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MAR 17 2010

Public Version

AMTAC

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March 16, 2010

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

Dear Ms. Glas:

On behalf of the American Manufacturing Trade Action Coalition (AMTAC), I write to respond 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.

AMTAC objects to the following numbered fabrics based on U.S. availability and additional factors as indicated by our membership.

Knit fabrics of bamboo (rayon), recycled polyester and soya bean fiber (#1, #2 and #3):

AMTAC's membership currently manufactures jersey knits and interlock knits of polyester and could knit the fabrics of bamboo (rayon), recycled polyester and soya bean fiber described in Singapore's request if the fibers were available. As a result, these requests are for downstream products (fabrics) instead of the actual components (fibers) that are unavailable. 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 a 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 knit capacity in the United States.

Lastly, with regard to the "bamboo" fabrics, we take issue with the specification "rayon yarns made from bamboo." The Federal Trade Commission (FTC), the U.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 United States 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.

Woven two-way stretch products, including the herringbone weave (#6, #7, #9, #17 and #18):

AMTAC's membership currently manufactures woven products using polyester/spandex for the trouser market. They have the capability to incorporate viscose rayon to meet the highly-specified product descriptions in the Singapore request.

Regarding the product descriptions of these fabrics, we further note that there is no justification based on performance characteristics for the high level of specificity provided (which even specifies the staple length of the fiber). 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.

AMTAC has voiced similar concerns to CITA in the past in relation to CAFTA-DR commercial availability proceedings. We strongly recommend that CITA make decisions based on major characteristics of the products in question and substitutability when evaluating petitions and petitioner claims. This addresses product descriptions such as the ones in Singapore's request that appear to be overly technical for the purpose of discouraging a response from the domestic industry, when a far more general petition would have sufficed.

Certain Circular Knit Three-End Fleece (#8, #10, #11, #12 and #13):

AMTAC's membership objects to these products. See business confidential submission by [xxxx] for additional information on these products.

As with the woven two-way stretch fabrics, the descriptions for the circular knit fleece fabrics are also highly specified without performance justifications.

Certain Cotton/Nylon Woven Fabric (#15):

AMTAC's membership currently manufactures this fabric for military and workwear applications and is capable of meeting the specifications of the request.

100% Indigo Dyed Fabric (#19, #20 and #21):

AMTAC's membership objects to these products. See business confidential submission by [xxxx] for additional information on these products.

General Objection to All Fabrics (#9) through (#21):

AMTAC objects to requests for commercial availability/ short supply findings under the U.S.-Singapore FTA (USSFTA), or any other U.S. FTA, 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 a result, AMTAC objects to the fabrics specified in (#9) through (#21). Commercial availability is not, nor should be, a "one size fits all" concept. Requestors should be required to present some reasonable business model that calls for these products and offer proof that the products are not available, nor likely to be available, in commercial quantities.

Furthermore, it is important to note that unlike the CAFTA-DR agreement, the USSFTA does not contain a mechanism for the United States to reverse a short supply designation if the item becomes available domestically. While the United States could, in theory, ask for a new round of consultations with Singapore, parties in Singapore and/or the United States benefiting from the ability to source the product globally would likely block an agreement to revert to a yarn-forward rule. As a result, there is effectively no recourse for a U.S. company that is able to produce a product that was previously designated as unavailable in commercial quantities under the USSFTA. Noting this special set of circumstances, it is critical that all commercial availability requests under the USSFTA go through a thorough, formal review wherein the requestor demonstrates a clear market-based justification for adding a product to the list <u>and</u> no U.S. or Singapore producer is found to have an interest in the business.

Thank you for the opportunity to comment.

Sincerely,

Augustine D. Tantillo
Executive Director