biederlack of America

http://www.biederlack.com

March 17, 2006

Mr. James C. Leonard, III
Chairman
Committee for the Implementation of Textile
Agreements
Room H3100
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Leonard:

Re: Commercial Availability Request Under the North American Free Trade Agreement ("NAFTA")
Acrylic Blankets of HTS 6301.40 Made with Acrylic Staple Fibers of HTS 5503.30

Pursuant to conversations between Mr. Walsh of your staff and our attorney, Bruce Shulman, Esq., we are resubmitting our original NAFTA Short-Supply Petition of February 23, and are requesting that the resubmitted Petition be used as a replacement for the original because the suggested rule of origin appearing in the original Petition needed revision.

Sincerely yours,

BIEDERLACK OF AMERICA CORPORATION

Peter J. McCabe
President

Cc: James C. Doub, Esq.
Bruce N. Shulman, Esq.
Glenn A. Cranker, Esq.

Biederlack of America Corporation

Corporate Headquarters
11501 Bedford Road, N.E.
Cumberland, MD. 21502
Voice: 301.759.9633
Fax: 301.759.0837

Distribution Center
975 Kelly Road, Suite A
Cumberland, MD. 21502
Voice: 301.759.3664
Fax: 301.759.3696

Spinning Mill
970 Kelly Road, Suite B
Cumberland, MD. 21502
Voice: 301.759.3664
Fax: 301.722.6240

biederlack of America

http://www.biederlack.com

February 23, 2006

Mr. James C. Leonard, III
Chairman
Committee for the Implementation of Textile
Agreements
Room H3100
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Leonard:

Re: Commercial Availability Request Under the North American Free Trade Agreement ("NAFTA")
Acrylic Blankets of HTS 6301.40 Made with Acrylic Staple Fibers of HTS 5503.30

Biederlack of America Corporation ("Biederlack") respectfully requests that the Committee for the Implementation of Textile Agreements ("CITA") recommend a change to the NAFTA rule of origin for blankets of synthetic fibers classified under subheading 6301.40 of the Harmonized Tariff Schedule ("HTS"), and that, after consultations with Mexico and Canada, the President proclaim such change in accordance with 19 U.S.C. § 3332(q)(3)(a) and Section 7(2) of Annex 300-B of the NAFTA. The change is requested as a result of the lack of commercial availability from suppliers within the NAFTA territory of acrylic staple fibers, not carded, combed or otherwise processed for spinning, classified under subheading 5503.30 of the HTS. For the reasons described below, the change should be declared effective for entries on and after January 24, 2006, assuming Canada makes the same change with the same effective date.

Biederlack is a manufacturer and distributor of blankets, shams, throws and pillows, and believes that it is the last manufacturer in the United States of sports or team blankets and throws used by colleges and professional teams to build support for their programs. A representative selection of Biederlack's products can be reviewed on our website at www.Biederlack.com.

Biederlack has a manufacturing mill and distribution center in Cumberland, Maryland, where it employs approximately 200 people. The manufacturing mill spins acrylic fiber into yarn, weaves the yarn into blankets, and then finishes, cuts and sews the blankets. The distribution center ships more than 3 million blankets per year to retailers in the United States and internationally, including Canada. Biederlack is principally interested in effecting a change with respect to blankets exported to Canada from the United States. The viability of our sales of blankets into Canada is threatened because without acrylic staple fibers of NAFTA origin the blankets will no longer qualify for the United States tariff of "free", and will be subject to a 17% duty when imported

Biederlack of America Corporation

Corporate Headquarters
11501 Bedford Road, N.E.
Cumberland, MD. 21502
Voice: 301.759.9503
Fax: 301.759.3837

Distribution Center
975 Kelly Road, Suite A
Cumberland, MD. 21502
Voice: 301.759.3094
Fax: 301.759.3888

Spinning Mill
975 Kelly Road, Suite B
Cumberland, MD. 21502
Voice: 301.759.3094
Fax: 301.722.6240

duty when imported into Canada.[1] We note that agreement need only be reached with Canada to accomplish such a change (Paragraph 7(2)(c) of Annex 300-B of the NAFTA).

The specific changes requested would allow blankets made of synthetic fibers, classifiable in subheading 6301.40 of the HTS to be considered originating goods under NAFTA without regard to the origin of the acrylic staple fibers used in the manufacture of the blankets.

A parallel petition to the same effect, a copy of which is attached, has been filed by Biederlack with the Textile and Apparel Committee in Canada.

1. Description of Products

The blankets in question are synthetic blankets, composed of 85% to 86% acrylic weft yarn and 14% to 15% polyester or polyester/cotton warp yarn. The warp yarn is used to create the "skeleton" or vertical frame of the blanket. The weft yarn (attached to the warp horizontally) is the filling yarn that forms the visible surface of the blanket and determines qualitative features such as softness, warmth, color, *etc.*

2. Tariff Classification of the Acrylic Blankets

The acrylic blankets produced by Biederlack and imported into Canada are properly classified under tariff code 6301.40.00, as blankets of synthetic fibers.

3. Requested Rule of Origin Change

The NAFTA rule of origin currently applicable to blankets classifiable under HTS 6301, is set forth in the Harmonized Tariff Schedule of the United States ("HTSUS") General Note 12(t)/63.1. It states:

63.01 – 63.02	A change to heading 6301 through 6302 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, Chapters 54 through 55, or headings 5801 through 5802, or 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.

