National Textile Association
6 Beacon Street • Suite 1125 • Boston, Massachusetts 02108
617 542-8220 • info@nationaltextile.org • www.nationaltextile.org • 617 542-2199 fax

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received
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Kim Glas
Chairman
Committee for the Implementation of Textile Agreements
Room 3001
U.S. Department of Commerce
14th and Constitution Ave., NW
Washington, DC 20230

Dear Ms. Glas:

On behalf of the National Textile Association (NTA) I write with regard to the Request for Public Comment on a Commercial Availability Request Under the U.S.-Singapore Free Trade Agreement (75 FR 6169). The request from the Government of Singapore for consultations under Article 3.18.4(a)(j) of the USSFTA lists 21 general types of fabric with further specifications, resulting in a lengthy list of highly specified products. NTA is troubled by (a) the nature of the specifications of several of the fabrics, (b) the degree of specification of several of the fabrics, and (c) the inclusion of fabrics that were found at some time to be unavailable from U.S. sources but which may be produced in the U.S. if U.S. mills find market demand for them. We also object to those (d) relating to fabrics we believe are currently made in the U.S.

(a) NTA objects to the following numbered fabrics due to the nature of the specifications of the fabrics:

(1) "Certain knit fabrics of rayon yarns made from bamboo..."

We object to requests that specify "rayon yarns made from bamboo." The Federal Trade Commission (FTC), the nation's consumer protection agency, has warned consumers and the trade that—

> "the soft 'bamboo' fabrics on the market today are rayon...made using toxic chemicals in a process that releases pollutants into the air."

In other words, it is the public policy of the U.S. that "rayon is rayon," without regard to the source of the cellulosic feed-stock, and that no claims may be made regarding supposed superior qualities of rayon based on use of bamboo as the feedstock. The FTC has found numerous false claims in the marketplace regarding rayon made from bamboo. CITA should not, in evaluating a commercial availability claim, take into account a fiber description that is inherently misleading and which is immaterial to the performance of the product. We also believe this request, if approved, would be unenforceable as U.S. Customs will not be able to distinguish rayon made from bamboo from other rayon.

We also object as these are knit fabrics that appear, from the descriptions given, to be of the sort that are produced in the U.S. and that the underlying issue is that of supply of rayon fiber (as you know, there exists no domestic U.S. production of rayon fiber, or the rayon yarn.) In the *Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement*, at 5(a)(1) *Requests for Downstream Products with Inputs Not Commercially Available*, CITA states—

> "If, in its initial review of a Request, CITA determines that a subject product would be commercially available but for the commercial unavailability of a certain input of the subject product, CITA will reject the Request. The requestor may submit a Request for the input in question rather than the downstream product."

We believe that CITA should apply this standard to all commercial availability requests and decline requests on downstream product, such as knit fabric, when it is, in fact, an upstream input, the fiber, that is in short supply. There is currently excess capacity in the U.S. for spinning of rayon yarn and from knitting of fabric of rayon yarn.

(2) "Certain knit fabrics of polyester..."

We oppose fabrics 2 through 8 of this request because they specify recycled polyester. NTA is not aware of any specific performance characteristic imparted by recycled fiber which is not also imparted by virgin fiber. Furthermore, the provision would be unenforceable, as U.S. Customs cannot distinguish recycled polyester from virgin polyester.

(3) "Certain knit fabrics containing fibers made from soya bean..."

We object to requests that specify "fibers made from soya bean." By "fibers made from soya beans" we assume they mean azlon, a manufactured fiber in which the fiber-forming substance is composed of any regenerated naturally occurring proteins (definition from *FTC Rules and Regulations Under the Textile Fiber Products Identification Act*). We are not aware of any superior performance characteristic associated with azlon made from soya beans, as compared to azlon made from peanuts, milk, or other protein feedstock. Furthermore the provision would be unenforceable, as U.S. Customs cannot distinguish azlon made from soya bean from other azlon fiber.

We also object as these are knit fabrics that appear, from the descriptions given, to be of the sort that are produced in the U.S. and that the underlying issue is that of supply of azlon (we know of no current U.S. production of azlon). CITA should decline a request on downstream product when it is an upstream input that may be in short supply. There is currently excess capacity in the U.S. for spinning of azlon yarn and from knitting of fabric of azlon yarn.

(b) NTA objects to the following numbered fabrics due to the degree of the specifications of the fabrics:

(6), (7), (9), and (17) all relating to woven two-way stretch.

We object as each of these is highly specified as to inputs (even to specifying the staple length of the fiber) but with no justification for the specifications based on performance characteristics; we suspect that the high degree of specification may be intended to create a false short supply situation unrelated to any actual market demand for performance.

(8), (10), (11), (12), (13) all relating to circular knit fleece.

Each of these is highly specified as to inputs but with no justification for the specifications based on performance characteristics; we suspect that the high degree of specification may be intended to create a false short supply situation unrelated to any actual market demand for performance.

