RULES OF ORIGIN FOR TEXTILES: IMPLEMENTING LEGISLATION FOR GATT

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Abstract: This Comment discusses the changes in the rules of origin for textiles that were implemented after the United States joined the World Trade Organization. The changes were made in such a way as to protect U.S. domestic textile production from Chinese competition even though these changes were couched in terms of harmonizing U.S. customs regulations with those of the rest of the world.

I. INTRODUCTION

On December 8, 1994, President Clinton signed the "Uruguay Round Agreements Act," legislation which implements the latest round of special agreements of the General Agreement on Tariffs and Trade ("GATT"). Key members of the House and Senate authored amendments to the textiles and apparel section of this GATT implementing legislation. These amendments, passed in the enabling legislation, re-classify the origin of clothing from where the fabric is cut to where the garment is assembled. The sponsors argue that this would bring U.S. law in line with the way Europeans and Canadians classify the origin of garments, thus fulfilling a GATT requirement to "harmonize" tariff rules between countries. This Comment argues that the main purpose of these amendments is to protect the U.S. textiles industry from cheaper, Chinese-made garments which will be barred from entering the U.S. under the new classification. Not only will Chinese and Hong Kong textile manufacturers be adversely affected as a result of

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3 Uruguay Round Table Agreements Draft Implementing Proposal, Summary of Uruguay Round Table Trade Agreements and Proposals to Implement Such Agreements, para. 11 (June 29, 1994) [hereinafter GATT Draft Implementing Proposal], available in LEXIS, ITRADE Library, GATT File.
this legislation, U.S. consumers will pay "hundreds of millions of dollars"\(^4\) more each year for clothing; and they could face higher prices for other Chinese-made goods if China retaliates.

Part II of this Comment provides an overview of the objectives of GATT and how those objectives are codified into law. Then it also discusses how the Multifiber Arrangement ("MFA"), a series of bilateral treaties erecting textile quotas, violates both GATT principles and law. The theory of comparative advantage is briefly set out to explain the economics behind Hong Kong-Chinese partnerships in garment manufacturing. Part III acquaints the reader with the Uruguay Round and the effect of phasing-out quotas administered under the MFA, and argues that the changes in U.S. Customs regulations implementing the Uruguay Round are protectionist. Part IV suggests a way for Customs regulations to be applied in a less protectionist manner.

II. BACKGROUND

A. Overview of the GATT

At the end of the Second World War, the Allies sought to undo the damaging effects of import duties imposed in the 1930s.\(^5\) British and American officials proposed a new international economic order.\(^6\) Freer trade was to be the cornerstone of this post-war economic system, and the International Trade Organization ("ITO") was envisioned to be the basic institution for governing world trade.\(^7\) When it became apparent that the U.S. Senate would not pass the Havana Charter authorizing the ITO,\(^8\) President Truman withdrew the bill in 1948.\(^9\)

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\(^4\) This is an estimate according to Julia K. Hughs, vice-president of Associated Merchandising Corporation, which owns Carter Hawley Hale, Dayton Hudson and other retailers. Peter Behr, *Clothing Industry Seeks Stricter Import Rules*, WASH. POST, Aug. 6, 1994, at D1.


\(^6\) Id. at 219.

\(^7\) Id.

\(^8\) According to a former State Department official, William Diebold, Jr., the Senate did not approve of the broad scope of the ITO. In addition to the rules for tariffs, quotas and exchange controls, the ITO embraced policies for full employment and stability in the world raw material market. U.S. business interests were particularly critical of the employment provisions of the treaty. William Diebold, Jr., *The End of the ITO*, *ESSAYS IN INTERNATIONAL FINANCE*, Oct. 1952, at 4, 12. Two other reasons for the failure of Congress to endorse the ITO were changes in the international landscape between 1945 and 1950—mostly
Prior to the death of the ITO, twenty-three major trading nations, including the United States, negotiated agreements (known collectively as the "General Agreement" or GATT\textsuperscript{10}) in Geneva in 1947 to reduce tariffs and other barriers to trade.\textsuperscript{11} The signatories to the 1947 General Agreement wanted to record the agreements reached in Geneva and to insure that the participants did not subvert those agreements prior to the ITO coming into existence.\textsuperscript{12} While the General Agreement incorporated many of the substantive trade issues of the Havana Charter, such as reducing tariffs and other barriers to trade,\textsuperscript{13} it was not intended to be the framework for governing world trade.\textsuperscript{14} When the United States failed to endorse the ITO, it effectively died. No other body was created for governing world trade.\textsuperscript{15} As the former Director-General of GATT remarked, "the failure of the Havana Charter to come into force left a vacuum in the organization of economic relations in the post-war period."\textsuperscript{16} GATT was the only agreement left concerning world trade; yet it did not contain any mechanism for enforcement.

Because GATT was not intended as a permanent framework governing international trade, GATT has evolved pragmatically over time. The 1947 Agreement did not call for future negotiating sessions. Nevertheless, GATT signatories, known as "Contracting Parties," met again two years later to negotiate further agreements in negotiating sessions called rounds.\textsuperscript{17} Substantive GATT law has developed through a series of agreements negotiated under these rounds.\textsuperscript{18} The latest round of GATT negotiations, the

\textsuperscript{9} SWAN \& MURPHY, supra note 5, at 219.
\textsuperscript{10} The General Agreement on Tariffs and Trade, Oct. 30, 1947, 55 U.N.T.S. 188 [hereinafter GATT 1947]. "GATT" refers to the GATT of 1947, as later rectified, amended or modified. The twenty-three nations are: Australia, Belgium, Brazil, Canada, Ceylon, Chile, (Republic of) China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, the Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, United Kingdom, and United States.
\textsuperscript{11} SWAN \& MURPHY, supra note 5, at 219.
\textsuperscript{12} Id.
\textsuperscript{13} OLIVER LONG, LAW AND ITS LIMITATIONS IN THE GATT MULTILATERAL TRADE SYSTEM 1-2 (1985).
\textsuperscript{14} SWAN \& MURPHY, supra note 5, at 219.
\textsuperscript{15} Id. at 220.
\textsuperscript{16} LONG, supra note 13, at 1.
\textsuperscript{17} The signatories met at the Annecy Round in 1949. SWAN \& MURPHY, supra note 5, at 222.
“Uruguay Round,” had the primary aims of further reducing tariff and non-tariff barriers to trade in goods, developing a mechanism to regulate international trade in services, and eliminating quotas for textiles.¹⁹

GATT is a group of agreements designed to bind the Contracting Parties to the process of reducing tariffs and other non-tariff barriers to trade and to the process of eliminating discriminatory treatment in international commerce.²⁰ It does so by conferring multilateral status on all bilateral trade agreements into which a Contracting Party enters. As stated in article I: “[A]ny advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.”²¹ Signatories to the GATT agree not to discriminate between their trading partners. If the United States, a Contracting Party, grants unconditional Most Favored Nation ("MFN")²² status to another Contracting Party, it must automatically grant those same advantages, favors, privileges, and immunities to every other Contracting Party.

