

United States International Trade Commission

# **Commercial Availability of Apparel Inputs (2006):**

## **Effect of Providing Preferential Treatment to Apparel From Sub-Saharan African, Caribbean Basin, and Andean Countries**

**Compilation of Reports Requested in 2006**

Investigation No. 332-473  
USITC Publication 3904  
January 2007



# **U.S. International Trade Commission**

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# U.S. International Trade Commission

Washington, DC 20436

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## Commercial Availability of Apparel Inputs (2006):

Effect of Providing Preferential Treatment to Apparel  
From Sub-Saharan African, Caribbean Basin,  
and Andean Countries

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# OVERVIEW

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On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice during 2006 in connection with petitions filed by interested parties under the “commercial availability” (previously informally known as “short supply”) provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). For further information on the investigation, see appendix A for a copy of the USTR request letter and appendix B for a copy of the Commission’s notice of institution, which was published in the *Federal Register* (71 F.R. 10992) on March 3, 2006.

During 2006, the Commission was requested to provide advice under “commercial availability” provisions for 4 petitions. A copy of the Commission’s advice in connection with each of these petitions is included in this report, with any confidential business information deleted.

A list of petitions for which the Commission has provided advice under “commercial availability” provisions for 2006 is shown in table 1, which appears on the following page.<sup>1</sup> The table provides a brief description of the articles named in each petition, the date on which each petition was received by the Committee for the Implementation of Textile Agreements (CITA), whether the advice was requested under the AGOA, CBTPA and/or the ATPDEA, and whether the specified apparel articles were subsequently designated by CITA as eligible for duty-free and quota-free treatment under the “commercial availability” provisions of the AGOA, the CBTPA, and the ATPDEA.<sup>2</sup>

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<sup>1</sup> A list of petitions for which the Commission provided advice since the beginning of the program in 2001 through 2005 is shown in a table in appendix C. The investigations conducted by the U.S. International Trade Commission (USITC) in 2001, 2002, 2003, 2004, and 2005 are *Apparel Inputs in “Short Supply” (2001): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-428), USITC publication 3492, Feb. 2002; *Apparel Inputs in “Short Supply” (2002): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-436), USITC publication 3581, Feb. 2003; *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries* (investigation No. 332-450), USITC publication 3677, Mar. 2004; *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean countries* (investigation No. 332-458), USITC publication 3756, Mar. 2005, and *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean countries* (investigation No. 332-465), USITC publication 3848, Mar. 2006.

<sup>2</sup> In Executive Order No. 13191, the President delegated to CITA, chaired by the U.S. Department of Commerce, the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and the USTR to submit the required report to the Congress and delegated to USTR the authority to obtain advice from the USITC.

**Table 1**  
**Petitions filed by interested parties in 2006 (Investigation No. 332-473)**

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
001	Certain apparel of compacted, plied, ring-spun cotton yarns (request for revocation) . . . . .	01/10/06		X	X	Denied
002	Certain apparel of yarn-dyed flannel fabrics . . . . .	02/07/06		X		Approved
003	Men's sweaters of cotton/cashmere blended yarn . . .	03/06/06	X			Denied <sup>1</sup>
004	Apparel containing lace fabrics of synthetic yarns . . .	03/09/06			X	Approved

<sup>1</sup>The same company resubmitted a petition to CITA regarding the same yarn on July 5, 2006. CITA, subsequently, approved the second petition. CITA did not request advice from the Commission since the Commission recently supplied advice to CITA on the subject yarn, and the Commission confirmed that its advice remained unchanged from its previous report. See CITA's decision in the *Federal Register* of November 15, 2006 (71 F.R. 66505).

# Contents

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	<i>Page</i>
Overview .....	i
Certain apparel of compacted, plied, ring-spun cotton yarns (request for revocation) .....	001-1
Certain apparel of yarn-dyed flannel fabrics .....	002-1
Men's sweaters of cotton/cashmere blended yarn .....	003-1
Apparel containing lace fabrics of synthetic yarns .....	004-1

## APPENDICES

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A. Request letter from the United States Trade Representative .....	A-2
B. Federal Register Notice .....	B-2
C. Petitions for which the Commission provided advice under the "commercial availability" provisions of the AGOA, CBTPA, and ATPDEA, 2001-2005 .....	C-2



## Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

### U.S. International Trade Commission Investigation No. 332-473-001

<b>Products</b>	Certain apparel of compacted, plied, ring-spun cotton yarns (request for revocation)
<b>Requesting Parties</b>	National Council of Textile Organizations, Washington, DC
<b>Date of Commission Report: USTR Public</b>	February 28, 2006 February 2006
<b>Commission Contact</b>	Jackie W. Jones (202-205-3466; <a href="mailto:jackie.jones@usitc.gov">jackie.jones@usitc.gov</a> )

#### NOTICE

**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 28, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**

#### Summary of findings

The Commission's advice in this report relates to a petition filed by the National Council of Textile Organizations (NCTO)<sup>3</sup> and received by the Committee for the Implementation of Textile Agreements (CITA) on January 10, 2006, requesting that CITA revoke its September 29, 2005 determination regarding compacted, plied, ring-spun cotton yarns (the subject yarns).<sup>4</sup> In that determination, CITA found that the subject yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated woven cotton trousers, shirts, and blouses made from U.S.-formed fabric containing the subject yarns as eligible for duty-free treatment under the "commercial availability" provisions of the Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Enforcement Act (ATPDEA).<sup>5</sup> NCTO states in its petition that it is requesting revocation of the prior determination because yarns substitutable for the subject yarns can be supplied by the domestic industry in commercial quantities in a timely manner. If CITA revokes its previous determination, U.S. imports of woven cotton trousers, shirts, and blouses made in CBTPA and ATPDEA countries from U.S.-formed fabric containing the subject yarns would no longer be eligible to enter free of duty under the CBTPA and ATPDEA.

