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Rep. Robert Aderholt's CAFTA Flip-Flop on Basis of Empty Sock Promise Will Leave Him Wearing Nothing But

Public Citizen Launches CAFTA Damage Report to Track Outcome of Rep. Aderholt Misguided Vote

WASHINGTON, D.C. – After the Bush administration explicitly rejected his demands that the Central America Free Trade Agreement (CAFTA) not include provisions harmful to Alabama's sock industry, Rep. Robert Aderholt (R-Ala.) dramatically reversed his opposition to the expansion of NAFTA to six countries and became a deciding last vote, delivering CAFTA's passage in a final 217-215 vote. After telling local industry and constituents that he opposed CAFTA because the administration had refused to safeguard his state's sock producers when changes to CAFTA were possible, Aderholt explained his sudden reversal by stating that Republican leaders had pledged to help the sock industry. Among the unenforceable, last-minute "promises" made to obtain CAFTA votes, Aderholt's "sock deal" stands out.

The analysis of Aderholt's CAFTA vote flip-flop is part of a new Public Citizen initiative – the CAFTA Damage Report – designed to track deals made for CAFTA votes. The report also will track the fallout from Aderholt's deciding vote for CAFTA on working families in his district and on U.S. sock manufacturers, as well as the foreseeable failure of his "deal" to ever materialize.

In 2003, before CAFTA was signed, Aderholt and other members of Congress sent a letter to President Bush demanding that CAFTA "not include exceptions, such as tariff preference levels (TPLs)."¹ Despite Aderholt's demand, the final agreement that he supported included TPLs for both Nicaragua and Costa Rica. Under the existing Caribbean Basin Initiative (CBI), which now sets trade rules with the CAFTA countries but which CAFTA will replace, products can enter the United States duty-free only if they are produced using U.S. or CBI nation inputs. CAFTA's "rules of origin" would relax this requirement by allowing goods made of yarn spun from fiber from non-CAFTA countries to enter duty-free and additionally by waiving even the "yard-forward" rules of origin for 100 million square meters equivalent of Nicaraguan goods for 10 years. This CAFTA change from the current CBI rules is extremely damaging to sock producers.

The "promise" that Aderholt received for his vote is that the Bush administration is "*willing to seek a modification to CAFTA that would require a ten-year phase-out of tariffs on CAFTA-qualifying sock imports from Central America, instead of the immediate duty-free treatment that CAFTA affords today*" [italics added].² CAFTA rules require consensus agreement for any *post hoc* amendments. The Bush administration has no formal commitment from the six CAFTA nations to make this change, which they are likely to oppose, given that it would limit their U.S. market access. Past side letters of this nature, even some signed by other nations' officials, have been regularly ignored once a trade pact is passed. But Aderholt's promise is not even supported by foreign officials: the "promise" is only between Aderholt and the Bush administration. If the other CAFTA nations oppose the change in negotiations, as expected, there is no legal recourse.

Days before the CAFTA vote, Aderholt stated, "I continue to strongly lean no on the CAFTA legislation,"³ and on July 9 he argued that his "constituents fret that their jobs will get exported to low-cost, low-wage CAFTA countries."⁴ There was no change to the CAFTA that Aderholt described as a job-killer on July 9 and the CAFTA he voted for near midnight on July 27. In fact, the only thing that had changed by July 27 was that the Bush administration presented Aderholt with a letter containing an unenforceable promise on socks. Aderholt noted that, "the leadership would have done whatever they needed to get this vote – by that I mean anything that would have been legally possible."⁵ It seems that Aderholt was willing to take any deal, even one that had no legal value.

“Aderholt proudly proclaims to hail from the ‘sock capital’ of the world. But given that CAFTA will dramatically reduce demand for socks made in Alabama, and that the Bush administration’s promise to the contrary is utterly unenforceable, Aderholt’s attempt to use this ‘sock deal’ as a fig leaf to cover his bad CAFTA vote will leave him indecently exposed with his voters,” said Lori Wallach, director of Public Citizen’s Global Trade Watch.

Aderholt’s acquiescence on CAFTA stands in sharp contrast to the accountability of Rep. Bud Cramer (D-Ala.), who hails from the neighboring Alabama district. Cramer argued that his opposition to the expansion of NAFTA to Central America was based on concerns about protecting textile jobs. “I looked closely at the labor, textile and investment provisions in this agreement, and was not convinced that CAFTA would provide the level playing field necessary to keep jobs in North Alabama,” he said in a statement.⁶ Alabama lost 70,900 manufacturing jobs under NAFTA, or about 20 percent of its total, according to Bureau of Labor Statistics numbers. Aderholt’s district (the 4th) has been particularly hard hit, with the Department of Labor certifying that more than 8,000 people as having lost their job due to trade during the NAFTA decade.