Under the original philosophy of the GATT, tariffs were preferable to quotas.²³ Tariffs are more transparent than quotas and, therefore, promote economic efficiency.²⁴ A manufacturer could calculate what the price of his imported product would be with the tariff and then make a determination whether the product could compete with the domestically-produced product. Non-tariff barriers²⁵ hinder trade.²⁶ If a quota were erected, the

¹⁹ SWAN & MURPHY, supra note 5, at 222.
²⁰ There are four core GATT concepts: (1) the principle of non-discrimination or Most Favored Nation (“MFN”), (2) avoidance of non-tariff barriers, (3) national treatment, (4) nullification or impairment. SWAN & MURPHY, supra note 5, at 223-24.
²² The United States uses the term “MFN” instead of the term "unconditional." See SWAN & MURPHY, supra note 5, at 224.
²³ GRIMWADE, supra note 18, at 32.
²⁴ “Experts generally agree that using tariffs makes the extent of protection [for foreign goods] clearer than other types of protection and is less trade distorting.” GENERAL ACCOUNTING OFFICE, 1 THE GENERAL AGREEMENT ON TARIFFS AND TRADE: URUGUAY ROUND FINAL ACT SHOULD PRODUCE OVERALL U.S. ECONOMIC GAINS, July 1994, at 5 [hereinafter GAO 1].
²⁵ Under GATT there are more than 40 non-tariff barriers, which are broken into five groups: quotas, voluntary export restraints, price controls, seasonal tariffs, and monitoring measures. GENERAL ACCOUNTING OFFICE, 2 THE GENERAL AGREEMENT ON TARIFFS AND TRADE: URUGUAY ROUND FINAL ACT SHOULD PRODUCE OVERALL U.S. ECONOMIC GAINS, July 1994, at 10 [hereinafter GAO 2].
²⁶ When monopolies are protected by a tariff, if domestic producers raise the price too much, a foreigner can come in and undercut the domestically-produced good. This is not so with quotas. The domestic good has “absolute protection” no matter how high the domestic price, because imports can never
manufacturer could not easily determine if his product would be allowed into the foreign country nor how much he would be forced to charge for that good.

Because of their detrimental economic effect, GATT prohibits import quotas. Article XI stipulates: "No prohibition or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any Contracting Party." In spite of the prohibition against non-tariff barriers, many Contracting Parties nevertheless implement quotas on certain imported goods.

Contracting Parties have used article XIX to suspend various products from GATT obligations. Article XIX provides an "escape clause" from the provisions of the GATT when an imported product "cause[s] or threaten[s] serious injury to domestic producers." When this happens, the Contracting Party "shall be free . . . to suspend the obligations in whole or in part or modify the concession."

Contracting Parties have utilized the article XIX exception for textiles, contrary to the original intent of article XIX and article I. It has been argued that the original intent of article XIX was to allow countries to escape from the GATT only for "unforeseen developments" and not merely exceed the quota. Paul R. Krugman & Maurice Obstfeld, *International Economics: Theory and Practice* 226 (3d ed. 1994).

During the International Trade Organization ("ITO") Charter negotiations, the United States tried to outlaw all non-tariff barriers. U.S. policymakers felt that tariffs were less likely to be used administratively as a discriminatory measure than non-tariffs barriers. Swain & Murphy, supra note 5, at 236.


Agricultural products are a well-known product which has "escaped" from GATT. See *European Economic Community Import of Beef from Canada, GATT Doc L/5099 (Mar. 10, 1981), reprinted in Basic Instruments and Selected Documents*, 28th Supp., at 92.

when they face foreign competition. This interpretation of article XIX fits with the overall tone of the document. If a Contracting Party could escape any time a domestic industry faced foreign competition, GATT would be meaningless. Nevertheless, textiles have long received special protection under article XIX. As noted by Alan C. Swan and John F. Murphy, "The bilateral agreements negotiated within the framework of the MFA represent what is perhaps the most sweeping departure from the prohibition contained in article XI and from the original GATT philosophy of minimizing the use of quantitative restrictions in favor of tariffs that would be subject to negotiated reductions."

B. History of the Multifiber Arrangement

The Multifiber Arrangement ("MFA") consists of a series of bilateral treaties imposing quotas first on cotton and then on non-cotton textiles. It includes the 1961 Short Term Arrangement, the 1962 Long Term Arrangement (renewed in 1967 and 1970), and the many renewals of the MFA which extend coverage to December 31, 1994, when the Uruguay Round agreement on textiles and apparel was adopted. Around 80% of

35 The escape clause can be invoked only if, as a result of obligations incurred as a Contracting Party, "unforeseen developments" cause or threaten "serious injury" to domestic producers. GATT 1947 supra note 32, at 258, 260.

A GATT Working Party said, "Any proposal to withdraw a tariff concession in order to promote the establishment or development of domestic production of a new or novel type of product in which overseas suppliers have opened up a new market is not permissible under article XIX." Withdrawal by the United States of a Tariff Concession Under Article XIX of the General Agreement on Tariffs and Trade, GATT Rep. CP/106, § 27, Oct. 1951, (Nov. 1951).

36 SWAN & MURPHY, supra note 5, at 236-37.

37 Niels Blokker & Jan Deelstra, Towards a Termination of the Multi-fibre Arrangement?, 28 J. WORLD TRADE 97, 100 (1994). There are 41 parties to the MFA. Seven importing countries apply bilateral restraints under the MFA umbrella: Austria (6 bilateral agreements with exporting countries), Canada (22), the EC (19), Finland (7), Norway (16), Sweden (15), United States (26). CARL B. HAMILTON & WILL MARTIN, THE WORLD BANK, THE URUGUAY ROUND: TEXTILES TRADE AND THE DEVELOPING COUNTRIES. ELIMINATING THE MULTI-FIBRE ARRANGEMENT IN THE 1990s, INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT 13 (Carl B. Hamilton ed., 1990). As of 1987, the 33 exporting nations were Argentina, Bangladesh, Brazil, Bulgaria, China, Czechoslovakia, East Germany, Egypt, Hong Kong, Hungary, India, Indonesia, Macao, Malaysia, Malta, Maldives, Mauritius, Mexico, Nepal, North Korea, Pakistan, Peru, Philippines, Poland, Romania, Singapore, South Korea, Sri Lanka, Thailand, Turkey, Uruguay, Vietnam, and Yugoslavia. Id. at 42.

