

# **RAGS TO RICHES TO RAGS?<sup>1</sup>**

## **TEXTILE TRADE POLICY IN THE UNITED STATES AFTER THE QUOTAS**

**By**

**Elliot J. Feldman<sup>2</sup>  
Baker & Hostetler LLP  
Washington, D.C.**

**For**

**PRIVATE SECTOR CONSULTING COMMITTEE  
INTERNATIONAL TEXTILES AND CLOTHING BUREAU**

**Geneva  
November 3, 2009**

Thank you for inviting me to join your meeting and talk with you this morning. You are the key members of an important organization for which I have the utmost respect and admiration. For a quarter century you have worked diligently, and with remarkable success, to make the world a fairer place, to respect and honor the hard work of people living often in difficult circumstances, and to oblige the more privileged to respect and compensate them. It is a noble cause.

The Agreement on Textile and Clothing (the “Multifibre Arrangement,” or “MFA”), imposing quotas globally on textiles and clothing shipped from the developing to the developed world beginning in 1974, expired on January 1, 2005. For China, pursuant to the Protocols for its Accession to the World Trade Organization (“WTO”), quotas were extended through 2008. There have been no quotas now on textiles from any countries for ten months.

Restrictions remain through bound tariffs, and preferences through bilateral agreements. Nevertheless, textiles and clothing are closer to free trade than at any time in the past thirty-five years.

Unfortunately, free trade has brought few rewards, primarily because of the coincidence of the global near-Depression. Your own publication, *Threads*, has been reporting the calamity, the dramatic decline in world trade in textiles and clothing. I don’t need to repeat the numbers. You know them well enough yourselves.

The economic collapse has been characterized by an evaporation of stock values and savings accounts, leading people to stop buying goods, which initially led to the production of surpluses and subsequently a general decline in production – most manifest in textiles and clothing in the closure of mills – and ultimately a collapse in world trade. With people around the globe buying much less, there was no point in producing a supply rapidly outrunning demand. Excess supply both depressed prices and led to unemployment. In the United States, what savings remained went first to paying mortgages and rents and heat and electricity, all before buying new clothes. Notwithstanding the eternal priorities of clothing and shelter, in this Recession, shelter has come first and, for millions of people, has itself been hard to keep. Foreclosures on homes has been a tragedy nearly everywhere.

---

<sup>1</sup> From the subtitle of an HBO documentary, *Schmatta*, first aired in October 2009.

<sup>2</sup> Partner and National Leader of the International Trade Practice.

The news, as you know, has not been all bad. Well into 2009, Bangladesh, Vietnam, Egypt and Haiti all increased their sales into the United States. Still, for the largest clothing suppliers of the developing world, the direction of the Recession has not been good, and those who have managed or even prospered have been generally at the bottom of the value and price ladder.

The United States is the world's most important consumer market, so the arguments coming from the White House about "rebalancing" the global economy cannot be very comforting to you. The policy is essentially to call upon Americans to save more, and for the Chinese, Japanese, and others, to spend more, to become greater consumers of their own production, less dependent on exports for economic development. Underlying this idea is an implied reduction in world trade and a reduced expectation that the American consumer would continue to energize the world economy after this Recession. It is with good reason that the first focus when examining the impact of the Recession on the global economy and world trade is on the rapid and sharp decline in American imports.

This Committee, indeed this organization, has had more than enough to worry about from the Recession – from the collapse in world trade in textiles and clothing – without worrying about protectionism that would impede trade still more. Nonetheless, even as the G-20 countries were offering each other mutual reassurances that they would resist temptations to protect their own markets and workers, understanding that beggar-thy-neighbor policies swiftly hurt everyone, *Buy American* provisions in the United States contained a list specifically for textiles and clothing, emphasizing that when there is protectionism, textiles and clothing are almost always included. So, the International Textile and Clothing Bureau is rightly and reasonably concerned.

