88TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1417

# LABELING OF IMPORTED WOVEN LABELS

MAY 19, 1964.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

## REPORT

[To accompany H.R. 4994]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 4994) to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

### PURPOSE OF THE BILL

The purpose of this bill is to require that every woven label imported into the United States be individually marked with the name of the country in which manufactured. Failure to apply such a mark of origin would be construed as misbranding.

### COMMITTEE HEARINGS

A hearing was held November 6, 1963. The Honorable Torbert H. Macdonald, sponsor of the legislation, and representatives of the domestic woven label manufacturing industry testified in support thereof. A representative of the United States-Japan Trade Council appeared in opposition to the bill.

### BACKGROUND AND NEED FOR LEGISLATION

Under existing law, woven labels imported into the United States are not required to be individually marked with the name of the country of origin. Section 304 of the Tariff Act of 1930, as amended, requires—subject to certain exceptions—that every article of foreign

origin imported into the United States be plainly marked so as to indicate to the ultimate purchaser in the United States the name of the country of origin. However, the act contains a list of conditions under any one of which the Secretary of the Treasury is permitted to authorize an exception from the individual marking requirement. This list of exceptions includes those articles where the marking of the container of such article will reasonably indicate the origin of such article.[1] The Secretary of the Treasury has granted an exception to imported woven labels under this provision, provided that they are imported in containers legibly and conspicuously marked to indicate the country of origin of the contents and the collector of customs at the port of entry is satisfied that the labels will reach the "ultimate purchaser" in such unopened container.[2]

For the purpose of the act, the "ultimate purchaser" is ordinarily the last person in the United States who will receive the article in the form in which it is imported. If an imported article will be used in manufacture, the manufacturer is the "ultimate purchaser." In the case of woven labels, the garment manufacturer or other manufacturer or processor is the last person in the series of commercial users who would be in a position to exercise an independent personal judgment as to the acceptability of the imported label and is consequently regarded as the "ultimate purchaser."

Although in the committee's view it is clear that the customs laws and regulations thereunder intend that garment manufacturers (the "ultimate purchasers") be given information on country of origin, of imported labels, it appears that owing to events occurring following importation, the garment manufacturer is denied this information in many instances.

During the hearings on this legislation, witnesses testified that the practice of repackaging of woven labels, prior to sale to the garment manufacturer, deceives the manufacturer into believing the labels are of American origin and consequently results in a thwarting of the customs laws applicable to all finished products imported into the United States. A representative of the Woven Label Manufacturers of the United States of America stated:[3]

> The clothing manufacturer * * * cannot be expected to be apprised of this information from getting a box that may come to him from a jobber who buys these labels from outside the country, or from a label manufacturer who himself may buy labels from outside of the country and repackages them in another box of his own, so that the clothing manufacturer is not aware of the fact that he is getting a label from another country. * * *
>
> The labels arrive in the rolls, as we have already indicated; the domestic jobber may repack them, or the domestic label manufacturer who finds for one reason or another he wants to buy from some other country may repack them in their own boxes, which are not marked with country of origin, and the unmarked labels are then shipped to * * * the ultimate

[1] Sec. 304(a)(3)(D) of the Tariff Act of 1930, as amended.

[2] Treasury Regulation 11.10 provides: "(a) Articles within any specification in sec. 304(a)(3) Tariff Act of 1930, as amended, are hereby excepted from the requirement of marking. The marking of the container of of an article will reasonably indicate the origin of such article within the meaning of sec. 304(a)(3)(D) if the article is imported (or repacked under sec. 562, Tariff Act of 1930, as amended) in a container which will reach the ultimate purchaser in the United States unopened. * * *"

[3] Hearings, pp. 50–51.

purchaser who should know, who should be apprised, but who isn't apprised * * *.

It was also pointed out that a foreign labelmaker or his jobber can exactly copy a label designed by an American labelmaker for the purpose of later filling the needs of a domestic garment manufacturer. The garmentmaker might later purchase such labels, under the mistaken impression that they were, in fact, made in the United States. In the committee's view, the garment manufacturer ought to be entitled to consider, in evaluating the merits of the label and in exercising his choice between competing products, any experience he may have had with shrinkage, bleeding of colors from a particular country, and his experience in securing delivery of additional lots of identical labels, as needed.