38 The MFA was first entered into in January 1974 and lasted until December 1977. It was renewed in January 1978, and lasted until December 1981 (MFA-II); MFA-III lasted from January 1982 to July 1986; MFA-IV from August 1986 to July 1991 (Hamilton & Martin, supra note 37, at 42); MFA-V from August, 1991 to December 31, 1992, and MFA-VI ran from January 1, 1993 to December 31, 1994. YEAR IN TRADE, supra note 29, at 10.

39 YEAR IN TRADE, supra note 29, at 11.
U.S. textile and apparel imports from less developed countries fall under MFA quotas.\textsuperscript{40}

When faced with foreign competition, countries have protected the domestic textile and apparel industry. During the Great Depression in the 1930s, international textile trade fell even as competition from Japan increased.\textsuperscript{41} In response, traditional manufacturers, such as the United Kingdom applied imperial preferences favoring current and former colonies; other nations instituted the widespread use of quotas.\textsuperscript{42} For example, the United States passed the Smoot-Hawley Tariff Act of 1930.\textsuperscript{43} After World War II, cheap Japanese imports were more competitive in Europe than domestically-produced textiles.\textsuperscript{44} In response, Europeans continued to restrict Japanese fabrics and apparel from the provisions of the General Agreement, just as they had in the 1930s, by erecting non-tariff barriers.\textsuperscript{45} The United States did not formally exempt Japanese textiles from the provisions of GATT, but it did propose a voluntary restraint agreement ("VRA") to which the Japanese acceded in 1957.\textsuperscript{46}

With no ITO, GATT was too weak to enforce the provisions of article XI even though such restrictions ran counter to the General Agreement. The United States, while an economic superpower ostensibly committed to free trade, had no persuasive power to pressure the Europeans into complying with GATT because the U.S. Congress had refused to approve the ITO.

Having gotten away with restricting imports of clothing from Japanese producers, the developed countries extended non-tariff barriers to non-Japanese producers of textiles. After the first trade barriers were imposed on Japan, textiles and apparel imports from Hong Kong surged into the developed countries, evading the European quotas and U.S. VRAs.\textsuperscript{47}

\textsuperscript{40} \textit{GENERAL AGREEMENT ON TARIFFS AND TRADE, 1 TRADE POLICY REVIEW: UNITED STATES 164 (June 1994) [hereinafter 1 TRADE POLICY REVIEW: UNITED STATES].}

\textsuperscript{41} WILLIAM R. CLINE, INSTITUTE FOR INTERNATIONAL ECONOMICS, \textit{THE FUTURE OF WORLD TRADE IN TEXTILES AND APPAREL 146 (1987).}

\textsuperscript{42} Id. at 147.


\textsuperscript{45} CLINE, supra note 41, at 146.

\textsuperscript{46} The VRA was to run for five years. \textit{Id.}

\textsuperscript{47} \textit{Id.} Japanese imports fell from 63% in 1958 to 26% in 1960. During the same period, Hong Kong's share doubled from 14% to 28%. \textit{Id.}
combat this spillover of imports from uncontrolled areas, the United States initiated the international negotiations of the Short Term Arrangement in cotton clothing ("STA") in 1961 and the Long Term Arrangement ("LTA") in 1962. Both the STA and LTA imposed an international regime limiting the growth of imports of cotton textiles and apparel to 5% per year. The United States also negotiated individual bilateral quotas with Hong Kong, Japan, Korea and Taiwan in 1971 and 1972, restricting the import of wool and synthetic fibers.

With the rising popularity of man-made fibers and the U.S. imposition of formal quotas, the increase of Asian exports exerted additional pressure on European producers and forced European governments to agree to a multilateral framework to control the international apparel and textile trade. Thus, the first MFA was born.

The basic objectives of the MFA, as stated in article I, were: "[T]o achieve the expansion of trade, the reduction of barriers to such trade and the progressive liberalization of world trade in textile products." However, the MFA has actually reduced commerce and erected more barriers to trade.

The MFA legitimized the bilateral agreements running counter to the underlying tenets of the GATT. Under the umbrella of the GATT Textile Committee, a developed country negotiates separate bilateral quotas as of December 1993, the United States had MFA bilateral agreements with 41 countries: Bangladesh, Brazil, China, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Guatemala, Hong Kong, Hungary, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Mexico, Pakistan, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, and Uruguay. In addition, Bahrain, Bulgaria, Chinese Taipei, Haiti, Laos, Lebanon, Lesotho, Mauritius, Nepal, Oman, and United Arab Emirates also had bilateral agreements with the United States. These agreements impose quotas on 1,200 items of apparel. Greg Rushford, GATS Spat; Textile Lobby Tangled Up in Trade Policy, LEGAL TIMES at 1 (Aug. 8, 1994), available in LEXIS, NEWS Library, CURNWS File. About 67% of imports are under quota.

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48 Id.
49 Id. at 147
50 Id.
51 Id.
52 Id. at 148.
53 Id. at 149.
54 Arrangement Regarding the International Trade in Textiles (with Annexes), art. 1(2), Dec. 20, 1973, 930 U.N.T.S. at 170. (Commonly known as MFA.)
55 HAMILTON & MARTIN, supra note 37, at 14.
56 CLINE, supra note 41, at 149; GAO 2, supra note 25, at 146.
57 The Textile Committee is composed of a representative from all MFA members. It is the framework under which MFA discussions take place. For a further description of this body, see BLOKKER, supra note 37, at 99.
58 As of December 1993, the United States had MFA bilateral agreements with 41 countries: Bangladesh, Brazil, China, Colombia, Costa Rica, Czech Republic, Dominican Republic, Egypt, El Salvador, Guatemala, Hong Kong, Hungary, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Mexico, Pakistan, Panama, Philippines, Poland, Romania, Singapore, Slovak Republic, Sri Lanka, Thailand, Turkey, and Uruguay. In addition, Bahrain, Bulgaria, Chinese Taipei, Haiti, Laos, Lebanon, Lesotho, Mauritius, Nepal, Oman, and United Arab Emirates also had bilateral agreements with the United States. Greg Rushford, GATS Spat; Textile Lobby Tangled Up in Trade Policy, LEGAL TIMES at 1 (Aug. 8, 1994), available in LEXIS, NEWS Library, CURNWS File. About 67% of imports are under quota.
with individual exporting countries in order to set quotas and quota growth rates.\(^5\) U.S. policy-makers preferred the international aspect of the MFA over the strictly bilateral agreements of the past. According to textiles expert William Cline, "They [U.S. policymakers] considered that the result would do less damage to the multilateral trade apparatus under GATT, that it would ensure a sharing of the import burden by Europe, and that it would avoid still more restrictive and permanent quotas that might otherwise be enacted by Congress."\(^6\)

Textile-producing countries went along with the MFA for two reasons. First, they anticipated that the developed countries would again restrict their imports, and thus, reasoned that an international format for such restrictions was a "lesser evil than unbridled arbitrary actions."\(^6\) Second, although the MFA allowed quotas, importing countries were obliged to provide for an annual growth rate in imports.\(^6\) MFA-\(^6\) phased down European bilateral restrictions against Eastern Europe and Less Developed Countries.\(^6\) allowed imports to grow at 6% annually under each quota, and added "swing" adjustments,\(^6\) "carry-forwards"\(^6\) and "carry-overs"\(^6\) for more flexibility.\(^6\) As the textile-producing countries had already agreed to trade restrictions, there was no one to complain that article IX of GATT had been violated.