Biederlack proposes that a new rule of origin be added for blankets classified under subheading 6301.40 which would allow such goods to qualify for NAFTA treatment even when they are produced from non-originating acrylic staple fibers classified under subheading 5503.30. The proposed wording of the new rule or origin would read as follows:

6301.40	A change to subheading 6301.40 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, Chapter 54, or heading 5501 through subheading 5503.20, subheading 5503.40 through heading 5516, heading 5801 through 5802, or heading 6001 through 6006, provided that the good is both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.

---

[1] The Most Favored Nation Tariff for acrylic blankets classified under tariff item 6301.40 imported into Canada is 17%.

In addition to the above change, existing Rule 63.1 will require a change to make it inapplicable to articles classified in Subh. 6301.40, HTSUS. We suggest doing so by changing existing Rule 63.1 to read as follows:

> A change to subheading 6301.10 through 6301.30, or from subheading 6301.90 through 6302 from any other chapter . . . .

Pending approval of the proposed NAFTA rule of origin on a trilateral basis, we also request that this change be implemented bilaterally between Canada and the United States.

4. Requested Retroactivity

We ask that these amendments to the rule of origin for blankets be declared effective for entries of such products on and after January 24, 2006, the date on which Cydsa ceased production of acrylic fiber in Mexico. Retroactivity is appropriate as it is presently impossible to satisfy the applicable NAFTA rules of origin due to the lack of commercial availability of NAFTA produced acrylic fibers.

5. Proof of Commercial Unavailability of Acrylic Staple Fibers

Based on Biederlack's knowledge and experience in the marketplace and on inquiries made to the trade in the NAFTA territory, Biederlack has found that there are no producers of acrylic staple fiber in Canada, the United States, or Mexico which can supply commercial quantities of the acrylic staple fibers required by Biederlack.

For years Biederlack purchased fiber from Celulosa Y Derivados S.A. de C.V. in Mexico ("Cydsa") and Solutia, Inc. ("Solutia") as these were the only two NAFTA producers of acrylic fiber, other than Sterling Chemicals, Inc., that could meet Biederlack's specifications for color, quality, etc. Unfortunately both Solutia and Cydsa recently closed their acrylic fiber operations: Solutia ceased production of acrylic fibers on or about April 2005, and Cydsa suspended production of 90,000 tons of acrylic fiber per year on January 24, 2006. Sterling Chemicals, Inc., a United States producer of acrylic fibers, also shut down its acrylic fiber operations in September 2005. Accordingly, it is impossible for acrylic blankets to be produced within the NAFTA territory to satisfy the applicable NAFTA rule of origin as presently drafted, which requires the use of originating acrylic staple fibers. As such, it is requested that CITA process this petition on an expedited basis.

With the closure of Cydsa's acrylic fiber plant, to the best of our knowledge, Biederlack believes that the only remaining North American producer of acrylic fiber is Kaltex Fibers S.A. de C.V. ("Kaltex") in Mexico. Kaltex is not able to produce the quality or colors of acrylic fiber required by Biederlack. Biederlack has ordered fibers from Kaltex, and has worked with Kaltex on technical issues for the past year, but Kaltex has not been able to overcome the technical problems (such as fiber cohesion) that keep the acrylic fiber running efficiently on Biederlack's machines. Biederlack has not been able to run any production from Kaltex' fibers. In addition, Kaltex currently only produces ecru fibers and some limited colors, whereas Biederlack requires in excess of 100 colors for which a dye match is required.

More importantly, Biederlack also believes that Kaltex has been inundated with fiber orders since Cydsa closed its acrylic fiber operations, and consequently does not have the capacity to supply all demand. Biederlack has been informed by Kaltex' sales representative that it currently will take at least 4 weeks, and likely 6 weeks or more, from the time Biederlack

places an order with Kaltex before Biederlack will receive development samples. Accordingly, Biederlack believes that the only alternative acrylic fiber suppliers, and the only suppliers capable of meeting Biederlack's requirements for color and quality, are located outside of the NAFTA territory.

Finally, one other indication that there is a shortage of acrylic staple fiber production in the United States, is the introduction of several duty-suspension Bills in the United States Congress which, if passed, would temporarily suspend the duty on imports of certain acrylic fibers and yarn used to make value-added products in this country. While Biederlack has an interest in one of these Bills, none of the proposed Bills were introduced at our request. Rather, it appears from the introduction of this legislation that numerous domestic textile products manufacturers have experienced the same difficulty in sourcing acrylic staple fibers and yarns from U.S. sources, and are, therefore, attempting to maintain a competitive position by requesting that the duty on imported acrylic fiber and yarn be temporarily suspended.

Biederlack understands that Mexican officials will be advised of this petition to obtain their agreement to amending the NAFTA rules of origin for blankets manufactured with acrylic staple fibers. In the event that there are delays in obtaining Mexico's agreement and, since time is of the essence, it is requested that the United States and Canada consider this request on a bilateral basis, as provided in section 7(2)(c) of Annex 300-B of the NAFTA, subject to the eventual participation of the Mexican government.

Thank you in advance for your consideration of this request. Would you please advise the undersigned at your earliest convenience if you need any additional information to begin the processing of this petition.

Sincerely yours,

BIEDERLACK OF AMERICA CORPORATION

Peter J. McCabe
President

Cc: James C. Doub, Esq.
Bruce N. Shulman, Esq.
Glenn A. Cranker, Esq.