Last year, when I had the privilege to meet your Acting Chairman, Mr. Zhao Hong in China, I predicted that worries about trade remedy actions against textiles, at least as to the United States, probably were unfounded. An association speaking for textile manufacturers, the National Council of Textile Organizations, was threatening trade actions, but was having more rhetorical than policy impact. We did not yet know that the world economy was in free fall, and I could not rely on this development to predict few or no trade actions. Instead, my prediction was based on domestic politics in the United States and on the architecture of the trade laws. I did not think there was a U.S. industry able to bring about antidumping and countervailing duty cases against textiles and apparel from China, notwithstanding expectations about surges of exports following the elimination of quotas.

Cause and effect is always difficult to measure. I might have been right about why trade remedy actions were unlikely, but the correctly predicted outcome might also have resulted from the global Recession. Either way, as your newsletter explained in detail in July, there has been a growing use of protectionist measures around the world, such as antidumping cases, but not much against textiles and apparel. It is prudent to remain vigilant. Cases may still come. If they do, however, they are likely to be narrow and targeted. I hesitate to say such cases ought to be the least of your worries, particularly as the world pulls out of the economic tailspin, and particularly as recovery seems to be led by China, but I do not hesitate in saying that it should not be the most important of your considerations.

It's my intention this morning to provide, then, this reassurance – that the greatest threats to the future of world trade in textiles do not arise from the United States, at least not conventionally -- and perhaps a little education about the United States and how its politics lead me to that assessment. I will conclude with something to think about for the future. President Obama's Chief of Staff, Rahm Emanuel, likes to say that a good crisis should never be wasted. I would amend, only slightly, by saying that the opportunities embedded in a good crisis should not be missed, and that there may be for the goals of your organization some opportunities, albeit not easily pursued.

## **On Understanding The United States A Balance Of Power**

My prediction, that significant trade remedy disputes over clothing and textiles are not likely with the United States, is based on the organization and structure of American government as much as it is on the nature of the merchandise. It is based on the role of Congress and its committees, on the lack of engagement on those committees of members from states most concerned about textiles and clothing. It is based on the role of money in American politics, and lobbying. And it is based on the specific requirements of the trade laws.

Notwithstanding the prediction, trade actions are not impossible, and in the current world scheme most of you are disadvantaged in your trade relationship with the United States. It is important to understand the American political system because its architecture of opposition and contradiction makes it hard for any party not well-connected to gain an upper hand, which in most respects, at present, works in your favor.

The United States federal government has three branches, reasonably balanced and offsetting one another. The President's powers are far more limited than the powers of a Prime Minister in a parliamentary system because he has limited legislative authority. He cannot make laws. He cannot raise money; Congress levies taxes. Nor can he spend money not authorized and allocated by Congress. He cannot dissolve Congress, and usually his political party does not control Congress. Although he and the Vice President are the only public officials in the United States elected at large, receiving a mandate from a majority of Americans who vote, their legitimacy confers nothing more than moral authority over Congress.

Congress, which enjoys the power of the purse, can pass no law that would conflict with the Constitution of the United States. It is not for Congress to decide whether a law conflicts. That authority resides exclusively and entirely with the judicial branch of the government. The Supreme Court of the United States decides questions as to whether a particular law complies with the Constitution. The Court can, and often does, overturn the legislative acts of Congress.

The Supreme Court also has the last word on how to interpret and understand legislation, unless the Court decides that a law's language is clear and susceptible to but one interpretation. When more than one interpretation is possible, the federal courts decide whether the interpretation of an executive branch agency is "reasonable." When a federal court thinks an interpretation is not reasonable, the court decides the meaning of a law and how to apply it. It is not unusual for courts to reject the interpretation of congressional acts as advanced by executive branch agencies.

U.S. courts make sure that petitioners in trade disputes do not always have their way, even when executive (Department of Commerce) and legislative (International Trade Commission) agencies take the side of petitioners, which typically they do, although often they also oppose one another. Consequently, all is not lost for foreign countries or companies responding to allegations of dumping or subsidies or surges simply because a petition has been filed, and when the Department of Commerce may support the petitioner, the International Trade Commission may not. The Commission has legal authority to dispose of cases even when the Commerce Department has found the petition justified.