Successive MFAs have become more restrictive.\(^6\) Annual growth rates have fallen to below 6% and the number of fibers covered by the restrictions has grown.\(^6\) As textile expert William Cline has noted, "[T]he flexibility that permitted rapid growth in imports . . . has by now been largely eliminated."\(^7\)

\(^{59}\) YEAR IN TRADE, supra note 29, at 10.
\(^{60}\) CLINE, supra note 41, at 149.
\(^{61}\) Sanjoy Bagchi, The Integration of the Textile Trade into GATT, 28 J. WORLD TRADE 31 (1994).
\(^{62}\) Id.
\(^{63}\) See supra note 38.
\(^{64}\) CLINE, supra note 41, at 150.
\(^{65}\) Swing adjustments allow a transfer between product categories in the same year. HAMILTON & MARTIN, supra note 37, at 13.
\(^{66}\) Up to 5% from the following year's quota can be carried forward. Id. at 14.
\(^{67}\) Up to 10% of the unused part of last year's quotas can be carried over to the next year. Id.
\(^{68}\) Id. at 13-14.
\(^{69}\) Id. at 14; GAO 2, supra note 25, at 146-47.
\(^{70}\) HAMILTON & MARTIN, supra note 37, at 14. Silk blends and other vegetable fibers have been included. Id.
\(^{71}\) CLINE, supra note 41, at 14.
Recent agreements have restricted more of Hong Kong’s and China’s imports. Bilateral treaties with Hong Kong have cut the annual rate of growth of import quotas to 1% or less; they have also extended coverage to silk, linen and ramie products.\textsuperscript{72} China’s rate of growth is also more restricted. Under the most recent Sino-U.S. bilateral treaty,\textsuperscript{73} Chinese imports are limited to 1% to 2% annual growth.\textsuperscript{74} The previous agreements allowed them to grow at a rate of 5% to 6%.\textsuperscript{75} China also has tighter caps on textiles in disputed categories.\textsuperscript{76}

C. Comparative Advantage

Under Classical economic theory,\textsuperscript{77} every country has a comparative advantage\textsuperscript{78} in some product. It is relatively cheaper to specialize in producing that item and sell it on the world market than to remain economically self-sufficient.\textsuperscript{79} As The Economist noted when discussing development, “Textiles are a good bet for a country bent on industrialization. Clothes are an essential commodity and making them requires plenty of people.”\textsuperscript{80} China is a densely populated country with unskilled labor.\textsuperscript{81} Kym Anderson makes a similar point: “Since many (though by no means all) textile and clothing production activities tend to be intensive in the use of unskilled labor, they would be among the items initially exported by a newly industrializing, densely populated country.”\textsuperscript{82}

\textsuperscript{72} Id.
\textsuperscript{73} Dan Martin, Mending the Textile Rift, CHINA BUS. REV., May-June 1994, at 12 [hereinafter Martin, Textile Rift]. In 1994, Hong Kong negotiated a yearly quota of 260 million square meters of cloth and 786 million finished garments under the bilateral treaty with the United States.
\textsuperscript{74} Id. Simon Beck, HK Protests Against Unfair Proposals on Textile Quotas, S. CHINA MORNING POST, Aug. 29, 1994, at 1. China’s quota is slightly higher. Id.
\textsuperscript{75} Id., Textile Rift, supra note 73, at 12.
\textsuperscript{76} Id. When China receives formal complaints about exceeding its quota in a particular category, it must limit exports in that category to 7.5% of the number of garments entering the United States in the two months prior to the complaint being filed. Id. In the past, this cap had been 15.5%. Id.
\textsuperscript{77} David Ricardo is the most famous economist to be associated with the Classical school. SWAN & MURPHY, supra note 5, at 195.
\textsuperscript{78} For an introduction to comparative advantage, see KRUGMAN & OBSTFELD, supra note 26, at 11-37.
\textsuperscript{79} Although one country has an absolute cost advantage in producing both products, it is more efficient for both countries to specialize in one good and import the other. SWAN & MURPHY, supra note 5, at 195.
\textsuperscript{80} ECONOMIST, Indonesia’s Ripping Yarn, Jan. 9, 1993, at 62.
\textsuperscript{81} Kym Anderson, China and the Multi-Fibre Arrangement, in HAMILTON & MARTIN, supra note 37, at 140.
\textsuperscript{82} Id. at 139.
China enjoys a comparative advantage in the production of silk and in the manufacturing of men's and women's cotton trousers, and men's and women's cotton shirts. In the highly labor-intensive aspect of apparel manufacturing which have similar productivity rates, China derives its comparative advantage from the fact that Chinese workers are paid less than workers from other countries, only about forty cents per hour.

Exploiting its own comparative advantage, Hong Kong has specialized in the more skilled aspects of the textile industry. The garment industry in Hong Kong also boasts more “sophisticated factories” and employs greater capital improvements than China. Hong Kong garment workers enjoy a comparative advantage in cutting. Factories in Hong Kong use state-of-the-art lasers to cut large quantities of fabric quickly and precisely. These capital improvements have allowed Hong Kong to compete even with its higher wage of about eight dollars per hour. It is only natural that Hong Kong would exploit its comparative advantage in the cutting aspect of the textile business and combine it with China’s comparative advantage in sewing.

