



**we wear<sup>SM</sup> global markets**

**RE: Solicitation for Comments on European Union & United States Regulatory Cooperation**

To Whom It May Concern:

On behalf of the American Apparel & Footwear Association (AAFA), I am submitting the following comments in response to the request by the European Commission and the U.S. Government for views on how to promote greater transatlantic regulatory cooperation.

AAFA is the national trade association representing apparel, footwear, and other sewn products companies, and their suppliers, which compete in the global market. Our membership consists of about 380 American companies that represent one of the largest consumer segments in the United States. The apparel and footwear industry overall represents \$360 billion in annual domestic sales and sustains more than four million American jobs. Our members are present throughout Europe, where they employ millions of Europeans and sell billions of dollars' worth of clothes, shoes, and other fashion products. On behalf of AAFA and our members thank you for this opportunity to submit comments.

Our industry is on the frontlines of globalization. AAFA members produce, market, and sell apparel and footwear in virtually every country around the world. With all the benefits that come with being a global industry also come the extreme challenges created by regulatory differences. AAFA has been a strong supporter of efforts between the United States and European Union to establish a comprehensive, liberalizing, free trade agreement to eliminate market barriers and reduce costs. By fostering greater regulatory coherence between the United States and European economies, the United States and the European Union can set a strong example for future trade agreements and help strengthen our collaborative positions as leaders in the global economy. Below are several illustrative examples of regulatory differences which hinder economic growth for the apparel and footwear industries in both the European Union and the United States as negotiations gain momentum, we envision providing more detailed input on these and other matters that would be addressed in such talks.

**Product Safety - Phthalate Testing for Children's Pajamas**

The United States Consumer Product Safety Commission (CPSC) staff has declared that Children's Pajamas are considered to be a childcare article under the Consumer Product Safety Improvement Act (CPSIA) phthalate requirements.<sup>1</sup> The practical result of these decisions is sleepwear (and presumably related garments including loungewear) is subject to testing and certification requirements for certain phthalates.

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<sup>1</sup> <http://www.cpsc.gov/library/foia/advisory/321.pdf>

The phthalate ban in the CPSIA is ultimately based on a nearly identical ban enacted in the European Union. Using virtually identical terms, the European Union has issued guidance on childcare articles, explaining it does not consider sleepwear to facilitate sleep. The EU guidance states, “The main purpose of pyjamas is to dress children when sleeping and not to facilitate sleep. Pyjamas should therefore be regarded as textiles and, like other textiles, do not fall under the scope of the Directive.”<sup>2</sup>

The context of the childcare phthalate ban is also critical to understanding why it is inappropriate to include pajamas in the definition of childcare articles. In the text of both bans, The United States Congress and the European Commission define childcare articles as those intended by the manufacturer to “facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.”<sup>3</sup>The concept of facilitating sleep in this context involves articles children suck in order to fall asleep, such as a pacifier. The common denominator of these actions is mouthing articles which might contain one of the banned phthalates. Clearly, sleepwear, by any examination, is not an article intended to be associated with mouthing.

While there is no evidence proving children’s pajamas pose a phthalate hazard, these United States determinations pose a huge burden on sleepwear manufacturers, brands, and retailers in the United States and have also encouraged European Union manufacturers to refrain from selling their products in the United States

When considering other testing requirements and rules which apply to childrenswear it is also important to note that the United States considers childrenswear to be clothes meant for children 12 years of age and under, while the European Union considers childrenswear to be clothes meant for children age 14 and under.

### **Conformity Assessment and Testing Harmonization**

AAFA strongly believes in the need for international testing harmonization. In relation to product safety, when the goal is the same, the method to establish that goal should also be the same. When testing for compliance under a certain regulation, duplicative testing is both burdensome and counterproductive as it does not provide any greater assurance of compliance. As a result the United States and European Union should work to remove unnecessary and duplicative testing by expanding acceptance of conformity assessment bodies and moving toward a single international standard test method. On such method of harmonization would be to develop a harmonized certificate of conformity that would allow for a product to be certified compliant in both the United States and the European Union.

### **Labeling Collaboration**

In 2010, the European Union, United States, and several other countries developed a Textile, Apparel, Footwear, and Travel goods (TAFT) labeling proposal as part of the ongoing Doha Round of global trade negotiations under the auspices of the World Trade Organization (WTO). This is a development that is ripe for early harvest in efforts by the United States and the European Union to forge regulatory coherence.

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<sup>2</sup> [http://ec.europa.eu/enterprise/sectors/toys/files/gd008\\_en.pdf](http://ec.europa.eu/enterprise/sectors/toys/files/gd008_en.pdf)

<sup>3</sup> <http://www.cpsc.gov/cpsia.pdf>

Labeling requirements for apparel, footwear, and travel goods vary widely between the United States and the European Union and make it difficult for manufacturers to create one product for both markets. We would like to see a harmonization of labeling requirements such as:

- Country of origin – the United States requires country of origin labeling while the European Union does not

- Care symbols – the United States allows only the use of ASTM symbols for care labeling while the European Union uses international ISO/Ginitex symbols (The United States Federal Trade Commission recently proposed changes to their care labeling requirements which will allow for the use of 2005 ISO symbols in the United States This is a great step, but still just a proposed change)

- Footwear labeling – the United States does not require parts of footwear to be labeled while the European Union does

It should be noted that while working on methods to harmonize labeling efforts between the United States and European Union there needs to be further progress in harmonizing labeling requirements within the European Union itself. Certain components of textile and footwear labels are required to be in a language of the country in which the product is being sold in absence of a general labeling requirement for the entirety of the European Union.

### **Develop a Regulatory Cooperation Committee**

In order to improve and expedite the review of current areas of harmonization as well as increase collaboration and prevent future discrepancies, the United States and European Union should develop a Committee of regulators and stakeholders that will:

- Work with regulatory agencies, government bodies, and standard setting organizations.

- Engage in any regulatory development to ensure alignment before regulations are passed and not after the fact.

- Communicate with stakeholder industries both for the purpose of solicitation of comments as well as education of implementation.'

- Track the progress of regulatory cooperation and set goals for future alignment.

The formation of this committee is critical as we approach new initiatives on both sides of the ocean, such as REACH expansion, Conflict Minerals, Federal Trade Commission Green Guidelines, and Eco Labeling.

### **Focus on Internal Harmonization**

We strongly urge the United States and European Union to not lose sight of internal harmonization as they move toward international harmonization. While collaborative national harmonization is a crucial and necessary task it is very important not to let the effectiveness be diminished by an increase in internal regulations. A focus on preemption must be key in an attempt to keep from having 77 different sub-national regulations in Europe or 50 different state regulations in the United States cause even greater confusion and chaos in regulatory compliance.

## **Conclusion**

Discrepancies in regulations are burdensome not only to the regulated community, but on the regulators themselves. AAFA applauds both sides for striving to relieve the unnecessary burdens on industry and remove the confusion that is involved with conflicting regulatory requirements. While this is not the first time the European Union and U.S. have attempted to address these challenges, it is crucial that we continue to collaborate to remove these trade barriers to benefit all parties involved.

Thank you for your time and consideration in this matter. Please do not hesitate to contact AAFA if we can be of any help to you. Please feel free to contact me or Michael McDonald of my staff at 703-797-9052 or by e-mail at [mmcdonald@wewear.org](mailto:mmcdonald@wewear.org) if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive style with a large initial "K" and "B".

Kevin M. Burke  
President & CEO