Congress, which makes the laws, can rewrite them, but has no authority to interpret them. It also has no power to implement or enforce them. Implementation is the domain of the apparatus under the President, the executive branch. Whereas only the President can sign a treaty or an international agreement, two-thirds of the United States

Senate must ratify a treaty to give it effect, and a majority of both houses of Congress must vote to give effect to an international agreement. The President's signature on an international treaty or agreement is only as good as the congressional support he receives to ratify or otherwise approve it, and congressional endorsement is only as good as the executive branch's implementation.

The ability of Congress to change terms negotiated by the President after he and international partners have signed a trade agreement has led many countries to decline negotiations altogether. Congress attempted to cure this problem by legislating "fast track" authority in 1974; it was then continuous until 1994: once the President had entered an agreement, Congress would be permitted to vote it up or down, but could not change it.

For your purposes these characteristics of the U.S. system are important because they explain why trade agreements are not negotiated or entered easily, nor are they easily subject to change. It may be that some of you might want the kind of free trade arrangements with the United States now enjoyed by a privileged few. It may be difficult to gain such privileges. It is probably necessary to think of other ways to solve the problem of access to the U.S. market restricted by free trade agreement privileges.

### **Presidential Authority**

Fast track authority became politicized when Republicans took control of Congress in 1994, during the Democratic presidency of Bill Clinton. It was granted for specific periods of time. When Presidents wanted it renewed, they would have to bargain with Congress for it. The Republican controlled Congress in the process of impeaching President Clinton decided to withhold it altogether, effectively preventing the President from negotiating trade agreements during his second term.

When George W. Bush became President in 2001, there was no fast track authority. He accorded the negotiation of trade agreements a very high priority. He also repudiated everything about the Clinton Administration, including what things were called. Therefore, he renamed fast track authority "trade negotiation authority," and he bargained with the ranking Democratic member of the Senate Finance Committee in order to gain his support. It is said that, in exchange for letting Senator Max Baucus have the Administration's unquestioning support in the dispute between Canada and the United States over softwood lumber, President Bush received the Senator's support and trade negotiation authority was restored.

The renaming was a misnomer. The President always has had authority, based on the Constitution, to negotiate trade agreements, and President Clinton concluded several bilateral agreements without fast track authority. What President Bush gained was the authority to sign an agreement with the assurance that Congress would vote it up or down, but not change it.

Even this proposition is misleading. The United States enters two kinds of international agreements and treaties, those that require implementing legislation passed by Congress because the agreement requires some change in U.S. law, and "self-executing" treaties or agreements that do not conflict in any way with U.S. law and require no new legislation to become effective. Self-executing treaties are laws on their own terms: only the words of the treaty itself are subject to interpretation for implementing the treaty's terms.

Trade agreements are never self-executing. When Congress passes implementing legislation, it does not change a word of the agreement, but it does not copy every word into U.S. law. Instead, it imposes interpretations of the agreement in U.S. law that can change significantly the agreement's meaning. The executive branch supplies a "Statement of Administrative Action" intended to explain the legislation. It is not unusual to

find these explanations less than entirely consistent with the understandings foreign governments may have of the agreement being implemented. Congress then cannot amend the implementing legislation subject to trade negotiation authority, but the legislation often strays from the agreement's plain language.

It is because implementing legislation may not faithfully implement a trade agreement that U.S. law can be found incompatible with WTO obligations. In theory, the Uruguay Round Agreements Act that implemented the revision and expansion of the GATT was faithful to the WTO agreements to the letter, yet the WTO has found on several occasions that U.S. implementation and interpretation, relying on the Uruguay Round Agreements Act, has been inconsistent with WTO obligations.

The Office of the United States Trade Representative is in the Executive Office of the President. Although the Trade Representative is the most visible of American officials dealing with international trade, he has few powers. His main purpose is to negotiate trade agreements. He has no power to guarantee or implement them. Only Congress can confirm a trade agreement, which Congress can change through implementing legislation, even when not changing a word of the agreement.