The Commission could not identify any U.S. production of the subject yarns, and the available information suggests that combed, plied, ring-spun cotton yarns (the conventional yarns) made domestically would not be substitutable for the subject yarns. Therefore revocation of the above-referenced CITA determination would likely have no effect on U.S. producers of the conventional yarns, but it could have an adverse effect on the one U.S. producer the Commission has identified as producing fabric containing the subject

<sup>3</sup> NCTO is a Washington, DC-based lobbying group representing the fiber, yarn, fabric, and supplier industries. NCTO opposed the original petition.

<sup>4</sup> The Commission provided advice on the original petition in its report entitled *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, "Certain Apparel of Compacted, Plied, Ring Spun Cotton Yarns" (Inv. No. 332-465-008), June 30, 2005.

<sup>5</sup> See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).



yarns. The apparel companies and retailers importing the woven cotton trousers, shirts, and blouses and other textile industry sources stated that the use of the subject yarns, not the use of the conventional yarns, would impart the characteristics to the finished garments they require in terms of surface appearance, durability, and hand (feel to the touch). \*\*\* Revocation of the previous CITA determination would likely reduce demand for U.S.-formed fabric containing the subject yarns and, in turn, could adversely affect Swift Galeley, Atlanta, GA, the U.S. producer of the fabric, and its workers. (Galey & Lord, the predecessor to Swift Galeley, was the petitioner of record in the previous CITA determination regarding the subject yarns).<sup>6</sup>

## Background

On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).<sup>7</sup> Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2006 with CITA under the commercial availability provisions of the African Growth and Opportunity Act (AGOA), the CBTPA, and the ATPDEA.

## Discussion of the products

The subject yarns are compacted, plied, ring-spun cotton yarns of metric yarn numbers 42 to 102 (25 to 60 English cotton count) and covered by statistical reporting numbers 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, and 5205.47.0020 of the Harmonized Tariff Schedule of the United States (HTS),<sup>8</sup> which provide for multiple (folded) yarn of combed and uncombed fibers (other than sewing thread), containing 85 percent or more by weight of cotton, and not put up for retail sale.<sup>9</sup> The U.S. general rates of duty on such yarns range from 6.5 percent to 12 percent ad valorem, depending on yarn count. The woven cotton trousers, shirts, and blouses made from fabric containing the subject yarns are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are subject to U.S. general rates of duty ranging from 15.4 percent to 19.7 percent ad valorem.

According to the original petition filed in May 2005 by AM&S Trade Service, L.L.C., on behalf of Galey & Lord (predecessor to Swift Galeley),<sup>10</sup> a U.S. fabric producer based in Atlanta, GA, the subject yarns are made on compact ring-spinning frames using a process that avoids the conventional "spinning triangle."<sup>11</sup>

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<sup>6</sup> The previous CITA determination specifies that the fabric containing the subject yarns and used in the production of woven cotton trousers, shirts, and blouses in CBTPA and ATPDEA countries must be made in the United States, regardless of the source of the yarns, in order for the garments to qualify for duty-free treatment under the CBTPA and ATPDEA. See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

<sup>7</sup> For more information on the investigation, see the Commission's website at [www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm).

<sup>8</sup> See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

<sup>9</sup> The HTS calls plied yarns "multiple" or "folded" yarns.

<sup>10</sup> More information on these yarns may be found in *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, "Certain Apparel of Compacted, Plied, Ring Spun Cotton Yarns," USITC Inv. No. 332-465-008, pp. 2-3. Information in this and the following paragraph is from the petition reviewed in the investigation noted in the previous sentence and telephone interviews by Commission staff with Carlos Moore, President, AM&S Trade Service, L.L.C., June 14, 2005, and Jan. 30, 2006; Al Blailock and Dennis Gilrain, Managing Director-Sportswear, Swift Galeley, June 14, 2005, and Feb. 7, 2006; and \*\*\*.

<sup>11</sup> In the conventional ring spinning process, a weak zone known as the "spinning triangle" is formed between the clamping line and the point of twist insertion by the ring spindle. In this zone, outlying fibers may not be fully integrated into the yarn, resulting in protruding fibers or yarn hairiness. The "spinning triangle" is nearly eliminated in the compact spinning process.

During the spinning process, air suction and compaction are used to condense the fibers, causing them to lie closer together and parallel with each other, resulting in a smooth, tight yarn that has less hair between the fibers. The process removes short fibers from the yarn, reduces undesirable yarn hairiness, and increases yarn strength. Fabrics woven with the subject yarns have a lustrous, smooth, look and feel, and increased pilling resistance.

