the words “and goods of these fabrics,” both fabrics and products that are made from the named fabrics, but which do not undergo any other origin conferring operations, will have their origin determined by where the fabric was printed and dyed and finished. The origin of all other products will be unaffected. The intent of the process verbal will be fulfilled. The relevant portions of section 12.130 will be reinstated. Logical and credible origin rules will be established—which means that the law is less likely to have to be changed again later as a result of the international harmonization process. And an unnecessary dispute between the United States and the European Union (and the many other countries waiting in the wings, hoping to participate in the WTO dispute settlement action against the U.S.) will be resolved.

CONCLUSION:

USA-ITA respectfully urges the Subcommittee to amend H.R. 4526 as recommended above and to promptly enact H.R. 4526, as amended, into law.

Respectfully submitted,

LAURA E. JONES
Executive Director