The trade policies of the United States may be articulated by the President, but they are much more the product of influence in Congress and the actions of the Department of Commerce. Although the Department of Commerce is an executive branch agency led by a Cabinet member appointed by the President, it is controlled mostly by an entrenched bureaucracy conscious of congressional influence. The President, or the Secretary of Commerce, may set broad policy, but day-to-day the bureaucracy rules.

There is far more continuity than change in U.S. trade policy, notwithstanding changes in party control, and notwithstanding changes in presidential priorities. The continuity is the result of two forces, entrenched bureaucracies and congressional influence. Presidents rhetorically committed to free trade often cannot, or choose not to, overcome these forces.

A key example of reluctant presidential authority is in safeguards. Antidumping and countervailing duty cases are handled by the bureaucracy, not the President. Imposition of a safeguard, however, does not require finding that a foreign country has done anything wrong. No dumping or subsidies need be found. All that is required is a surge disrupting trade and causing injury to a domestic industry, what was expected upon the expiration of the MFA and was alleged for certain Chinese textile and apparel products.

Because safeguards are drastic – they may involve quotas on products being traded freely and fairly – they cannot be imposed without a decision of the President himself. President Bush imposed safeguards and quotas on steel products from around the world near the beginning of his presidency, and imposed quotas on softwood lumber from Canada near the end. In between, he entered a number of bilateral trade agreements that Congress refused to ratify or implement. The rhetoric of free trade was not matched by actions, and where the President pursued free trade, Congress blocked the results.

### **Congressional Control**

In the American bicameral legislature, the Senate alone may ratify a treaty (by a two-thirds vote), but it takes both houses to initiate and pass all trade laws. There are two layers of essential influence, in the leadership of the houses, and in committees.

Leadership consists, in the Senate, of Majority and Minority Leaders, each of whom has an assistant leader; party conference chairs and policy committee chairs; and

whips, members responsible for rounding up votes. Leadership in the House is somewhat parallel; the most important difference is that, in addition to the Majority Leader, there is a Speaker of the House.

Each house is divided into many committees. Two committees, one in each house, control international trade, the Finance Committee in the Senate, and the Ways & Means Committee in the House of Representatives. They are the tax-writing committees. There was a time when almost all of the revenue of the United States Government came from tariffs. Taxes over the last century became the principal source of revenue, but U.S. customs was created originally to collect revenue and that agency has never lost sight of its original mission. When dealing with customs and issues of classification, it is always important to remember that U.S. Customs is not trying necessarily to be logical or reasonable: it is trying to collect revenue. Before 1945, before the General Agreement on Tariffs and Trade enunciated a global principle of reducing trade barriers, international trade as legislated in Congress was mostly a subject for raising revenue through tariffs. Consequently, the trade subcommittees in Congress, the committees that vet all trade agreements, are lodged within the tax-writing committees in the Senate and in the House of Representatives.

Congressmen and Senators seek to serve on committees potentially most useful for their constituents because they are elected primarily not by party, as in parliamentary systems, but by local constituents. The two most important things for politicians are to get elected, and to get reelected.

The Congressmen and Senators most interested in tax-writing tend to come from the states with the most land, the most natural resources, and the fewest people. They want taxes to be derived from individual income, not the value of land, the preoccupation of their constituents. Of the twenty-three members of the Senate Finance Committee in the current Congress, sixteen are from farm states such as Montana (home of the Chairman), Iowa (home of the Ranking member), North Dakota and Arkansas, West Virginia, Wyoming and Kansas. The rural domination is then apparent in the Trade Subcommittee, with eight of eleven Senators from agricultural states such as Idaho and Maine, Oregon and Kansas. There are similar patterns in the House of Representatives.

The Senate is considered the “upper house.” In trade matters, the Finance Committee is more powerful and influential than the Committee on Ways & Means, and both committees are more consequential than congressional leadership except when, on rare occasions, a leader takes a particular interest in a particular trade issue.