“That the member of Congress who is supposed to represent one of the districts hardest hit by NAFTA jobs loss would become the deciding vote to pass NAFTA expansion to six more nations is unimaginable,” said Wallach of Aderholt. If Aderholt had voted against CAFTA, a 216-216 tie would have resulted in CAFTA being rejected.

Aderholt is taking a huge political risk by accepting at face value these commitments, for the following reasons:

- **The sock deal is not in the CAFTA text or congressional implementing legislation and requires the unanimous consent of all CAFTA signatory countries and then any change so agreed would require congressional approval.** The sock deal is designed to be evaded. The only commitment is *to try to use CAFTA’s amendment procedures if CAFTA is passed and implemented, so as to try to seek agreement post-facto for six other countries to give new concessions to the United States.*⁷ Press reports indicate the Bush administration still has not started formal talks on the matter, nor have Central American industry or government representatives formally agreed to the changes.⁸ If even one CAFTA nation refuses, the “promise” is undone, as consensus is required for amendments to CAFTA. Second, the CAFTA nations will not readily agree to new tariff provisions or rules of origin that they view as against their interests. Further, it remains unclear what new concessions will be demanded from the United States in exchange for changes on sock provisions, and whether such new concessions will be acceptable to other U.S. interests.⁹ Third, if the United States attempted to unilaterally impose the sock “change,” the other CAFTA nations can take the United States to a CAFTA trade tribunal for violating CAFTA’s rules. Fourth, a “promise” made several weeks before the CAFTA vote by Nicaragua’s government not to use Chinese inputs in a way that would hurt U.S. business under the TPL rules opposed in 2003 by Aderholt is even more unenforceable, given that it requires the voluntary compliance by all of that country’s private sector competing producers. Finally, changes to a trade agreement’s rules of origin must be approved by Congress. However, several key members of Congress controlling the committees that must OK such a bill do not support the deal. Even if the committees did support it, the changes would not be subject to Fast Track trade authority.
- **The promised deal, even if kept, will not solve the long-term problems of the U.S. textile and apparel industry, a large portion of which opposed CAFTA.** Even if the near *miracle* amendments to CAFTA were implemented, they would not solve the broader loss in U.S. textile and apparel market share caused by CAFTA’s rules of origin, which erode existing CBI incentives to use U.S. textile inputs – a primary reason that the majority of U.S. textile and sock manufacturers opposed CAFTA. Moreover, CAFTA does nothing to stop the trend of production relocation from Central America to China after the phasing-out of the global textile and apparel quota system, because U.S. tariffs on Central American imports *already* are at zero, and even though Chinese goods face tariffs and greater transport costs, they are still cheaper than the competing Central American goods due to China’s lower input and wage costs.¹⁰ Indeed, candid industry spokespeople admit as much. CAFTA “may not give enough financial incentives to stop the production erosion in Central America. If I can get something five to six days quicker out of Central America versus Asia, but the cost benefit analysis is not there, why would I go [to Central America]? There is no difference then,”¹¹ said Peter McGrath, chairman of J.C. Penney Purchasing Corporation, a leading U.S. importer of textile and apparel products. Elimination of the global textile and apparel quotas, once required under World Trade Organization (WTO) rules, means that U.S. retailers no longer have to pay the premium on Central American goods because they can source unlimited amounts from China – a reality unaffected by CAFTA. Yet by loosening existing rules of origin requiring U.S. inputs, CAFTA would reduce the demand for U.S. textile exports to Central America for what limited share of the garment market those countries will retain.¹²

- The Bush administration's poor track record on textile and apparel enforcement undermines faith in its ability to come through on socks, pocket lining or new enforcement promises.** Other promises outlined in the Bush administration's letter to Aderholt include a commitment to "be very pro-active in initiating a sock safeguard [under CAFTA] if the situation were to warrant it," and to "place a priority on including socks" in a future, theoretical agreement with China (to which China has shown no sign of interest) on Chinese textile and apparel imports into the United States. Industry analysts claim certain aspects of this "deal" are no "deal" at all, since the Bush administration was planning on initiating these safeguards anyway. "Essentially, they gave up their votes for nothing," one textile source told *Inside U.S. China Trade*. "The projects they are now pointing to as deals and assurances are not new endeavors, they were going to happen with or without CAFTA, and they won't make a lick of difference in future enforcement with China."¹³

