

# AGATHON ASSOCIATES

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Chairman  
Committee for the Implementation of Textile Agreements  
Room 30003  
United States Department of Commerce  
Washington, DC 20230.

Submitted via email to  
OTEXA\_MoroccoFTA@trade.gov  
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Terry.Labat@trade.gov and Maria.D'Andrea-Yothers@trade.gov

**Subject:** Request for Public Comment on a Commercial Availability Request Under the U.S.-Morocco Free Trade Agreement

To Whom It May Concern:

I write as a consultant to the U.S. textile industry to oppose the request to modify the rules of origin for certain women's jackets, skirts, and pants of chief weight combed wool, classified at 6204.31.2010 Harmonized Tariff Schedule of the United States ("HTSUS"), 6204.51.0010 HTSUS, and 6204.61.8010 HTSUS, under the U.S.-Morocco Free Trade Agreement ("USMFTA"), published November 6, 2017, at 82 FR 51401. The Government of Morocco, on behalf of the apparel manufacturer Modaline, has requested that apparel articles of the above description not be excluded from USMFTA duty-free entry due to certain non-originating woven wool fabrics, specifically fabrics of 83-94% combed (worsted) wool, 4-15% nylon, and 1-7% spandex, classified at 5112.19 and 5112.20 HTSUS. I write on behalf of my clients American Woolen Company, Northwest Woolen Mill, and Pendleton Woolen Mills.

My clients are ready and able to supply the fabrics in question. Please note that "Woolen" in a company name does not mean that the company is limited to woolen (carded wool), these U.S. manufacturers also weave fabrics of worsted (combed) wool and worsted wool blends, including the blends the subject of this request. I further note that under the terms of the USMFTA the yarns also must originate. My clients currently source these yarns in the U.S. for programs under other FTAs and in fabrics for U.S. Department of Defense contracts which, under the "Berry Amendment" are required to have 100% U.S. content from fiber to finished article.

The request from the Government of Morocco should be rejected "out of hand" as failing to present any factual basis for the request. No attempt is made in the request to demonstrate short supply of the fabric in the region. No evidence is presented of any attempt to contact potential suppliers in the U.S. or Morocco. While the USMFTA does not include a "due diligence" requirement such as that in the Commercial Availability ("Short Supply") provisions of some FTAs, I believe it is an abuse of the USMFTA consultation on rules of origin provision to submit

a request without doing even the slightest to determine whether it has any justification. My clients would rather be busy making fabric and making money than responding to utterly meritless requests. As a taxpayer I object that U.S. government resources must be used to investigate and respond to this meritless request.

The sole justification given in the request for modifying the rules of origin is the December 31, 2015, expiration of the USMFTA Tariff Preference Level ("TPL") provision, in an initial amount of 30 million square meter equivalents, phased down to 4.3 million in the final year, and now is entirely eliminated. The TPL is a derogation from the general "yarn forward" rule of the USMFTA. The yarn forward rule is at the very foundation of U.S. FTA policy as respects textiles and apparel. The TPL was a generous *temporary* dispensation from the rule. Now that it is expired it is inappropriate to invoke it as justification for changes to the rules of origin.

1. Morocco agreed to the yarn forward rule and should live up to that agreement.
2. The expiration of the TPL, after ten years, is one of the provisions of the agreement. Morocco had ten years, during that transition period, to build its own industry to supply these fabrics or establish business relations with U.S. textile manufacturers who made these fabrics. It appears that Morocco did neither.
3. Approval of these request relating to three specific types of women's wear will likely result in subsequent requests relating to other articles of apparel and other woven wool fabrics.
4. It would be unfair to the other 17 nations that are free trade partners with the U.S. under the terms of 11 agreements who, with only narrow, carefully carved out exceptions, operate under the yarn forward rule.
5. If granted, this request will prompt other current and future free trade partners to seek short supply status for the same fabrics.
6. Unlike the expired TPL, which has annual caps, the request is unlimited as to quantity, and, if approved, would create an incentive for Morocco to increase production of apparel of third-country fabric.

Because these fabrics are available from domestic U.S. sources that will be harmed were the request granted, and because no U.S. textile industry interests can possibly be aided by the requested changes, I urge in the strongest terms that the U.S. reject this request.

If you have any questions please contact me at 617-237-6008 or [david@agathonassociates.com](mailto:david@agathonassociates.com).

Yours,



David Trumbull