A source representing Swift Galey stated that the firm uses the subject yarns to weave fabrics in the United States and then ships the fabrics to customers that arrange for the fabrics to be cut and sewn into trousers, shirts, and blouses in CBTPA and ATPDEA countries. \*\*\*

NCTO states in its petition for revocation that the subject yarns used by Swift Galey "could be made by methods other than compacting, including methods currently used by U.S. industry to produce large quantities of the conventional yarns with the requested yarn counts."<sup>12</sup> NCTO also expresses concern that CITA's determination that the subject yarns of metric yarn numbers 42 to 102 cannot be supplied by the domestic industry in commercial quantities in a timely manner will set a precedent for CITA to designate compacted yarns of other yarn counts as being commercially unavailable. The NCTO petition states that U.S. yarn producers export yarns to countries participating in U.S. trade preference programs and that designating the subject yarns as commercially unavailable could jeopardize the firms' markets in eligible countries participating in the North American Free Trade Agreement (NAFTA), the proposed CAFTA, and the ATPDEA.

The NCTO petition presents new information--two reports by two different laboratories that compared the appearance of two fabric swatches as well as individual yarns isolated from the fabric swatches, one made of the subject yarns and the other made of conventional ring-spun cotton yarns.<sup>13</sup> In both cases, these independent laboratories reported that when viewing the swatches and yarns under a microscope, there were no noticeable visible physical differences between the two. Neither laboratory tested the samples for differences in physical or performance characteristics.<sup>14</sup>

## **Discussion of affected U.S. industries, workers, and consumers**

### ***Apparel producers***

As in the original review regarding the subject yarns, it appears that the trousers and shirts manufactured domestically are generally produced for the U.S. military or by U.S. companies that make custom products or small quantities of apparel to augment their import lines for replenishment purposes.<sup>15</sup> Most U.S. apparel companies produce or source apparel worldwide, often making the same style garments, for example, in Asian countries, Mexico, and the Caribbean Basin. \*\*\*

Following CITA's determination that the subject yarns are commercially unavailable domestically, several apparel companies and retailers said they have been working with Swift Galey to develop a cost effective sourcing program to produce the specified garments in eligible CBTPA and ATPDEA countries.<sup>16</sup> They indicated that, in the absence of the CITA determination regarding the subject yarns, they would source the fabrics from, and make the garments in, Asia, where the subject yarns are made. Levi Strauss & Co.

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<sup>12</sup> NCTO, petition to CITA, Jan. 6, 2006.

<sup>13</sup> NCTO, petition to CITA, Jan. 6, 2006, Attachments.

<sup>14</sup> Gary R. Gamble, U.S. Department of Agriculture (USDA), Agricultural Research Service, Cotton Quality Research Station, and Sam Buff, Textile Testing Specialist, Center for Applied Textile Technology, telephone interviews by Commission staff, Feb. 6 and Feb. 7, 2006, respectively.

<sup>15</sup> Stephen Lamar, American Apparel & Footwear Association (AAFA), telephone interview by Commission staff, Apr. 26, 2005, and e-mail correspondence to Commission staff, June 14, 2005.

<sup>16</sup> Submissions to CITA from GAP, Inc.; Phillips-Van Heusen Corp.; Perry Ellis International; Levi Strauss & Co.; JCPenney Purchasing Corp.; AAFA; and the U.S. Association of Importers of Textiles and Apparel (USA-ITA).

stated that the use of Swift Galey's U.S.-formed fabrics containing the subject yarns would be an addition to their sourcing strategy and would not displace purchases from any other U.S. fabric sources.<sup>17</sup> GAP, Inc. stated that it plans to market the garments under their Banana Republic and GAP brands and anticipates shifting some production from Asia to the Dominican Republic, which would improve their sourcing efforts and "worldwide balance."<sup>18</sup> Submissions from Perry Ellis International, JCPenney, and Phillips Van-Heusen stated that producing garments of the subject yarns in the Caribbean Basin will enable them to achieve the competitive speed to market advantages needed in today's apparel market.<sup>19</sup> Phillips-Van Heusen stated that it also plans on shifting some future apparel sourcing from Asia to the Caribbean Basin.<sup>20</sup> JCPenney stated that without the short supply designation on the subject yarns, producing the specified garments in the Caribbean Basin would not be cost-effective and that it would be forced to source all these garments from Asia.<sup>21</sup>

Regarding possible substitutes, U.S. apparel companies submitting statements to CITA indicated that trousers, shirts, and blouses made of woven fabrics containing the subject yarns have a better hand, comfort, drape, and appearance on the retail shelf or in the retail store than can be obtained by using any other type of yarn. They consider the subject yarns to be of a higher quality than the conventional yarns and indicated that the fabrics are or will be used in the production of the specified garments in the higher priced segments of their apparel lines. In its submission to CITA, JCPenney indicated that it intends to upgrade its line of 100-percent cotton twill pants and shorts sold under its St. John's Bay brand by using Swift Galey's fabrics of the subject yarns. The submission further stated that the conventional yarns described in NCTO's petition are not acceptable.<sup>22</sup> The submission stated that the choice of fabric is based mostly on customer preference and that the subject yarns provide a better appearance and are more comfortable for consumers. Furthermore, the subject yarns are "unique," woven into a fabric having a "distinct texture, look, feel, and wear characteristics." Phillips-Van Heusen stated that successful marketing of apparel cannot depend upon close substitutes. In the production of its garments, if Phillips-Van Heusen needs "dyed yarns of a specific count, the company cannot and will not accept 'close substitutes.'"<sup>23</sup>

### **Fabric producers**

As in the original review of the petition regarding the subject yarns, the Commission did not identify any U.S. producers of fabrics made from the subject yarns, other than Swift Galey. Since CITA determined that the subject yarns are commercially unavailable, \*\*\*24\*\*\*<sup>25</sup>\*\*\*

\*\*\*26\*\*\*<sup>27</sup>\*\*\* An official of \*\*\*<sup>28</sup>

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<sup>17</sup> Trevor Rhodes, Vice-President, Product Management, Levi Strauss & Co., submission to CITA, Feb. 2, 2006.