D. Uruguay Round

The eighth and final round of GATT established the long-awaited World Trade Organization (“WTO”) which will absorb GATT, create the “third pillar” of post-WWII economic order, and slash tariffs by more than

84 This is according to Martin Trust, President of Mast Industries, Inc., sourcing arm of The Limited. Jim Ostroff, Brouhaha Brews Over Bid for Origin Rule Changes, DAILY NEWS RECORD, July 27, 1994, at 3.
85 Former Chief Textile Negotiator, Ron Sorini, says that only 2% of the labor of making a T-shirt is attributed to cutting. Behr, supra note 4.
86 Id. The United States has a comparative advantage in man-made fibers. U.S. DEPARTMENT OF COMMERCE, INTERNATIONAL TRADE ADMINISTRATION, U.S. INDUSTRIAL OUTLOOK, Jan 1994, at 9-8. The average U.S. textile worker is paid $8.37 per hour. Id. The United States also has a comparative advantage in denim, home textiles (i.e., towels), and in men's shirts and pants, using wrinkle-resistant fabrics. 2 STANDARD & POOR'S INDUSTRIAL SURVEYS, July 1994, at T82, T83, T90.
87 Behr, supra note 4.
88 Id.
89 Id.
90 Id.
91 GATT DRAFT IMPLEMENTING PROPOSAL, supra note 3.
a third on average. Global income is conservatively forecasted to increase by $200 billion per year because of the increased trade resulting from the provisions of the Uruguay Round. The Clinton Administration argues that implementation of the Uruguay Round will produce half a million jobs in the United States. Republicans also expect it to “stimulate billions of dollars in new commerce.”

WTO also authorizes a Textile Monitoring Body (“TMB”) to replace GATT’s Textile Surveillance Board, which oversees a complete phase-out of the MFA, bringing textile and apparel in line with the General Agreement. As products are integrated into the GATT, they immediately become subject to normal GATT rules. All textile and apparel quotas for WTO members will end ten years after the Uruguay Round Agreement goes into effect on July 1, 1995.

Under the Uruguay Round Agreement on Textiles and Apparel, textile quotas will be reduced in three successive steps and one large leap. All members of the WTO will be subject to this phase-out whether they are signatories to the MFA or not. Countries with MFA quotas must remove those quotas on 16% of the total volume of textile imports in 1995. In 1998, they must remove an additional 17%; and in 2002 an

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<th>Share of imports to be integrated</th>
<th>Increase in quota growth rate</th>
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<td>1-3</td>
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<td>Jan. 1, 2002</td>
<td>49%</td>
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93 Id.
94 ECONOMIST, World Trade: From Uruguay to Marrakesh, Apr. 16, 1994, at 73.
98 YEAR IN TRADE, supra note 29, at 10.
99 Martin, Silk Surprise, supra note 83, at 13.
100 YEAR IN TRADE, supra note 29, at 10.
additional 18% must be lifted. The remaining 49% must be removed by 2005.

During each stage, products to be phased out will be chosen from all four textile categories: (1) tops and yarns, (2) fabrics, (3) made-up textiles, (4) clothing. During the first years of the agreement the United States will probably remove quotas on less import-sensitive items and leave more important categories, such as apparel, under quotas until 2005.

The Uruguay Round Agreement also stipulates that all quota levels for textiles remaining under quota be phased out by July 1, 2005. From 1995-1998, quota growth rates for textiles will rise 16% per year. From 1998-2002, they will rise another 25% annually. From 2002-2005 there will be another 27% increase so that by July 1, 2005 all textile trade will be covered by WTO. For example, if prior to January 1, 1995 the growth rate on a garment category had been 6%, on January 1, 1995 the growth rate would have become 6.96% (a growth rate increase of 16%). Under this “growth-on-growth” method, the original percent rate would increase to an 11% growth rate by January 1, 2002.

The Uruguay Round also requires that all WTO members improve access in the domestic market for imported textiles by reducing or eliminating non-tariff barriers and facilitating customs, administrative, and licensing procedures. The TMB will adjust the quota growth rates for countries that do not improve market access.

Developed countries have one final safeguard when implementing the MFA phase-out. If any surges in imports occur during the phase-out period for products not yet integrated into GATT, the importing country can set

103 Id. at 13-14.
104 Id. at 14.
105 YEAR IN TRADE, supra note 29, at 10.
106 GAO 2, supra note 25, at 149.
107 Martin, Textile Rift, supra note 73, at 14. According to United States Trade Representative (“USTR”), the first products to be integrated into GATT would probably be those that are already quota-free or goods with low import-to-U.S.-production ratios (i.e., textured filament yarn). The last to integrate would be fabrics, such as poplin, broadcloth, and wool apparel goods that have a high import-to-U.S.-production ratio. GAO 2, supra note 25, at 148-49.
108 Martin, Textile Rift, supra note 73, at 14.
109 Id.
110 Id.
111 Id.
112 GAO 2, supra note 25, at 149.
113 Id.
114 YEAR IN TRADE, supra note 29, at 11.
115 Id.
quotas on these products that "cause or threaten serious damage to the domestic industry." This language is identical to the "escape clause" of article XIX in the General Agreement which led to the MFA in the first place. However, this safeguard provision, whether by mutual agreement or unilateral, is subject to review by the TMB\textsuperscript{117} and is limited to three years or until the product is integrated into GATT, whichever is shorter.\textsuperscript{118} Article XIX of the General Agreement had no governing body to review such deviations from the treaty and there was no time limit.

China, while a signatory to the MFA, is not a member of GATT and is bound by the Sino-U.S. bilateral treaty until it officially joins GATT/WTO.\textsuperscript{119} The United States has formally agreed to sponsor China's renewed bid for entry to the WTO.\textsuperscript{120} Once it joins WTO,\textsuperscript{121} China can benefit from these phase-outs. However, as China will join WTO after the phase-outs have begun, the phase-outs will not be applied retroactively.\textsuperscript{122} For example, if China were to join in 1999, the United States would be obliged to raise China's quota growth rate from 1% to 1.25% by 2002.\textsuperscript{123} So for the next eight years, even under future events construed most favorably toward China, these phase-outs will have little effect in increasing the amount of Chinese textiles entering the United States.\textsuperscript{124}

Hong Kong, an MFA signatory and GATT Contracting Party, is expected to be a WTO member in the near future.\textsuperscript{125} Hong Kong will maintain its status as a separate customs territory even after it reverts back