The bill here being reported would remedy this situation by requiring that labels be individually marked.

According to industry spokesmen, marking of labels can be done at practically no cost, no separate operation, and at no impairment to their use or appearance. The country of origin would be woven into the turnunder portion of the label, so that this would not appear on the face. In this manner, the retail purchaser of the garment would not be misled or confused as to whether the name of the country referred to the label or to the garment to which the label was affixed.

In view of the foregoing, it should be clear that the bill in no way restricts the importation of foreign-made labels. The marking requirement is designed simply to provide the ultimate purchaser of such labels—the garment manufacturer—with information he needs in exercising his freedom of choice, as contemplated by the customs laws.

## AGENCY REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
*Washington, D.C., November 7, 1963.*

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,*
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request of March 21, 1963, for comments on H.R. 4994, a bill to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven.

The bill would require that every woven label of wool or textile fiber imported into the United States be individually marked with the name of the country in which manufactured. Failure to apply such a mark of origin would be construed as misbranding.

The Departments of State, Treasury, and Commerce, and the Federal Trade Commission have all opposed H.R. 4994 in their reports to your committee. The Bureau of the Budget concurs in the comments made by the above agencies, and accordingly recommends against enactment of the bill.

Sincerely yours,

PHILLIP S. HUGHES,
*Assistant Director for Legislative Reference.*

FEDERAL TRADE COMMISSION,
*Washington, D.C., November 4, 1963.*

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,*
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your letter of March 21, 1963, requesting a report on H.R. 4994, 88th Congress, 1st session, a bill to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven.

This bill would amend section 4 of the Textile Fiber Products Identification Act so as to provide that any label which is woven of imported textile fiber is considered to be misbranded under the provisions of the act

> "unless the name of the country where such label was woven is woven into such label before importation."

Under section 12(a)(5) of the Textile Fiber Products Identification Act (15 U.S.C. 70j), "trimmings" are exempted therefrom. The rule promulgated by the Commission under the provisions of this act describe a "label" as a form of trimming. Furthermore, under such rules, rolls of labels, or labels before they are attached to another article, are excluded from the provisions of the act on the theory that the disclosure of the textile fiber content of a label is not necessary for the protection of the ultimate consumer. It is our understanding that Congress, in enacting the Textile Fiber Products Identification Act, was primarily interested in the fiber content of the product being offered for sale and not in the fiber content of the label attached to the product.

The Commission is of the opinion that it would be very difficult, administratively, to police this matter of labels in addition to the labeling of products to which the labels are attached, and, further, that this is not necessary for the protection of the ultimate consumer.

It is our opinion that the enactment of the subject bill would cause confusion where a prospective purchaser of a textile product, woven in one country, noted that there was attached thereto a label which disclosed that the label was woven in another cuntry.

The Commission opposes the enactment of H.R. 4994.

PAUL RAND DIXON, *Chairman.*

N.B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on May 3, 1963, and on November 1, 1963, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the administration's program.

JOSEPH W. SHEA, *Secretary.*

DEPARTMENT OF STATE,
*Washington, November 6, 1963.*

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.*

DEAR MR. CHAIRMAN: This report on H.R. 4994, a bill to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven, is submitted in response to your request of March 21, 1963.

The purpose of H.R. 4994 is to require that every woven label of wool of textile fiber imported into the United States to be affixed to a garment or other article be individually marked with the name of the country in which manufactured.

Under existing law, woven labels imported by a manufacturer, processor, or dealer in this country to be affixed to articles by him are exempt from requirements as to individual marks of origin. The Wool Products Labeling Act (15 U.S.C. 68b) does not require that products be identified as to country of origin. Although the Textile Fiber Products Identification Act contains a marks-of-origin requirement (15 U.S.C. 70b), articles to be sold to the ultimate consumer in packages are exempted provided the package bears the name of the country of origin. A similar rule is applied under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) as interpreted by the courts.