### **Textiles and Clothing and Congress**

There is considerable textile manufacture in California, New York, and New Jersey. Depending on the textile fabric, there is also considerable production in Pennsylvania, Texas, Illinois, Massachusetts, and Ohio. Textile mills, however, are concentrated principally in three states – North Carolina, South Carolina, and Georgia.

California accounts for about twenty-five percent of all apparel manufacturing in the United States. Only New York and North Carolina, Pennsylvania and Texas are comparably significant.

The Speaker of the House is from California, but more specifically from San Francisco and Silicon Valley. Her office has been unable to identify any clothing manufacturers in her district. The House Majority Whip is from South Carolina; his Senior Chief Deputy is from Georgia. No one in the House leadership on the Minority (Republican) side, however, is from any of these states. Not a single member of the Senate leadership, Democrat or Republican, is from any of the major textile or apparel states. Nor is a single

member of the Senate Finance Committee from California, North Carolina, South Carolina, or Georgia. Hence, in the current Congress, at least, textile and apparel interests are not well-positioned to influence laws and policy with respect to international trade.

Domestic textile and apparel interests are not spending much money to gain influence. The National Council of Textile Organizations reported midway in 2009 a total lobbying expenditure of \$30,307, about the same pace of expenditure in 2008 when a total of about \$60,000 was reported. These sums are, in the world of Washington lobbying and politics, trivial. By contrast, the American Apparel & Footwear Association, which generally supports free trade in textiles and clothing, spent just under \$1 million in 2008 and nearly \$500,000 midway through 2009.

The textile and fabrics manufacturers have not been major donors to political campaigns. Their contributions are very small and have gone, since 2003, outside presidential candidates Obama, McCain, and Kerry, almost entirely to Senators and Congressmen from North and South Carolina and Georgia, thus for spokesmen and champions, but not necessarily for the most influential and well-positioned politicians.

By contrast, apparel and accessory stores account for much more generous contributions that have been more strategic, often to leadership and to important committee members. Here, too, however, contributions have not been enough to have very great influence.

The lobbying and campaign contribution data are important because elections are expensive, congressmen are perpetually in election cycles, and lobbyists frequently are needed to get the attention of time-challenged politicians. Perhaps most notable about the data as to textiles and apparel is that not much money is being spent, in a Congress where influence for these industries is hard to locate.

## **Trade Implications**

The Multifiber Arrangement was introduced in 1974 to protect clothing and textile manufacture in the developed world. In 1975, approximately 85 percent of clothing sold in the United States was manufactured in the United States. Ten years later, the percentage had fallen to 70 percent, and another decade later it was approximately 50 percent. Then came a free trade agreement with Canada, effective January 1, 1989, with NAFTA adding Mexico to the Canadian agreement five years later. Much apparel manufacturing moved to Mexico, and clothing sales to the United States increased exponentially through the remainder of the decade. With the turn of the century, however, came the turn of the screw. Mexican exports of clothing to the United States peaked in 2000 and have fallen steadily since.

There is one basic reason why Mexico's benefits from NAFTA peaked in 2000 and why U.S. clothing manufacture continued its rapid decline – competition from other countries, one capturing the lower end of the market, others receiving privileges like those NAFTA had conferred upon Mexico. There were two principal sources – China, and the beneficiaries of two trade agreements with the United States, the U.S.- Dominican Republic-Central America Free Trade Agreement (ratified in 2006) and its special predecessor legislation for the Caribbean Basin, and the beneficiaries of the Andean Trade Preference Pact, particularly Peru and Colombia. By 2009, American manufacturers' share of clothing worn by Americans had fallen to 5 percent. Although some 10,000 companies remain in the apparel manufacturing industry in the United States, the business is fragmented and most sourcing is foreign.