<sup>18</sup> Jeff Frye, Vice-President, General Manager, Sourcing & Vendor Development Americas, GAP, Inc., submission to CITA, Jan. 26, 2006.

<sup>19</sup> Karen Driks, Vice-President Merchandising, Bottoms Division, Perry Ellis International, submission to CITA, Feb. 2, 2006, p. 1.

<sup>20</sup> Ted Sattler, Group Executive Vice President, Foreign Offices, Phillips-Van Heusen Corp., submission to CITA, Feb. 3, 2006, p. 1.

<sup>21</sup> Peter M. McGrath, Chairman, JCPenney Purchasing Corp., submission to CITA, Feb. 1, 2006, pp. 1-2.

<sup>22</sup> *Ibid.*, p. 1.

<sup>23</sup> Ted Sattler, Group Executive Vice-President, Foreign Offices, Phillips-Van Heusen Corp., submission to CITA, Feb. 3, 2006, pp. 1-2.

<sup>24</sup> Information in this paragraph is from telephone interviews by Commission staff with \*\*\*

<sup>25</sup> \*\*\*

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<sup>27</sup> \*\*\*

<sup>28</sup> \*\*\*

\*\*\*29

Regarding possible substitutable yarns, \*\*\*30 A source representing Swift Galey stated that the subject yarns in fabrics used in the specified garments differentiates the apparel in the retail market place as the garments have a more brilliant color, sharper prints, a sheen or luster, and in general, a better appearance on retail displays, as well as a softer hand or feel than garments made of the conventional yarns. He said product differentiation is a primary tool in today's highly competitive apparel market and cited examples of existing research that documents "the differences between the subject yarns and the conventional yarns."<sup>31</sup>

**Yarn producers**

The Commission could not identify any U.S. production of the subject yarns, and the information available indicates that there is limited capacity to produce such yarns domestically. \*\*\*32\*\*\*33\*\*\*34

In its submission to CITA, Buhler Quality Yarns Corp., Jefferson, GA,<sup>35</sup> a domestic manufacturer of high-quality yarns, including fine-count, combed ring-spun yarns, stated that conventional yarns made with extra-long staple fibers look, feel, and have performance characteristics "on par" with the subject yarns.<sup>36</sup> \*\*\*37 The siro spun yarns have "excellent yarn strength, a smooth yarn surface, minimal hairiness and an especially round yarn cross section;" characteristics similar to the subject yarns.<sup>38</sup> This official believes that the performance of fabrics made of these two types of conventional yarns "surpasses" that of fabrics made with the subject yarns.<sup>39</sup> He explained that today's subject yarns are made of lower grade cotton or shorter staple cotton, which leads to lower wash and wear performance. This assertion was refuted by \*\*\*40. The Buhler official further stated that Buhler has the domestic capacity to supply Swift Galey with the conventional yarns.<sup>41</sup>

\*\*\*42\*\*\*

An official of R. L. Stowe Mills, Inc., Belmont, NC, stated that it produces 300,000 pounds of conventional yarn, per week, which have a "higher strength and improved fabric appearance because of the combing and plying processes."<sup>43</sup> He stated that the firm produces conventional yarns for use in jacquard woven fabrics for upholstery, bed and bath textile products, and hosiery—all important textile products that are still produced domestically." He stated that the substitutability of the conventional yarns for the subject yarns depends on many variables and that the subject yarns may be inferior, equal, or better in quality than the conventional ring-spun yarns produced by Stowe depending on the quality of fibers used. He concluded that the "term compact does not differentiate the product." . . . . .

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31 Carlos Moore, President, AM&S Trade Service, L.L.C., submission to CITA, pp. 2-3.

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33 \*\*\*

34 \*\*\*

35 A subsidiary of Hermann Buhler AG (Switzerland).

36 Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns Corp., submission to CITA, Feb. 3, 2006, p. 3.

37 \*\*\*

38 Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns Corp., submission to CITA, Feb. 3, 2006, p. 2.

39 Ibid., p. 3.

40 \*\*\*

41 Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns, Corp., submission to CITA, Feb. 3, 2006, p. 6.

42 \*\*\*, e-mail to Commission staff, Feb. 3, 2006.

43 Information in the paragraph is from D. Harding Stowe, President and CEO, R. L. Stowe Mills, Inc., submission to CITA, Feb. 3, 2006.

Both \*\*\* and the Stowe officials cited the lab tests included in NCTO's petition as evidence that the subject yarns and the conventional yarns are undistinguishable in appearance.