In any case, given the record of the Bush administration's systematic betrayal of similar textile and apparel promises that are in its power to deliver, the "previously unplanned" aspects of Aderholt's promised cover – such as the prolonged sock tariff phase-out – are unlikely to materialize. For instance, during the Fast Track 2002 debate, the Bush administration won support from Reps. Robin Hayes (R-N.C.) and Sue Myrick (R-N.C.) by pledging to spend \$9.5 million on up to 72 new enforcement agents to implement textile trade rules of origin and other laws and to protect against illegal transshipment of textile and apparel products. Funds even were authorized in the legislation, and later appropriated, although only after considerable additional effort by the industry and increasingly exposed members of Congress. Notwithstanding the promise to hire these agents in fiscal years 2004 and 2005, three years later, there is no evidence that these agents, who were funded over the last few years, were ever hired.¹⁴ This broken deal points out a dangerous reality: even if a lawmaker can overcome an administration's intention to break the funding part of a deal and obtain the needed appropriation through different routes, in the end, an administration can prevent the fulfillment of a promise simply by not taking action. Just weeks before the CAFTA vote, Hayes told reporters, "The fact that we can't get a straight answer on this issue will only make it more difficult for CAFTA or any other future agreement to pass Congress."¹⁵ Meanwhile, despite talking tough on textile and apparel import surges from China, the Bush administration is still formally declining U.S. textile and apparel industry petitions and congressional demands to initiate a case concerning currency manipulation – a reluctance that bodes ill for U.S. textile and apparel industry hopes to solve its problems with current WTO arrangements related to trade with China.¹⁶

Background:

Public Citizen's Global Trade Watch has studied over 90 deals taken by members of Congress for trade votes during the period 1992-2004 and found that nearly over 80 percent of promises on such deals were not kept or were reversed by subsequent events. We divided these deals into pure pork barrel promises, of which 70 percent were broken; and ameliorative policy fix promises, of which 90 percent were broken. For our full report, "Trade Wars – Revenge of the Myth: Deals for Trade Votes Gone Bad," please visit <http://www.citizen.org/documents/tradewars.pdf>

¹ Letter signed by Rep. Robert Aderholt (R-Ala) and other Members of Congress to President Bush, dated Sept. 17, 2003.

² Letter from Commerce Secretary Carlos M. Gutierrez and U.S. Trade Representative Rob Portman to Rep. Robert Aderholt (R-Ala.), dated July 27, 2005.

³ Rep. Robert Aderholt (R-Ala.), "Congressman Aderholt Meets with President Bush to Discuss CAFTA," Congressional Press Release, July 19, 2005.

⁴ Mary Deibel, "Portman lobbying for trade accord," *Cincinnati Post*, July 9, 2005.

⁵ Mike Allen, "Despite Pending Investigation, DeLay Still Wiolds Clout in House," *Washington Post*, July 30, 2005.

⁶ Brian Lawson, "Aderholt deal keys CAFTA passage," *Huntsville Times*, July 29, 2005.

⁷ Letter from U.S. Trade Representative Rob Portman to Sen. Elizabeth Dole (R-N.C.), May 4, 2005.

⁸ "Central American Textile Industry Has Yet to Accept Key Textile Change," *Inside U.S. Trade*, June 17, 2005.

⁹ "Textile Group Support For CAFTA Shows No Immediate Vote Surge," *Inside U.S. Trade*, May 13, 2005.

¹⁰ Frederick H. Abernathy, Anthony Volpe, and David Weil, "The Apparel and Textile Industries after 2005: Prospects and Choices," Harvard Center for Textile and Apparel Research Briefing Paper, Oct. 2004.

¹¹ Kristi Ellis, "Change in the Wind at AAFA's Meeting," *Women's Wear Daily*, March 1, 2005.

¹² "White House Submits CAFTA Implementing Bill, June Floor Vote Possible," *Inside U.S. Trade*, June 24, 2005.

¹³ "Commitments to Hayes, Aderholt on China Downplayed As Redundant," *Inside U.S. China Trade*, Aug. 3, 2005.

¹⁴ "Members Threaten CAFTA Opposition over lack of textile agents at CBP," *Inside U.S. Trade's Inside China Trade*, March 18, 2005; Letter from Secretary of Homeland Security Michael Chertoff to Rep. Robin Hayes (R-N.C.), May 3, 2005.

¹⁵ Rep. Robin Aderholt (R-N.C.), "Congressman Robin Hayes Questions U.S. Customs On Enforcement of Illegal Textile Transshipments," Congressional Press Release, March 8, 2005.

¹⁶ Edmund L. Andrews, "Beijing Brushes Off U.S. Warning on Currency," *New York Times*, May 18, 2005.