The collapse of apparel manufacturing within the United States is manifest in the three largest American companies identifying themselves as being in the clothing

industry. One, Warnaco, (Calvin Klein, Speedo, Chaps) imports all the products it sells in North America and Europe. A second, VF Corporation (North Face, Lee, Nautica, Wrangler, etc.), emphasizes its sourcing through a hub in Hong Kong and its recent development of low-cost manufacturing in Nicaragua. The third, Levi Strauss, appears to manufacture nothing in the United States, outsourcing to forty-five countries. Hence, the most important participants in the U.S. apparel business are dependent entirely on overseas operations, and increasingly on overseas sales.

Trade remedy petitions, according to WTO rules, must be filed by representatives of an identifiable industry. Petitioners must represent more than half the total production of those expressing support or opposition within an industry, meaning manufacturers of a “like product,” in order to have standing to petition. The “like product” requirement means the petitioning industry must be objecting to something being imported that they manufacture in the United States.

The United States is importing clothing for which typically there is no like product made in the United States. Consequently, in most instances there is no standing for petitioners. Largely because of this problem, the National Council of Textile Organizations (“NCTO”) has urged upon the federal government, first the Bush Administration and now the Obama Administration, mechanisms to monitor imports and triggers for the Department of Commerce to self-initiate investigations. The idea has been to spare the domestic textile industry both the expense of petitioning and the need to demonstrate standing. As the United States is manufacturing textiles and importing clothing, there is no industry to challenge the imports, despite the fear that the clothing from outside the countries relying on American textiles could jeopardize the production and export of American textiles to captive markets. Neither the Bush nor the Obama Administrations has agreed; the monitoring of Vietnamese shipments has concluded and was not extended. No monitoring was instituted, despite the NCTO’s appeal, for China. No trade action came from the monitoring of Vietnamese shipments. There is, then, very little chance that a trade remedy petition will be brought against clothing in the United States.

Clothing manufacture, as you all know so well, is labor intensive. Its very image is of hundreds of people hunched over individual sewing machines, or pulling by themselves on needle and thread. In the popular American mind, lesser developed countries with cheaper labor have taken jobs from Americans to make clothing Americans will wear. There is an understandable anger and frustration, especially among trade unionists. The garment trade once produced 85 percent of the jobs in New York City. It was the center of glamour, with a vertical integration from the creation of fabrics to the footlight parades of Fashion Week. It became a gateway to the middle class through union organizing, especially after the tragic fire at the Triangle Shirtwaist factory in 1911, an enduring symbol of sacrifice now perceived to have been ephemeral. Three generations of Americans, mostly originating with unskilled immigrants, worked in the New York industry, progressively improving their working conditions and their wages. Union success, however, became the industry’s undoing, pricing itself out of global competition.

This collapse in the needle and garment trades encouraged the captains of American industry to get around the unions. They devised a strategy that offshores what were once American jobs, but often keeps them within the control of American companies. They preserve the capital intensive portion of the industry – the manufacture of textiles – in the United States, while moving the needlework – clothing – to economies with significantly lower wages and often far fewer protections than in the United States. This strategy has made trade remedy petitions against textiles almost as improbable as petitions against clothing because dominant American companies have a high stake in these offshore arrangements, which within narrow segments promote free trade.

The strategy, beginning in Mexico and applied now throughout the Caribbean region (including, especially, Central America and the Dominican Republic) and the Andes in South America, is now reaching even into Africa and, most recently, Jordan. The WTO, last May, accepted waiver requests from the United States so that the United States does not have to accord equal treatment to textiles and clothing from much of the world. Instead, the United States now has a collection of preferential arrangements, confirmed and institutionalized by the WTO and, should President Obama sign the Colombian free trade agreement negotiated by President Bush, definitively confirmed within the WTO's provisions for regional free trade agreements.

The strategy is simple. The capital intensive textile producers, concentrated heavily in North Carolina, South Carolina, and Georgia, sell their products into regions subject to special agreements, originating with the Caribbean Basin Trade Partnership Act, the Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, and the African Growth and Opportunity Act. The countries subject to the agreements receive textiles and raw materials from the United States duty-free and return them in the form of finished goods to the United States, which imports them duty-free provided they contain raw materials from the United States. Were the manufacturers of the clothing to buy the raw materials from anyone other than the United States, the clothing would not be admitted into the United States duty-free. The United States thus effectively incorporates cheap labor offshore, preserving the capital intensive industry. The WTO waived on all of these agreements, permitting the discriminatory preferences regarding American content, in May 2009. They are now institutionalized.