\begin{footnotesize}
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\item \textsuperscript{116} Id.
\item \textsuperscript{117} Presently, there is a disagreement over the composition of the 11-seat TMB. A potential solution would seat five representatives from exporting countries, four from importing countries and one from a country which is both. Resolution of the issue has been tabled for now. Sheel Kohli, \textit{Starting Date for Trade Body Agreed}, S. CHINA MORNING POST, Dec. 9, 1994, at 14, available in LEXIS, NEWS Library, CURNWS File.
\item \textsuperscript{118} \textit{Year in Trade}, supra note 29, at 11.
\item \textsuperscript{119} Martin, \textit{Textile Rift}, supra note 73, at 13.
\item \textsuperscript{120} Patrick E. Tyler, \textit{U.S. China Will End Trade Rift}, N.Y. TIMES, Mar. 13, 1995, at D1.
\item \textsuperscript{121} For more on China's GATT application, see id.
\item \textsuperscript{122} Martin, \textit{Textile Rift}, supra note 73, at 14.
\item \textsuperscript{123} Id.
\item \textsuperscript{124} In comparison, the lifting of MFA quotas will bring good results to GATT members, such as South Korea and Indonesia. In Korea, 90% of textile and clothing exports is presently under quotas. \textit{General Agreement on Tariffs and Trade}, \textit{1 Trade Policy Review: Korea}, 168 (1992). When the quotas are removed, previously restrained Korean textile industry will be able to produce to its full world market potential. The Indonesian textile industry will also be freed from MFA quotas. This should mean more garments entering the developed countries because textiles are the most important export-oriented manufacturing activity in Indonesia. \textit{General Agreement on Tariffs and Trade}, \textit{1 Trade Policy Review: Indonesia} 154 (1991).
\item \textsuperscript{125} Evans, \textit{supra} note 92 quoting WTO Director General, Peter Sutherland.
\end{itemize}
\end{footnotesize}
to China in 1997.\textsuperscript{126} Article 6 of the Sino-British Joint Declaration states: "The Hong Kong Special Administrative Region will retain the status of a free port and a separate customs territory."\textsuperscript{127} The Chinese National People's Congress further elucidated this point when it passed the Basic Law. Article 116 of the Basic Law permits Hong Kong to "participate in relevant international organizations and international trade agreements (including preferential trade arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles. Export quotas, tariff preferences and other similar arrangements . . . remain valid."\textsuperscript{128} Because it is not yet a WTO member, Hong Kong, like China, cannot enjoy the MFA phase-outs. Thus the changes in U.S. Customs rulings, which are used to regulate imports, are even more crucial.\textsuperscript{129}

III. URUGUAY ROUND AGREEMENTS ACT

A. Fast-Track Authority

Congress passed the Uruguay Round Agreements Act, which includes a section on textiles and apparel rules of origin,\textsuperscript{130} under fast-track authorization. "Fast-track" grants the President the authority to negotiate agreements with only an up-or-down vote from Congress; no amendments are allowed.\textsuperscript{131} As noted in the \textit{New York Times}, "[t]hat authority is considered essential to ward off special interest amendments that could doom a trade agreement."\textsuperscript{132} Without such a "yes-or-no" vote, the 535

\textsuperscript{126} Text of Sino-British Joint Declaration on Hongkong, XINHUA GENERAL OVERSEAS NEWS SERVICE, Sept. 28, 1994, available in LEXIS, ASIAPC Library, CHINA File.

\textsuperscript{127} Id.


\textsuperscript{129} Hong Kong would experience cuts of up to HK$41 billion in domestic exports with the elimination of MFA quotas. Amy Chew, \textit{Uruguay Round to Boost China Trade; Full Implementation Set to Increase Exports by 26.5 pc}, S. CHINA MORNING POST, Dec. 26, 1994, at 1.

\textsuperscript{130} Uruguay Round, supra note 1, § 334.

\textsuperscript{131} Rosenbaum, \textit{supra} note 95.

\textsuperscript{132} Friedman, \textit{supra} note 96.
Members of Congress might amend the treaty which the President had negotiated, thus imperiling the legislation.\footnote{Collapse of Uruguay Round Talks Shows Unity of U.S. Farm-Business Interests, Kleckner Says, 8 Int'l Trade Rep., (BNA) No. 2 at 49 (Jan. 9, 1991).}


\section*{B. Rules of Origin}

The Uruguay Round Agreements Act legislates changes in textiles and apparel source of origin rules.\footnote{Uruguay Round, supra note 1, § 334.} From January 1, 1996, the place of assembly will determine the origin of an article of clothing for customs purposes.\footnote{Press Release from Office of Congressman Benjamin L. Cardin, Member of the House Ways and Means Committee and author of the Cardin Amendment: Rule of Origin or Textiles and Apparel [hereinafter Cardin Press Release].} This change cannot be properly understood apart from the history of U.S. Customs rulings.

\section*{1. History of Customs Regulations}

Over the past decade, U.S. Customs regulations have been altered to protect domestic manufacturers from foreign competition. Prior to 1984,
the United States followed "substantial transformation" rules for customs classification. The regulations read:

‘Country of origin’ means the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article must effect a substantial transformation in order to render such other country the ‘country of origin’ within the meaning of this part.140

An article was judged to be of origin of the place where it last underwent a substantial transformation. There was no definition of "substantial transformation." Sweaters cut in China but stitched and embroidered in Hong Kong fell under the Hong Kong quota.141

Faced with competition from sweaters embroidered in Hong Kong, the United States reinterpreted the regulation in 1984. Domestic sweater manufacturers pressured the Customs Bureau to change the classification to "place of cutting" in order to protect the U.S. market.142

Under Customs Regulations143 promulgated in 1984, apparel is deemed to be made in the country where the fabric is cut.144 "[T]extiles or textile products . . . imported into the customs territory of the United States, are a product of a particular foreign territory or country . . . [where the article] has been substantially transformed by means or a substantial manufacturing or processing operation into a new and different article of commerce."145

While there is no definition of "substantial transformation" in this regulation either, there are seven factors to which Customs is supposed to pay attention when deciding whether a "substantial manufacturing or processing operation" has taken place.146 The regulations say: "[A]
comparison will be made between the article or material before the manufacturing or processing operation and the article in its condition after the manufacturing or processing operation.\textsuperscript{147}

The regulations explicitly state that sewing is not a substantial transformation. The Discussion section reads: “[N]o article or material shall be considered to have been substantially transformed in a particular foreign territory or country . . . by virtue of having merely undergone . . . the joining together by sewing.”\textsuperscript{148} Therefore, garments cut in Hong Kong and transshipped to China for sewing still retain the “Made in Hong Kong” classification because Hong Kong is where the last substantial transformation, i.e., cutting, took place. U.S. Custom rulings coupled with Hong Kong’s comparative advantage in cutting and China’s comparative advantage in sewing encouraged the emergence of Chinese-Hong Kong partnerships to circumvent the 1984 source-in-origin ruling\textsuperscript{149} (similar to the way Japanese factories moved to Hong Kong to side-step European quotas erected after WWII). The Clinton Administration estimates that 10% of the $4 billion of textile imports entering the United States from Hong Kong are really assembled in China.\textsuperscript{150}

2. Uruguay Round Reclassification

Under the Uruguay Round Agreements Act, it appears that Congress has decided to reclassify the origin of textiles to where the garment is sewn—in other words, counter to the 1984 Customs Regulations. Thus, clothing cut in Hong Kong and sewn in China would be classified as “Made in China.” The law states: “[T]he good shall be considered to originate in . . . the country . . . in which the most important assembly or manufacturing process occurs.”\textsuperscript{151} If that cannot be determined, then origin is deemed to be of origin of the “last country . . . in which important assembly or manufacturing occurs.”\textsuperscript{152} The regulations concerning this provision have not yet

