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China 301 Intellectual Property Rights Hearing

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My name is Auggie Tantillo, and I am the President & CEO of the National Council of Textile Organizations (NCTO). I am grateful for this opportunity to testify today.

NCTO represents the full spectrum of the U.S. textile sector, from fiber through finished sewn products, and we strongly support the President's initiation of a Section 301 case to address China's persistent and severely damaging intellectual property (IP) theft. With that said, the U.S. textile industry is deeply disappointed that the retaliation list does not contain a single textile or apparel product.

This is a glaring omission because China has used a system of predatory trade practices, including brazen theft of U.S. textile materials, technology, and innovation, to dominate global markets. Today, China holds nearly 40 percent of the world's total trade in this sector. Since 1997, China's textile and apparel exports to the United States have increased by a stunning 1,400 percent, helping to fuel the more than \$44 billion U.S. trade deficit with China in our sector last year.

Intellectual property rights (IPR) theft has helped enable China's global ascendancy in the textile sector, and U.S. textile and apparel manufacturers have been acutely victimized by China's intellectual property violations. Department of Homeland Security (DHS) data substantiates this point, demonstrating:

- In FY 2016 and 2017, wearing apparel and accessories accounted for the single largest segment of DHS IPR seizures, at 20% and 15% respectively.
- The total value of wearing apparel and accessories seizures was nearly \$200 million over the past two fiscal years.

The U.S. textile industry is vulnerable to IPR theft as the global leader in research and development and leading innovator of next generation fibers, yarns, and fabrics with cutting-edge characteristics and end-uses. Further, proprietary technologies in the textile sector are difficult to develop but often relatively easy to copy and/or reverse engineer. The following are some specific examples of China's abuses in this area:

High Performance Textiles are products with extraordinary performance capabilities, such as textiles with high elasticity, extreme wear and abrasion resistance, and enhanced breathability and moisture-wicking capabilities.

A U.S. manufacturer and holder of various patents on fabrics of a highly complex construction has seen its products continually attacked by China. The performance capabilities of these patented fabrics are so sophisticated that they are used in the U.S. military's Generation III Extended Cold Weather Clothing System.

One patent covers a composite fabric that is designed to rapidly remove moisture from the skin. This product has an outer layer fabric made of highly absorbent materials, and a second, inner layer fabric formed with both vertical and horizontal channels, constructed from yarns with a plurality of fibers. The two fabrics are knitted concurrently so that the layers are separate yet integrated one with the other.

Despite being solely responsible for these inventions and holding the patents for these products, the U.S. manufacturer finds itself competing against its own fabrics in activewear markets at home and abroad. The company has identified garments imported by numerous major U.S. brands that violate their patents. In each of these instances, the infringing fabric was made in China.

Home Furnishings are the textile products we use daily in our homes such as carpets, towels, comforters, drapery, and upholstered furniture.

U.S. home textile companies report that it is normally less than six months between the display of a new design and facing competition from copies of that proprietary textile design by Chinese manufacturers. When these companies have successfully adjudicated copyright infringement cases in China, penalty judgements are routinely well below the actual level of damages sustained. The ability to enforce rulings and collect penalties is frustratingly slow and, in some cases, nonexistent as guilty parties often reorganize as new companies to avoid the legal repercussions.

New Materials is one of the ten R&D priority technology domains designated in the Made in China 2025 national plan, under which textiles is listed as an "advanced basic material."

Advanced textile materials are a strong growth area in terms of domestic investment, output, and employment. Innovations in this field have allowed the introduction of textile products in diverse markets such as medical, telecommunications, aerospace, construction, and environmental remediation.

A U.S. company produces an advanced textile structure for the telecommunications sector that they manufacture in China for sale in Asian markets. While the product required significant effort to develop and optimize, it is relatively simple to manufacture. The U.S. company obtained numerous patents including invention patents and utility models in China. Nonetheless, several Chinese companies knocked off this product in multiple provinces.

The company successfully sued their competitors for patent infringement and have defended attempts to have their primary patents invalidated. Again, damage awards were low and collection was difficult. At least one Chinese company simply opened another infringing company after the first was enjoined.

Consumer Impact Analysis

Beyond the question of IPR, another key metric in the construction of the retaliation list was a ranking of products “according to the likely impact on U.S. consumers.” We do not believe that textile and apparel products should be disqualified based on consumer concerns.

Their inclusion would only impair U.S. consumers if there were no viable alternatives for the same goods. In the U.S. market, textile and apparel products are globally and abundantly sourced. The U.S. Department of Commerce lists 98 different countries in their monthly textile and apparel “Major Shippers” report. Last year, the United States imported over \$73 billion in textile and apparel goods from sources other than China. Many of these imports were duty-free from our free trade agreement (FTA) partners. Aside from China, sixteen different countries shipped at least \$1 billion worth of textile and apparel products to the United States in 2017.

To argue that American consumers would be deprived of choice or forced to pay significantly more ignores today’s abundant and diverse textile and apparel global sourcing structure.

Further, it is a tactical mistake to exempt strategically important industries in China from the retaliation list. The textile and apparel sector is a critical aspect of China’s national economy due to the extraordinary number of workers employed in it. According to reports, the textile and apparel sector is the single largest provider of industrial employment in China, with approximately 24,000 enterprises, over 10 million direct jobs, and millions of additional jobs in support industries.

To resolve China’s rampant IPR abuses, any retaliation list will need to include pillar sectors of their economy. Threatening China’s illegal stranglehold on hundreds of billions of dollars of exports in the textile sector will create legitimate concerns as to China’s ability to maintain their astonishing employment levels in this sector.

Textile Machinery

Additionally, we oppose inclusion of textile machinery on the retaliation list as virtually no textile machinery is manufactured in the United States. China’s explosive growth in the U.S. textile and apparel market also devastated the U.S. textile machinery industry, leaving domestic textile companies almost totally dependent on imports to equip their factories. The failure to remove textile machinery from the list will result in:

- Increased production costs for U.S. textile manufacturers, exacerbating the already significant and often illegally-attained price advantages that China holds;
- Jobs losses in the U.S. textile production chain and supplier industries; and
- Increased prices for U.S. exports of textile goods to our Western Hemisphere apparel partners.

Conclusion & Recommendation

In summary, the U.S. textile industry strongly recommends that the Trump administration add to the retaliation list:

- Finished apparel items that track closely with product being sourced from U.S. FTA partners;
- Textile-based home furnishings; and
- Advanced textiles, defined as textile inputs or finished products designed to meet rigorous safety and/or unique high-performance criteria.

We also recommend that all textile machinery items be removed from the retaliation list.

Adopting these recommendations would provide a modest level of relief to an industry severely undermined by China's persistent theft of our intellectual property. On the other hand, failure to include textile and apparel products would condone China's illegal activity in this strategically important sector.

Thank you for the opportunity to provide these comments, and I would be pleased to answer questions.