It is the view of the Department of State that the provisions of existing law as presently interpreted with respect to the marking of woven labels are reasonable and should be allowed to stand. The garment manufacturer or other manufacturer or processor would appear to be the last person in the series of commercial users who would be in a position to exercise an independent personal judgment as to the acceptability of the imported label and is, consequently, properly to be regarded as the "ultimate purchaser."

A principal objection to a requirement that foreign-made labels be individually marked is that if such a label should be affixed to a U.S. product, the product itself would very likely be regarded by prospective buyers as of foreign origin. The effect of the proposed amendment, if enacted into law, would, therefore, be to defeat the purpose of normal marking regulations, which is to prevent deception of the purchaser. Moreover, the singling out of a small class of parts, such as labels, for exception from the general rules imposed under the laws would not seem to be a desirable administrative practice.

The application of marking requirements to imported woven labels would doubtless be interpreted abroad as the imposition of a new trade restriction by the United States. Such an impression will not be helpful to our negotiations under the Trade Expansion Act, nor will it aid us in securing removal of foreign restrictions affecting our exports. In 1961, less than 6,000 pounds of cotton labels, valued at less than $50,000, were imported. The Netherlands was the principal supplier. The published import statistics for that year do not separately list imports of woolen labels.

For the reasons set forth above, the Department of State is opposed to the enactment of H.R. 4994.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,

FREDERICK G. DUTTON,
*Assistant Secretary*
(For the Secretary of State).

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GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
*Washington, D.C., November 5, 1963.*

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,*
*House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your request for the views of this Department with regard to H.R. 4994, a bill to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven.

If enacted, H.R. 4994 would require that the name of the country where imported labels are woven be woven into the label before importation. Any woven label which is an imported textile fiber product would be misbranded unless the mark of origin is so applied.

The Department of Commerce supports the long-established requirement now embodied in section 304 of the Tariff Act of 1930 that, recognizing certain exceptions, each imported article produced abroad must be legibly marked with the name of the country of origin in English so as to indicate to the ultimate purchaser in the United States where the article was originally produced or manufactured. The Department supports equally the principle embodied in the several exemptions from marking requirements authorized or required by that section, that the requirement should not be so applied as to impose an undue burden on foreign commerce.

In the past, manufacturers and processors have been regarded as the ultimate purchasers of labels. On this basis, subsection 3(H) of section 304 requires no country of origin identification for labels used by these business groups. The Department of Commerce favors the retention of this principle.

To go further than the present law appears to be an unnecessary change in the existing interpretation of an "ultimate purchaser" as the term applies to users of labels. Labels have been, and should continue to be, regarded as a component in the overall manufacturing process, the country of origin having little or no significance to the retail consumer. It is, therefore, sufficient that only the outer container of the labels be marked so as to reasonably indicate the country of origin to the manufacturer or processor.

Customs regulations prescribe that where an imported label on an article with which it is combined shows the country of origin of the label and the country name is visible, the country of origin of the label shall be prefixed by the word "label," as "label made in Holland." As a practical consideration, however, many domestically produced articles do not lend themselves to marking and the label is the only

feasible place to show the country of origin of the product being marketed. In such instances, retail consumers would in all probability interpret the origin information as pertaining to the product as well as to the label. Consequently, the proposed origin requirement on articles that are to be used by a manufacturer would in many cases be misleading to the buying public.

For these reasons, the Department of Commerce is opposed to the enactment of H.R. 4994.

The Department understands that the domestic woven label industry has been subjected to considerable pressures from competing imported products. However, it is not believed that a discussion of this problem is relevant to the issues raised by H.R. 4994.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

LAWRENCE JONES,
*Acting General Counsel.*

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GENERAL COUNSEL OF THE TREASURY,
*Washington, D.C, November 4, 1963.*

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,*
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 4994, to amend the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 in order to require that imported woven labels must have woven into them the name of the country where woven.

The proposed legislation would provide that imported woven labels shall be mislabeled for the purposes of the Textile Fiber Products Identification Act and the Wool Products Labeling Act unless the name of the country where such label was woven is woven into the label before importation. While the Federal Trade Commission is responsible for enforcing the Textile Fiber Products Identification Act and the Wool Products Labeling Act, the bill would seem to provide that the customs service have the responsibility to see that imported woven labels are marked as required.