\textsuperscript{147} T.D. 84-171, supra note 143, at 483.
\textsuperscript{149} Former Chief Textile Negotiator, Ron Sorini, quoted in Behr, supra note 4.
\textsuperscript{150} Id. In 1991-93 the U.S. Customs Service estimated that, annually, Chinese textiles worth $2 billion were illegally transshipped into the United States. Between 1990-93, China over-shipped 50 percent of 88 of its categories negotiated under the bilateral treaty. The United States faults China for not “meeting its legal obligation to issue export visas for no more than the amount of goods for which it had quota.” YEAR IN TRADE, supra note 29, at 102-03.
\textsuperscript{151} Uruguay Round, supra note 1, § 334(b)(3) and § 334(b)(3)(A).
\textsuperscript{152} Id. § 334(b)(3)(B)
been written, however, it seems certain that the intent of Congress was to change the country of origin from the "place of cutting" to "place of sewing" as this press release from one of the principle sponsors of the amendment makes clear:

Cardin Amendment
Rule of Origin for Textiles and Apparel

Current Law:
For the purpose of enforcing the Multi-fiber Agreement, the origin of a textile or apparel good is established based on where the material in the good is "cut."

Amendment:
From January 1, 1996, for all customs law practices, the origin of textile and apparel goods will be established by where the goods are "assembled."154

If one looks to the other house, it is equally apparent that the Senate intended the regulations to stipulate place of sewing. When trying to pass the Congressional version of the implementing legislation through in the Finance Committee, Senator John Breaux of Louisiana155 authored an amendment156 which was more protectionist than the bill Representative Cardin offered.157 (The Cardin version was eventually passed into law by both houses).158 In a 10-10 vote, the Committee defeated the Breaux Amendment in which Congress would have legislated that the origin of a

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153 "Such rules shall be promulgated in final form not later than July 1, 1995." Id. § 334 (a).
154 Cardin Press Release, supra note 139.
155 Fruit of the Loom is the largest private industrial employer in Louisiana, employing 7,000 people. When asked about his ties to Fruit of the Loom, Mr. Breaux responded, "they send me new underwear every day." Joyce Barrett, Committee OK of Origin Bill Still in Doubt; Senate Finance Committee Approval of Proposal to Change Rule of Origin for Apparel Remains in Question, DAILY NEWS RECORD, July 28, 1994, available in LEXIS, NEWS Library, CURNWS File [hereinafter Barrett, Committee OK].
158 Uruguay Round, supra note 1, § 334.
garment is the place of assembly. Breaux’s proposed amendment would have given the Treasury Department no leeway in writing the regulation; it would be as if Congress wrote the regulation. In the opinion of one Congressional staffer, Mr. Breaux wanted such a detailed amendment “because [t]he Treasury Department is not likely to write as stiff a rule [as] textile-state legislators would.” If the Breaux amendment had passed, it is likely that this more stringent language would have been incorporated into the President’s bill because Mr. Cardin had already lined up support for introducing Mr. Breaux’s version in the House.

C. Protectionist Effect of New Customs Designation

The passage of the place-of-sewing rules of origin will protect U.S. apparel manufacturers from Chinese competitors beginning January 1, 1996 when the law goes into effect. Contracts in the garment industry are typically locked in two years in advance. Major U.S. retailers, like The Limited, have set up partnerships with Chinese-Hong Kong enterprises. The contracts negotiated with these enterprises were entered into prior to any change in the law. Thus, retailers anticipated that some of the garments produced would fall under the Hong Kong quota. With the abrupt change in designation that the new law brings about, some garments, previously classified as “Made in Hong Kong,” will be deemed “Made in China.” Since Chinese quotas are already full, these articles will be denied entry to the United States. For the next two or more years U.S. retailers will be

160 Id.
161 Barrett, Committee OK, supra note 155.
162 Christopher Lynch, aide to Representative Cardin, said that his boss wanted to give the Administration as much time as possible to re-negotiate the various bilateral treaties. Telephone interview with Christopher Lynch, aide to Representative Cardin on November 2, 1994. The Clinton Administration gave mixed signals on whether it supported the Breaux Amendment. Officially it told diplomats from Asian textile-producing countries that the White House opposed the Breaux Amendment, but Clinton’s Chief Textile Negotiator, Jennifer Hillman, gave so much backroom support to the amendment that insiders doubt that the bill could have progressed as far as it did without the Administration’s support. Ostroff, supra note 84.
163 Cardin Press Release, supra note 139.
164 Rushford, supra note 58.
165 Behr, supra note 4.
166 Id.
167 Ostroff, supra note 84.
168 Behr, supra note 4.
unable to complete contracts previously negotiated with foreign manufacturers.\textsuperscript{169}

If the clothing from these Hong Kong-Chinese partnerships is prohibited by quota from entering the United States, retailers will have to purchase additional garments elsewhere, possibly at higher prices. With its under-utilized quotas,\textsuperscript{170} these goods will probably be assembled in Hong Kong.\textsuperscript{171} That is expected to add 15\% more to the price than if the garment had been produced in China under the old designation.\textsuperscript{172} One importer estimates, "If we had to assemble apparel in Hong Kong with their higher wages, producers would charge us more for the product and we would raise the price for consumers."\textsuperscript{173} The cost of such protectionism is passed on to consumers in the form of higher prices.\textsuperscript{174}

U.S. manufacturers hope to sell their garments domestically when some of the Chinese goods are excluded from competing. "If apparel [were] to be manufactured in Hong Kong, obviously, the price would go up and I presume U.S.-made apparel would be more competitive," noted Larry Martin, Director of Government Relations, American Apparel Manufacturers.\textsuperscript{175} By limiting imports of silk, U.S. manufacturers hope to sell more "high end" U.S. cotton products.\textsuperscript{176}

IV. CONCLUSION

A. Proposed Solution

The United States should change source in origin rules back to the pre-1984 standard, place of assembly, in order to harmonize U.S. Customs

\begin{thebibliography}{99}
\bibitem{169} Rushford, supra note 58.
\bibitem{170} Beck, supra note 74.
\bibitem{171} Retailers could try to find alternative manufacturers elsewhere in Southeast Asia. However, most countries export close to their full MFA quota limits. Even with the gradual reduction of MFA quotas for GATT/WTO member countries, there will not be enough quota available to absorb the products that had been produced in these Hong Kong-Chinese partnerships in the near future. This is especially true if the United States integrates the most import-sensitive items last.
\bibitem{172} Barrett, Committee OK, supra note 155.
\bibitem{173} Ostroff, supra note 84 (quoting Martin Trust, President of Mast Industries, sourcing arm of the Limited). Leslie Wexner, Chairman of the Limited, predicts that the change in law could cost his company more than $500 million yearly. Behr, supra note 4.
\bibitem{174} GAO 1, supra note 24, at 12.
\bibitem{175} Ostroff, supra note 84, at 3.
\bibitem{176} Martin, Silk Surprise, supra note 83, at 13.
\end{thebibliography}
rulings with the rest of the world;\textsuperscript{177} these changes should take effect from January 1, 1997 instead of January 1, 1996. This proposed two-year time frame for implementation would fall within the three-year time limit allowable under GATT.\textsuperscript{178} In addition, it would not affect previously negotiated deals, many of which were finalized two years prior to the change in the law. From the date of passage forward, U.S. retailers would enter into new contracts fully abreast of the change.

