

January 11, 2008

**PUBLIC VERSION**

Mr. R. Matthew Priest  
Chairman  
Committee for the Implementation of Textile Agreements  
Room H3001A  
U.S. Department of Commerce  
14 Street and Constitution Ave., N.W.  
Washington, DC 20230

Re: Request for Public Comment on the Due Diligence Requirement  
Under the Commercial Availability Procedures of CAFTA-DR

Dear Mr. Chairman:

On behalf of the Comisión de la Industria de Vestuario y Textiles (VESTEX), the association for the textile and apparel industry of Guatemala, I am writing to share these thoughts in response to the Committee for the Implementation of Textile Agreements (CITA)'s request for comments on the Commercial Availability Procedures of the U.S.-Central America and Dominican Republic Free Trade Agreement (CAFTA-DR).

The mission of VESTEX is to serve and promote the interests of Guatemala's textile and apparel industry. All textile and garment factories in Guatemala are members of our association. Today, there are more than 160 apparel factories (employing close to 68,500 workers) and 50 textile mills (employing close to 18,500 workers) doing business in Guatemala.

The United States is Guatemala's number one market for textile and apparel products, so relationships between VESTEX members and their U.S. customers is of great importance to the success of the industry. And since our industry represents such a large portion of Guatemala's manufacturing base, steady growth in our sector is important for the overall stability of the Guatemalan economy. We welcome the evolution of our bilateral trade relationship brought by the CAFTA-DR agreement, which provides particular benefits to the textile and apparel sector.

One of the CAFTA-DR textile specific benefits is the duty-free treatment available to products utilizing "short supply" inputs. The flexibility to use non-CAFTA inputs helps garment makers in Central America and the Dominican Republic to meet the ever-changing demands of U.S. retailers (who, in turn are trying to respond to the rapidly changing demands of the U.S. consumer market). The ability for quick response has been one of the region's competitive advantages for a long time.

A more recent trend is the push toward vertical integration – or the ability to source yarns, fabrics, trims, etc. close to the place of apparel production. Again, the ultimate goals are more flexibility and even faster turn-around times. The rules of origin created by CAFTA-DR give the region new room to grow vertically by permitting the use of regional yarns and fabrics (not just U.S.) for garment manufacturing.

The competitive needs to both meet short-term goals of flexible inputs for current orders, and to foster the development of a truly vertically integrated industry come together – or are seemingly at odds -- in CAFTA-DR’s short supply provisions. On the one hand, garment makers benefit from the longest possible short supply list. But, the region’s textile mills deserve reasonable incentives to expand their business and develop new product lines as well.

VESTEX’s mandate to support both the apparel manufacturers and the textile mills make it a challenge to strike the right balance on the issue of CAFTA-DR short supply. But the answer is short supply can – and should – work to the advantage of all segments of the industry in both the region and the United States.

The procedures for adding products to the CAFTA-DR Short Supply list are an important part of maintaining the flexibility needed to keep apparel orders in the region. With the CAFTA-DR agreement in place for almost two years now, CITA solicited comments on how to potentially improve the process by which requests to add products to the Short Supply list are considered. VESTEX appreciates this opportunity to provide feedback, and we hope the process will be similarly reviewed periodically to ensure the maximum benefit of the provision to all concerned.

Given VESTEX’s position (not unique to the region, but still uncommon) of representing both apparel producers and textile mills, it is of the utmost importance that the process for considering Short Supply requests is clear, transparent, as inclusive as possible, and founded on principles of common sense. Our position is that if an input is available in a commercial quantity in a timely manner from a producer in the U.S. or the region, then it should not be placed on the Short Supply list. On the other hand, if a product is widely-known to be unavailable from producers in the region, its addition to the Short Supply list should be facilitated as soon as possible. We believe the procedures set in place by CITA set a solid foundation for this approach.

Some specific comments:

***Communications between Requesters and Potential Suppliers & Identification of Potential Suppliers***

VESTEX appreciates that on its CAFTA-DR Commercial Availability website, the Office of Textiles and Apparel (OTEXA) lists VESTEX as one of the key contacts for requesters to use as a resource for finding appropriate regional textile mills. We agree the textile associations can and should play an important role in the process of putting requesters and potential suppliers in touch with one another.

VESTEX can, and has in the past, circulated initial communications to its members from requesters seeking specific responses to set questions. Where needed, VESTEX could (and has) assisted this communication with translation from English to Spanish.

VESTEX also recognizes the distinction between an “Interested Entity” (which VESTEX is not) and “Interested Party.” As such, VESTEX also agrees it would be inappropriate for VESTEX to reply one way or the other to a request. We assume the requester will follow-up to make contact with the mills that could produce the product directly, and the mill is subsequently responsible for its response.