An official of Parkdale Mills, a large U.S. yarn spinner, stated that you cannot tell the difference between the subject yarns and the conventional yarns, especially when the yarns are 2-plyed.<sup>44</sup> \*\*\*<sup>45</sup>\*\*\* Parkdale's submission to CITA stated that extra long staple fiber must be used to achieve the full benefit of compacting yarns and that most of the subject yarns used today are typically not made with extra long staple cotton fibers.<sup>46</sup>

\*\*\*47\*\*\*

A study by Cotton Incorporated stated that using the subject yarns can result in a softer hand, smoother appearance, and better wear than the conventional yarns, but may be more expensive than the conventional yarns.<sup>48</sup>

A study by the Department of Spinning Technology and Yarn Structure, Technical University of Lodz, Poland, determined that the subject yarns have better smoothness, higher luster, less hairiness, and greater tenacity and elongation than the conventional yarns.<sup>49</sup>

#### **Probable economic effect advice<sup>50</sup>**

The Commission could not identify any U.S. production of the subject yarns. Regarding substitutability of the conventional yarns for the subject yarns, industry, trade, and academic sources generally suggest that the subject yarns possess different physical properties that result in fabrics with a different look, feel, and performance than fabrics made of the conventional yarns. The apparel companies and retailers, the potential consumers of U.S. woven fabrics made of the subject yarns, stated that the use of the subject yarns, not the use of the conventional yarns, would impart characteristics to the finished garments that they require in terms of surface appearance, durability, and hand (feel to touch). These apparel companies and retailers indicated that rather than substitute the U.S.-made conventional yarns for the subject yarns if CITA revokes its determination, they will continue or begin producing the specified garments in Asia where the subject yarns are available. Further, some of the apparel companies stated that the specified garments made in CBTPA and ATPDEA countries must have the same characteristics as those made in Asia, where production of the subject yarns occurs, because the garments from both continents are sold side-by-side at retail. Therefore, revoking the trade preferences would likely have no effect on U.S. producers of the conventional yarns.

Revocation of the previous CITA determination would likely reduce demand for U.S.-formed fabric containing the subject yarns and, in turn, could adversely affect Swift Galey, Atlanta, GA, the U.S.

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<sup>44</sup> Anderson D. Warlick, Parkdale Mills, submission to CITA, Feb. 3, 2006.

<sup>45</sup> \*\*\*

<sup>46</sup> Anderson D. Warlick, Parkdale Mills, submission to CITA, Feb. 3, 2006, p. 2.

<sup>47</sup> \*\*\*

<sup>48</sup> Cotton Incorporated, *Inside Cotton*, "An EliTe Alternative for Higher Quality, Lower Cost Ring Spun Yarns," found at <http://www.cottoninc.com/InsideCotton/EliTeAlternativeRingSpunY>, retrieved Jan. 30, 2006.

<sup>49</sup> Tadeusz Jackoski, Danuta Cyniak, and Jerzy Czekalski, Technical University of Lodz, Faculty of Textile Engineering and Marketing, Department of Spinning Technology and Yarn Structure, "Compact Cotton Yarn," *Fibres & Textiles in Eastern Europe*, Oct./Dec. 2004, pp. 22-26, found at [http://www.fibtex.lodz.pl/48\\_08\\_22.pdf](http://www.fibtex.lodz.pl/48_08_22.pdf), retrieved June 27, 2005.

<sup>50</sup> The Commission's advice is based on information currently available to the Commission.

producer of the fabric, and its workers (Galey & Lord, the predecessor of Swift Galey was the petitioner of record in the previous CITA determination regarding the subject yarns).<sup>51</sup>

Because the subject yarns have been determined not to be commercially available prior to the implementation date for CAFTA, the subject yarns would also be considered not commercially available for purposes of CAFTA<sup>52</sup> and U.S. imports of apparel made in CAFTA countries from the subject yarns would be eligible for duty-free treatment. Under such a scenario, the potential effects on the U.S. industry are unknown, but are likely to be similar to the effects of granting duty-free treatment to U.S. imports of the subject garments from CBTPA and ATPDEA beneficiary countries as many of the major supplying countries are covered under the CAFTA. If the underlying determination in this investigation is revoked, then the above analysis is not applicable.

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<sup>51</sup> The previous CITA determination specifies that the fabric containing the subject yarns and used in the production of woven cotton trousers, shirts, and blouses in CBTPA and ATPDEA countries must be made in the United States, regardless of the source of the yarns, in order for the garments to qualify for duty-free treatment under the CBTPA and ATPDEA. See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

<sup>52</sup> CAFTA, Chapter Three, National Treatment and Market Access for Goods, Article 3.25: Rules of Origin and Related Matters, 4(e). As of the preparation of this report, the implementation of CAFTA has not been announced.



# Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-473-002

<b>Products</b>	Certain apparel of yarn-dyed flannel fabrics
<b>Requesting Parties</b>	BWA, Inc., New York, NY
<b>Date of Commission Report:</b> USTR Public	March 21, 2006 March 2006
<b>Commission Contact</b>	Jeff Clark (202-205-3318, jeffrey.clark@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON MARCH 21, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings<sup>1</sup>

The fabrics named in the petition filed by BWA with the Committee for the Implementation of Textile Agreements (CITA) in February 2006, and under review in this report, are similar to those named in several petitions filed with CITA during 2003-05.<sup>2</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of woven shirts, blouses, and dressing gowns made in eligible Caribbean Basin countries from the subject flannel fabrics, regardless of the source of such fabrics, would not likely have an effect on U.S. apparel, fabric, and yarn producers and their workers. The Commission is unaware of any domestic production of either the subject apparel products containing the specified flannel fabrics or other apparel that is directly substitutable for the subject products. The Commission is also unaware of any domestic production of the subject flannel fabrics. The proposed action would likely benefit U.S. firms making woven shirts, blouses, and dressing gowns in eligible Caribbean Basin countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

### Background

On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment to apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2006 with CITA under the "commercial availability" provisions of the African Growth

<sup>1</sup> \*\*\*, telephone interview by Commission staff, Mar. 8, 2006.

<sup>2</sup> For information on the CITA's decisions regarding the 2003-05 petitions, see the *Federal Register* of July 29, 2003 (68 F.R. 44528); Apr. 21, 2004 (69 F.R. 21500); May 6, 2004 (69 F.R. 26077); Nov. 30, 2004 (69 F.R. 69588); Dec. 27, 2004 (69 F.R. 77231); and Aug. 12, 2005 (70 F.R. 47180).

and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).<sup>3</sup>

The Commission's advice in this report relates to a petition received by CITA on February 7, 2006, alleging that certain woven flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim as eligible for preferential treatment the subject apparel made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>4</sup>

### Discussion of the product

The petition states that the subject fabrics are classified in subheading 5208.43.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics of cotton, containing 85 percent or more by weight of cotton, weighing not more than 200 grams per square meter, of dyed yarns of different colors, in a 3-thread or 4-thread twill construction. The U.S. general rate of duty on fabrics classified in this subheading is "free." The specifications for the subject fabrics are listed below. The fabrics are used in woven shirts, blouses, and dressing gowns. These apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted) and subject to U.S. general rates of duty ranging from 6.1 to 19.7 percent ad valorem.

Subject fabric specifications:

Fiber Content:	100% cotton
Weight:	98 - 150 g/m <sup>2</sup>
Thread Count:	39 - 66 warp ends per centimeter; 27 - 39 filling picks per centimeter;
Yarn Number:	84 - 86 metric warp and filling, ring spun, combed;
Weave:	3- or 4-thread twill;
Finish:	Of yarns of different colors; plaids, checks and stripes, napped on both sides, and pre-shrunk.

The petitioner, BWA, New York, NY, produces and markets branded and private-label apparel for men, women, and children, \*\*\*.<sup>5</sup> BWA plans to import the subject fabric into a CBTPA beneficiary country for use in the manufacture of woven shirts, blouses, and dressing gowns, which will then be exported to the United States.<sup>6</sup>

Woven shirts, blouses, and dressing gowns made from the subject fabrics generally compete in the higher end of the retail market. According to the petitioner, the apparel will be sold in retail outlets such as \*\*\* with items such as shirts and blouses selling for \$\*\*\* each.<sup>7</sup>

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<sup>3</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Mar. 3, 2006 (71 F.R. 10992) and consult the Commission's website at [www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm).

<sup>4</sup> The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

<sup>5</sup> \*\*\*, telephone interview by Commission staff, Mar. 13, 2006.

<sup>6</sup> \*\*\*, telephone interview by Commission staff, Mar. 13, 2006.

<sup>7</sup> \*\*\*, telephone interview by Commission staff, Mar. 13, 2006.



## **Discussion of affected U.S. industries, workers, and consumers<sup>8</sup>**

### ***Apparel producers***

The Commission is unaware of any U.S. production of apparel of the subject flannel fabrics or any U.S. production of apparel that would be directly substitutable for the subject products.

A representative for the apparel industry stated that \*\*\*.<sup>9</sup> A representative of L.L. Bean, a retailer, stated that she is unaware of any domestic flannel apparel production and that \*\*\*.<sup>10</sup>

### ***Yarn and fabric producers***

The Commission is unaware of any U.S. producers of the subject flannel fabrics or of the yarn used to make them.<sup>11</sup>

Among U.S. fabric mills, a representative of Wade Mfg Co., Wadesboro, NC, said that Wade is the largest U.S. producer of cotton flannel fabrics, but it does not make the subject fabrics \*\*\*.<sup>12</sup> He noted that the firm makes flannel from open-end spun yarns rather than ring-spun yarns and that apparel flannel \*\*\*.<sup>13</sup> Other firms producing flannel fabrics (Carolina Mills, Maiden, NC, and Avondale Mills, Graniteville, SC) make only heavier-weight flannel and only from undyed yarns.<sup>14</sup>

### **Views of interested parties**

No written submissions were filed with the Commission.

### **Probable economic effect advice<sup>15</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of woven shirts, blouses, and dressing gowns made in eligible CBTPA countries from the subject fabrics, regardless of the source of such fabrics, would not likely have an effect on a domestic industry or its workers, because there is no known U.S. production of apparel items of the subject fabrics, of the subject fabrics, or of yarns used to make the fabrics. In addition, there appears to be no U.S. production of other apparel products that could be considered substitutable for those made of the subject fabrics. Most flannel apparel imported into the U.S. market is sold at lower price points than the majority of products made of the subject fabrics. To the extent that apparel made from the subject fabrics is substitutable for apparel sold in the United States, it likely would displace imports because imports supply most of this U.S. market.