(c) NTA objects to the following numbered fabrics that were found at some time to be unavailable from U.S. sources but which may be produced in the U.S. if U.S. mills find market demand for them.

(9) through (21) all of which have been put on the short supply for at least one other U.S. trade arrangement.

We object to requests for commercial availability findings under USSFTA, absent any evidence of a rational business model for such trade under USSFTA and where the request appears to stand, solely, on the basis, that the product was, at some point in time, not available in commercial quantities for use in some other U.S. textile trade program.

As you know, the U.S. does not have a master list of short supply items that can be applied to any free trade agreement or preference program. Rather, each agreement or program has its own peculiar list that has developed in response to bilateral or multi-lateral historic trade patterns and the specific requests from producers in the partner countries. Short supply or commercial availability is not, nor should be, a "one size fits all" concept and a product that is short supply at some point in time for one program should not be considered for similar treatment under another arrangement unless there is some reasonable business model that calls for that product and there is proof that the product is not available, nor likely to be available, in commercial quantities.

In the case of a fabric added to the short supply list for the U.S.-Caribbean Basin-Dominican Republic Free Trade Agreement (CAFTA-DR) a CAFTA-DR region producer who subsequently begins producing that fabric may, under the CAFTA-DR procedures, petition to have the fabric removed from the list. In this manner, CAFTA-DR has a built-in mechanism for dealing with temporary short supply situations. For example, fabrics with two-way stretch have been approved for CAFTA-DR short supply because at the time of the request no one in the U.S. made those specific fabrics, but, as the market calls for more two-way stretch, U.S. manufacturers are moving into that product line. Similarly, the fleece fabrics approved for CAFTA-DR are very similar to ones made in the U.S. and NTA member companies report they produce, or plan to produce, some of these fabrics. As U.S. companies respond to market demand by making these fabrics they may seek to have them removed from the CAFTA-DR short supply list. But under the USSFTA once a fabric is, through the consultation process, exempted from the rules of origin, it will be very difficult to bring the fabric back under the rules as that would require a new round of consultations during which the partner benefiting from the more liberal treatment of that fabric would need to agree to revert to yarn forward rule—something that is not likely to happen. Approval of modification of the rules of origin under USSFTA for fabrics that U.S. companies can, and likely will, make would discourage investment and innovation in the U.S. industry.

As we learned with an earlier request from the Government of Singapore which listed several products that were short supply for a preference program, we cannot assume that the same domestic U.S. situation obtains today with regard to a free trade agreement with Singapore as obtained in

the past with regard to a trading arrangement with other nations. In the case of one of the products on that earlier request list (compact wool yarn) there were changed circumstances (where there was potential U.S. production at the time of the preference program approval, there is actual U.S. production now) and a different business model (the company that requested short supply under the preference program itself opposes such a designation under USSFTA).

(d) NTA objects to the following numbered fabrics which we know or believe to be made in the U.S.

(1) "Certain knit fabrics of rayon yarns made from bamboo..."

Member companies of NTA report that they can make the fabrics specified in this request, however there is no U.S. source for rayon fiber and we would support a modification of the rules of origin to allow non-originating rayon fiber.

(2) "Certain knit fabrics of polyester..."

Member companies of NTA report that they can make all eight fabrics specified in this request.

(4) "Fancy fabrics of polyester filament," (5) "Certain woven 100% cotton flannel fabrics," and (19-21) certain 100% cotton woven indigo dyed fabrics."

We see nothing in the description to distinguish these fabrics from other fabrics woven in the U.S. from readily available yarns.

(6), (7), (9), and (17) all relating to woven two-way stretch.

U.S textile companies have been expanding their offerings in two-way stretch and can make the fabrics specified in this request.

(8), (10), (11), (12), (13) all relating to circular knit fleece.

U.S textile companies have been expanding their offerings in fleece and can make the fabrics specified in this request.

(15) certain cotton/nylon woven fabric.

Member companies of NTA report that they can make the fabric specified in this request.

(18) certain herringbone stretch woven fabrics of polyester.

Member companies of NTA report that they can make the fabric specified in this request.

In summary, for requests number 1 through 8, which are not the subject the earlier commercial availability determinations, every fabric listed is (1) made in the U.S. of originating yarn, or (2) can be made in the U.S. if U.S. fabrics makers can obtain the yarn (or fiber to spin the yarn), or (3) can be substituted by a similar fabric made in the U.S. NTA objects to each of the requests numbered 1 through 8.

We also object to requests numbered 9 through 21, which have each been the subject of an earlier commercial availability determination, because we believe that Singapore has offered no justification for commercial availability determination in the context of USSFTA and existing or likely to develop U.S.-Singapore trade and because in many cases U.S. mills make, or plan to make such fabrics.

Yours,

David Trumbull
Vice President, International Trade