### ***Content of Communications between Requesters and Potential Suppliers***

In examining the new Short Supply requests over the past year, we assume CITA is troubled by the lack of response to some of the due diligence requests for information. We note that until the implementation of CAFTA-DR, Guatemalan or regional textile mills had no interest or official standing to reply to short supply petitions (under the Caribbean Basin Trade Partnership Act) since the standard under CBTPA required the product to be available from a U.S. producer (only). Thus, there is some hesitation for regional business executives (who may or may not be familiar with the ins and out of CAFTA-DR let alone its Short Supply rules) to participate. As familiarity with the topic and the process grow, we believe CITA will see a greater number of responses. In the meantime, it is unfair to assume that no response is the same as a negative response to a requester's inquiry. Especially if it is unclear of who is the potential customer.

We respectfully suggest that the purpose of the due diligence process is to bring together requesters and potential suppliers for the purpose of doing business with each other. In this respect, both parties need to identify themselves openly, although we have no objection to either side relying on the services of consultants or advisors as desired. However, mill salesmen would expect to conduct business discussions with the potential customer (the requester) as the ultimate decision-maker.

Ideally, if the two parties can do business with each other, then there is no need for a petition to be filed; if they cannot, then both will be in agreement that there will be no objection to the petition. In the course of normal business practices, we believe orders are not usually placed based on one inquiry. Hopefully the initial contact will be the beginning of a longer-term relationship, and the buyer will have an interest in visiting the factory, meeting with the sales team and verifying the mill's capacity in person.

### ***Potential Suppliers' Responses to Requester's Inquiry***

Since the implementation of the CAFTA-DR agreement, Guatemalan entities have been engaged on both sides of the Short Supply petition process. Drawing on the experience of those specific cases, we would ask CITA to give some specific guidance as to the importance of providing samples – either as part of the due diligence process, or at the meeting of interested entities (if required). Logically, however, it makes little sense to provide a sample to CITA at the public meeting, but not earlier to the requester.

From our perspective, we do not think a sample should be required in all cases. The demands of the market are ever-changing. New fiber blends and yarns are always being developed. In some cases, it may be acceptable for the mill to demonstrate the capability to make the desired fabric without producing a sample. However, if special finishing operations are required (by the ultimate buyer) these should be examined case-by-case. There is little long-term value, however, to adding fabrics to a Short Supply list that are so specific that they are only used for one (past) order.

Given the developing nature of the textile industry (particularly in the region), VESTEX thinks it unnecessary (and perhaps counter-productive) to require samples or production records from within the past 24 months. In some cases, these are newer mills and the fact that they have not produced a particular fabric is not indicative that they cannot.

In some instances, U.S. or regional mills communicated the ability to develop the desired fabric, and the subsequent questions that arose were based on either timing or quantity. The failure of the mill to deliver the desired quantity by a set deadline threatens that the garment maker will lose the order – an outcome that serves no one.

In these cases, VESTEX suggests that CITA might better utilize the option to add a fabric to the Short Supply list in a restricted quantity. And perhaps to review the availability of that fabric after six months to either remove it from the list or increase or decrease the Short Supply quantity. This would permit the garment maker to fill the immediate order; and allow time for the mill to produce samples, etc. in time for future orders.

### ***Substitutabilty of Products***

VESTEX assumes that any discussion of whether one yarn or fabric may be substituted for another would naturally be discussed between the requester and the potential supplier. Again, we believe the purpose of this process to put these two parties in touch with each directly. And the decision of whether or not a product has a suitable substitute is only in the hands of the customer seeking to place the order -- or else there will be no order.

### ***Conclusion***

It is our understanding that, currently, only a small part of the CAFTA-DR-qualifying trade is duty-free based on a Short Supply claim. We think this is unfortunate and represents a missed opportunity for the region's apparel manufacturers. Often garment makers take direction from the U.S. retailer as to what fabric to use, etc. However, some apparel manufacturers might be able to develop new product lines or more proactively engage in the design process if there was a reliable way to verify the fabric they want to use is in fact the same as an item on the CAFTA-DR Short Supply list. It would be helpful to this end if CITA could suggest or provide the names of laboratories which are in turn authorized to issue certifications (that would be acceptable to U.S. Customs) that a fabric is indeed on the list.

Currently, this confirmation is available only through a formal U.S. Customs ruling process. Although not time-consuming, it requires a sample garment and the request for the ruling is driven by a certain prospective shipment. Our suggestion is quite different – but letting the apparel maker begin with the confirmation of the fabric's Short Supply status, they would be able to use that fabric to develop and market a number of products.

Again, VESTEX appreciates this opportunity to provide comments to CITA on the CAFTA-DR Short Supply process. Please note the views expressed are those of VESTEX and may not reflect the position of individual Guatemalan mills or apparel producers who have more specific interests on this issue.

Sincerely,

Carla Caballeros  
Executive Director