The proposed preferential treatment would likely benefit U.S. consumers of apparel made of the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. It would also likely benefit U.S. firms, if any, that make the subject apparel in eligible CBTPA countries and their U.S.-based workers.

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<sup>8</sup> In general, the manufacturing progression for textiles is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

<sup>9</sup> \*\*\*, telephone interview by Commission staff, Dec. 28, 2005.

<sup>10</sup> \*\*\*, telephone interview by Commission staff, Mar. 13, 2006.

<sup>11</sup> \*\*\*.

<sup>12</sup> \*\*\*, telephone interview by Commission staff, Mar. 10, 2006.

<sup>13</sup> \*\*\*, telephone interview by Commission staff, Dec. 7, 2005.

<sup>14</sup> See \*\*\*. \*\*\*, telephone interview by Commission staff, Dec. 16, 2005. \*\*\*, telephone interview by Commission staff, Mar. 13, 2006.

<sup>15</sup> The Commission's advice is based on information currently available to the Commission.



## Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

### U.S. International Trade Commission Investigation No. 332-473-003

<b>Products</b>	<b>Men's Sweaters of Cotton/Cashmere Blended Yarn</b>
<b>Requesting Parties</b>	<b>Shibani Inwear, Mauritius</b>
<b>Date of Commission Report: USTR Public</b>	<b>April 17, 2006 April 2006</b>
<b>Commission Contact</b>	<b>Vincent DeSapio (202-205-3435, vincent.desapio@usitc.gov)</b>

#### **NOTICE**

**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON APRIL 17, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**

#### **Summary of Findings**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of men's sweaters made in eligible AGOA countries from cotton/cashmere blended yarn, regardless of the source of the yarn, likely would not have an effect on the U.S. apparel and fabric industries and their workers. Industry sources indicate that there is a minimal amount of U.S. production of men's sweaters and no U.S. production of the sweaters using this cotton/cashmere yarn. Industry sources also report that there is little or no U.S. production of full-fashioned men's sweaters—the type produced by the petitioner in Mauritius. These sweaters are knitted to size and shape using the subject yarn; therefore, no knitted fabric producers are involved in the production process. The preferential treatment is likely to have little or no effect on the U.S. yarn spinning industry and its workers. Although there is \*\*\* The proposed action would likely benefit any U.S. firms making men's sweaters in eligible AGOA countries from the subject yarns, and their U.S.-based workers, as well as U.S. consumers.

#### **Background**

On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment to apparel made from fabrics or yarns that are the subject of petitions filed with CITA by interested parties in 2006 with CITA under the "commercial availability" provisions of the African Growth

and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).<sup>1</sup>

The Commission's advice in this report relates to a petition received by CITA on March 6, 2006, alleging that a certain cotton/cashmere blended yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for men's sweaters under the AGOA, regardless of the source of the yarn.<sup>2</sup>

### Discussion of the product

The subject yarn is a combed, ring-spun yarn made of a blend of 92-percent cotton and 8-percent cashmere by weight and is classified in the Harmonized Tariff Schedule of the United States (HTS) under subheading 5205.42.00 (statistical reporting number 5205.42.0020), which provides for cotton yarn, containing 85 percent or more by weight of cotton, not put up for retail sale. The U.S. general rate of duty on yarns classified in this subheading is 6.5 percent ad valorem. According to the petition, using 12 gauge flat bed knitting machines, the yarn is used to produce a range of long sleeve men's sweaters. These sweaters are classified in HTS chapter 61 (apparel, knitted or crocheted) under HTS subheading 6110.20.20 (statistical reporting number 6110.20.2010) and subject to a 2006 U.S. general rate of duty of 16.5 percent ad valorem.

The petitioner, Shibani Inwear,<sup>3</sup> will source the yarns from Singex of China<sup>4</sup> and the sweaters will be knitted, assembled, and packaged in Mauritius. The subject yarn is described in the petition as a 2/32s Nm (metric number), with a "resultant count" or an average yarn count in metric terms of 16Nm. This figure converts to an average yarn number in the English system of 9.2 ecc (English cotton count).

Shibani Inwear plans to produce the subject cotton/cashmere sweaters for its client, the Target Corporation, United States. The subject sweaters are knit on fully fashioned flat bed knitting machines. The panels of the subject sweaters are "knitted to the correct measurements and are simply sewn together."<sup>5</sup> This type of knitting is also known as full-fashion knitting.<sup>6\*\*\*7\*\*\*8</sup> Shibani has "confirmed orders from Target for 100,000 garments, which will require 50,000 kilograms (kgs) of yarn."<sup>9</sup>

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<sup>1</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Mar. 3, 2006 (71 F.R. 10992) and consult the Commission's website at [www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm).

<sup>2</sup> The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

<sup>3</sup> Shibani Inwear is a wholly owned Mauritian company with a work force of 1,450 employees. The company utilizes 220 electronic flat bed knitting machines and its manufacturing includes sewing, dyeing, packing, and finishing, all in Mauritius.

<sup>4</sup> The petitioner \*\*\* Alan Fellingham, Shibani Inwear, e-mail to Commission staff, Mar. 28, 2006.