The arrangements for textiles and clothing have been in place with Mexico and Canada for a long time. They became compatible with the WTO under the WTO's own terms and NAFTA in 1994. The whole scheme is known in the United States as a "maquiladora" arrangement, echoing the operations along the U.S.-Mexican border that permit the employment of Mexican labor under Mexican rules in U.S. companies.

Despite these preferential arrangements, China accounts for approximately one-third of all clothing imports in the United States by dollar value. Mexico, the Caribbean Basin, and the Andean Trade Pact countries combined constitute about one-quarter.

The United States imports nearly twenty times as much clothing, in dollar value, than it exports. Although textiles are also in a trade deficit, the ratio is not as dramatic, with imports exceeding exports by about two and one-half times. However, these imports are mostly in fabrics that may be destined for a variety of commercial uses, not only clothing, and do not require a robust needle-trade. They may be subject to machine cut and sew processes, making sheets and towels. Moreover, most of the exports go to Canada, Mexico, and the Caribbean Basin, under the protection of free trade agreements and the WTO waiver.

After NAFTA was signed, numerous textile mills in Mexico came under American ownership. In the last decade there has been an acceleration of such ownership in the Caribbean and Central American countries. The relationships are almost classically colonial: companies from a developed country manufacture through the far less expensive labor of developing countries, keeping capital investment at home. The developing countries find the arrangements irresistible because they create jobs; non-beneficiary developing countries cannot resist because they would be depriving their developing country brethren of those jobs. Presumably almost all countries agreed to the American request for WTO waivers for these reasons. The United States seemed to accommodate the concerns of those who protested, enough to overcome all dissent.

The greatest apparent threat to the colonial relationship the United States has forged through regional and free trade agreements comes from China, but almost entirely in made-up articles and apparel. China's sale of yarns and threads, the ingredients for making

clothing, are trivial compared to its sales of a variety of household products not destined for further manufacture. The looming question is whether China can penetrate with textiles the markets the United States has insulated through the duty-free provisions for apparel made from U.S. fabric and yarn. It is one of Mexico's greatest worries. So far, however, China has not shown much interest in this direction, content to intensify capital investment at home while also relying at home on the labor intensive process of making finished products.

Because the U.S. arrangements are based on regional trade agreements recognized by the WTO, and on waivers the WTO just granted in 2009, there are limits on what other competing countries can do. They can seek their own bilateral agreements with the United States, of course, asking for the same terms as applied to the NAFTA, CAFTA, and Andean countries. They might focus on reconsideration of these privileged relationships by targeting tariff reductions in the Doha Round, but the Round already is paralyzed by agricultural issues. In the dramatic decline in textile and apparel trade there is a decline in trade between the United States and its favored partners. The partners may want to consider more seriously other markets.

When I began inquiries in preparation for speaking with you, I thought there might be here another bananas case, with the United States instead of the European Union, with textiles and clothing instead of bananas. The WTO found the Lomé Convention protecting the colonial relationships in bananas insufficient to justify violation of the principles for equal treatment for the goods of all nations. But the WTO assigns greater authority to regional trade agreements such as NAFTA and CAFTA, and in any event specifically waived these principles with respect to textiles and clothing in May.

The issue of discriminatory trade patterns in textiles and clothing warrants close examination. It affects most of the developing world. I have today no answer for you. The dilemma – taking the jobs from the United States, but under poor and restrictive conditions – could create serious tensions among your own members, fostering unwelcome competition in a race to the bottom, non-unionized workers confined to labor-intensive production as a crucial condition to accessing the U.S. market. The new status quo thus may be replacing the MFA regime of quotas with a world of restrictive preferences. It is still not free trade. The challenge for you, it seems to me, is to figure out how, in a world of nominal free trade and economic recovery, to get to real free trade.