The Bureau of Customs of this Department has ruled that the manufacturer in the United States of articles to which woven labels are affixed is the "ultimate purchaser" of the imported article within the meaning of section 304(a) of the Tariff Act of 1930, as amended, in accordance with the principle of the decision in the case of *United States* v. *Gibson-Thomsen Co., Inc.* (1940) 27 CCPA 267. Woven labels are exempt from individual marking to indicate the country of origin under section 304(a)(3)(D) of the Tariff Act if they are imported in containers legibly and conspicuoulsy marked to indicate the country of origin of the contents and the collector of customs at the port of entry is satisfied that the labels will reach the "ultimate purchaser" in such unopened container.

No evidence has been submitted to the Treasury Department that the exception from marking of woven labels under section 304(a)(3)(D) of the Tariff Act is not appropriate or has resulted in misleading the

U.S. "ultimate purchaser" as defined above. If a valid case is to be made, it should be made, in the first instance, to the Treasury Department.

As the President said at the time of the signing of the Trade Expansion Act on October 11, 1962, the best protection possible for our economy is a mutual lowering of tariff barriers among friendly nations so that all may benefit from a free flow of goods. This purpose would be compromised if the United States were to resort to indirect methods (such as unnecessary marking requirements) for restriction of imports. The Treasury Department, therefore, does not favor the enactment of H.R. 4994.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

G. D'ANDELOT BELIN,
*General Counsel.*

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 4 OF THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

### MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

SEC. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: *Provided,* That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: *Provided,* That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight

of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: *Provided further*, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: *And provided further*, That any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4 (b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: *Provided*, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of

such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: *Provided, however*, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word, "fiber," "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstered product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

*(i) For the purposes of this Act, any woven label which is an imported textile fiber product shall be misbranded unless the name of the country where such label was woven is woven into such label before importation.*

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## SECTION 4 OF THE WOOL PRODUCTS LABELING ACT OF 1939

### MISBRANDED WOOL PRODUCTS

SEC. 4. (a) A wool product shall be misbranded—

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

(A) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (5) the aggregate of all other fibers: *Provided*, That deviation of the fiber contents of the wool product from percentages stated on the stamp, tag, label, or other means of identification, shall not be misbranding under this section if the person charged with misbranding proves such deviation resulted from unavoidable variations in manufacture and despite the exercise of due care to make accurate the statements on such stamp, tag, label, or other means of identification.

(B) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter.

(C) the name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

(3) In the case of a wool product containing a fiber other than wool, if the percentages by weight of the wool contents thereof are not shown in words and figures plainly legible.

(4) In the case of a wool product represented as wool, if the percentages by weight of the wool content thereof are not shown in words and figures plainly legible, or if the total fiber weight of such wool product if not 100 per centum wool exclusive of ornamentation not exceeding 5 per centum of such total fiber weight.

(b) In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this Act or the rules and regulations of the Commission.

(c) If any person subject to section 3 with respect to a wool product finds or has reasonable cause to believe its stamp, tag, label, or other means of identification, or substitute therefor under section 5, does not contain the information required by this Act, he may replace same with a substitute containing the information so required.

(d) This section shall not be construed as requiring designation on garments or articles of apparel of fiber content of any linings, paddings, stiffening, trimmings, or facings, except those concerning which express or implied representations of fiber content are customarily made, nor as requiring designation of fiber content of products which have an insignificant or inconsequential textile content: *Provided*, That if any such article or product purports to contain or in any manner is represented as containing wool, this section shall be applicable thereto and the information required shall be separately set forth and segregated.

The Commission, after giving due notice and opportunity to be heard to interested persons, may determine and publicly announce the classes of such articles concerning which express or implied representations of fiber content are customarily made, and those products which have an insignificant or inconsequential textile content.

(*e*) *For the purposes of this Act, any woven label which is an imported wool product shall be misbranded unless the name of the country where such label was woven is woven into such label before importation.*

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