Postponing implementation of the legislation by one year would also stave off a possible Chinese boycott of other U.S. goods and services.\textsuperscript{179} In 1983, when the United States put unilateral quotas on Chinese-made clothing, China retaliated by refusing to purchase $500 million of other U.S.-produced items.\textsuperscript{180} Major U.S. manufacturers\textsuperscript{181} and exporters like General Electric, Caterpillar, and American Telephone and Telegraph worry that the change in textile origin designations will "damage prospects for overseas sales [of their own products] in the future."\textsuperscript{182} A lobbyist for retailers and Fortune 500 companies put it succinctly: "While it is unusual for a company that makes tractors or light bulbs to weigh in on a textile matter, we made the point that if the Clinton Administration really cares about market opening[s] overseas, we have to keep our own hands clean."\textsuperscript{183}

The changes in origin should apply equally to all countries, including the United States. Proponents of "place of assembly" Customs rules argue that it will bring the United States in line with GATT harmonization obligations;\textsuperscript{184} however, this argument is somewhat duplicitous. Some garments cut in the United States and assembled in Caribbean nations are exported as a "U.S. product."\textsuperscript{185} This allows the United States to export a Caribbean-
made article much the same way Hong Kong had been exporting Chinese-made garments.\textsuperscript{186}

By enacting the legislation in January 1997 and encouraging our trading partners to apply the same standards (even to the United States' immediate detriment), the United States would set a better tone for free trade and the WTO. Abrupt changes in Customs designations may actually be a violation of GATT. The Agreement on Rules of Origin to harmonize trade states plainly that there shall be "no retroactive application of changes in origin rules or in new rules of origin."\textsuperscript{187} Rules must not be "trade disruptive, distorting or restrictive."\textsuperscript{188} These Customs rules, effective January 1996, are all three: they restrict trade from China, thereby disrupting and distorting trade from China and Hong Kong.\textsuperscript{189}

Furthermore, by enacting this protectionist legislation, Congress is violating the spirit of the Uruguay Round, a major goal of which was to integrate textiles into GATT.\textsuperscript{190} By implementing Customs rules changes in such a short time frame, Congress is making an end-run around the treaty. This can only weaken GATT in the long term.

Senators from both parties lamented that the source in origin amendments would hurt GATT. "It will kill GATT," said Senator Bob Packwood. "I can't say how strongly it will jeopardize this agreement."\textsuperscript{191} While the Senator meant that the amendments would jeopardize passage of the Uruguay Round Agreements Act, his disgruntlement can also be read more broadly: Congress' new law implementing the origin rules change will jeopardize the impact of this agreement in other aspects of world trade. Senator Bill Bradley agreed with this latter sentiment: "A lot of effort went into negotiating the GATT agreement, and the worse [sic] thing we can do is undo it by these amendments."\textsuperscript{192}

\textsuperscript{186} While it is acknowledged that these items are deemed "Made in USA" by the laws of the importing countries—not U.S. law—this fact calls into question the motives of proponents of this change who argue that origin rules should be implemented for "GATT obligation reasons."

\textsuperscript{187} YEAR IN TRADE, supra note 29, at 15.

\textsuperscript{188} Id.


\textsuperscript{190} GAO 2, supra note 25, at 146.

\textsuperscript{191} Barrett, Senate Panel, supra note 159.

\textsuperscript{192} Id.
B. More Efficient Way to Compensate Displaced Workers

Effecting the changes brought about by the Uruguay Round will not be without specific costs, but those adversely affected as a result of liberalized trade can be compensated in more productive ways than by erecting protectionist barriers. About 1.6 million people are employed in the textile and apparel industry, including a sizable number of women and minorities. Between 72,000 and 255,000 workers will lose their jobs to trade liberalization over the next ten years. However, preserving these jobs translates into higher costs for consumers of textile and apparel products. Researchers at the Institute for International Economics estimate this protection amounted to $24 billion in 1990 alone. Each apparel job protected in 1990 cost consumers approximately $139,000 in higher prices.

As mentioned above, the United States will reap some incredible benefits from enactment of the Uruguay Round, which include the dismantlement of the MFA. When MFA has been phased-out, the United States will receive a net gain of approximately $53,000 for each textile or apparel job that has been lost. Instead of continuing to subsidize less competitive industries, the United States should invest a portion of that $139,000 into worker retraining and create the infrastructure for these dislocated workers to return to work producing something for which the United States holds a comparative advantage.

Two major federal acts create programs designed to retrain workers who have lost their jobs: the Trade Adjustment Assistance Act and the Economic Dislocation and Worker Adjustment Assistance Act. While

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193 Rushford, supra note 58. U.S. retailers employ more than 1 million people. Id.
194 DEPARTMENT OF COMMERCE, supra note 86, at 9-1.
196 Id. (citing WEFA Group study, commissioned by the textile industry).
197 GAO 1, supra note 24, at 3. In a 1994 study, the Institute for International Economics estimated 152,600 apparel and 16,200 textile jobs would be lost from phasing out the MFA. GAO 2, supra note 26, at 151.
198 Id. at 12. This is in line with a 1986 study that estimated that “[t]he consumer cost per job saved [through protectionism] is approximately $82,000 a year in apparel and $135,000 in textiles.” CLINE, supra note 41, at 15.
199 Id. at 12.
200 GAO 2, supra note 25, at 151.
201 Id.
these programs have several shortcomings, including long delays in offering assistance and inadequacies in meeting the specific needs of individual recipients.\textsuperscript{204} it is better for Congress to help dislocated textile and apparel workers by strengthening these and similar programs rather than erecting protection measures which will hurt the welfare of all.

\footnotesize{\textsuperscript{204} GAO 1, \textit{supra} note 24, at 13.}