<sup>5</sup> \*\*\* e-mail to Commission staff, Mar. 31, 2006.

<sup>6</sup> \*\*\* e-mail to Commission staff, Mar. 28, 2006.

<sup>7</sup> CIF is cost, insurance, and freight, and as used above, means the price of the yarn includes the cost, insurance, and freight into Mauritius.

<sup>8</sup> \*\*\* e-mail to Commission staff, Mar. 28, 2006.

<sup>9</sup> Shibani Inwear, "Ref. Commercial Availability Request Under African Growth and Opportunity Act (AGOA) Short Supply-Textiles-Cotton/Cashmere Yarn," petition to CITA, March 2006, p. 2.

## **Discussion of affected U.S. industries, workers, and consumers**

### ***Apparel producers***

Interviews with U.S. spinning mills that have spun cotton/cashmere blended yarns in the past failed to reveal any apparel producers that manufacture men's sweaters using the subject and similar yarns.<sup>10</sup> A representative of the American Apparel and Footwear Association (AAFA) stated that, in general, most U.S. apparel production is by U.S. firms producing custom orders or small quantities of apparel to augment their import lines for replenishment purposes or for the U.S. military.<sup>11</sup> \*\*\*<sup>12</sup>\*\*\*

### ***Fabric producers***

No knitted fabric producers are involved in the production process, as the subject full-fashioned sweaters are knitted to size and shape. Further, no U.S. knitted fabric producers were identified which produce substitutable fabrics for use in the domestic production of men's sweaters by any process.

### ***Yarn producers***

Originally two U.S. yarn spinners—Tuscarora Yarns, Mt. Pleasant, NC, and North Carolina Spinning Mills, Lincolnton, NC,—stated that \*\*\* During the course of this review, \*\*\*<sup>13</sup>

A representative of North Carolina Spinning Mills, a specialty yarn producer, stated that \*\*\*<sup>14</sup>\*\*\*<sup>15</sup>

Parkdale Mills, Gastonia, NC, does not make the subject cotton/cashmere blended yarn and \*\*\*<sup>16</sup> Buhler Quality Yarn Corp., Jefferson, GA, does not spin the subject blended yarn.<sup>17</sup> In addition, Avondale Mills, Monroe, GA, does not produce the subject yarn and \*\*\*<sup>18</sup>

## **Views of interested parties**

No written submissions were filed with the Commission.

## **Probable economic effect advice<sup>19</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of men's sweaters made in eligible AGOA countries from the subject yarn, regardless of the source of such yarn, is not likely to have an effect on the domestic apparel industry or its workers, because there is currently no known U.S. production of men's sweaters of the subject yarn or of men's sweaters that might be substitutable for the subject sweaters. Interviews with industry sources failed to reveal any apparel producers that may manufacture men's sweaters of the subject yarn. In addition, there is reportedly \*\*\*<sup>20</sup> To the extent that

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<sup>10</sup> \*\*\* telephone interview by Commission staff, Mar. 14, 2006.

<sup>11</sup> Stephen Lamar, AAFA, telephone interview by Commission staff, Apr. 2006.

<sup>12</sup> \*\*\* telephone interview by Commission staff, Apr. 4, 2006.

<sup>13</sup> \*\*\* telephone interview by Commission staff, Apr. 4, 2006.

<sup>14</sup> Information in this paragraph is from \*\*\*, telephone interviews by Commission staff, Mar. 21 and 30, 2006.

<sup>15</sup> \*\*\*

<sup>16</sup> \*\*\* telephone interview by Commission staff, Mar. 14, 2006.

<sup>17</sup> \*\*\* telephone interview by Commission staff, Mar. 15, 2006.

<sup>18</sup> \*\*\* telephone interview by Commission staff, Mar. 15, 2006.

<sup>19</sup> The Commission's advice is based on information currently available to the Commission.

<sup>20</sup> \*\*\* telephone interview by Commission staff, Apr. 4, 2006.

men's sweaters made from the subject yarn are substitutable for men's sweaters sold in the United States, it likely would displace imports because imports appear to account for virtually all of this U.S. market.

The preferential treatment is likely to have little or no effect on the U.S. yarn spinning industry and its workers. \*\*\*21\*\*\*

The proposed preferential treatment would likely benefit U.S. consumers of apparel made of the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. It likely would also benefit any U.S. firms that make the subject apparel in eligible AGOA countries and their U.S.-based workers.



## Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

### U.S. International Trade Commission Investigation No. 332-473-004

<b>Products</b>	Apparel containing lace fabrics of synthetic yarns
<b>Requesting Parties</b>	Encajes S.A., Bogota, Colombia
<b>Date of Commission Report: USTR Public</b>	April 20, 2006 April 2006
<b>Commission Contact</b>	Vince DeSapio (202-205-3435, vincent.desapio@usitc.gov)

#### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON APRIL 17, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

#### Summary of Findings

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of apparel made in eligible Andean countries and containing lace fabrics of the subject yarns, regardless of the source of the yarns, would likely have little or no effect on U.S. apparel, fabric, and yarn producers or their workers. The Commission is unaware of any U.S. producers of apparel or fabrics that contain the subject yarns or that are directly substitutable for the subject goods. The garments are specialty items sold in niche segments of the U.S. apparel market. The Commission is also unaware of any firms producing the subject yarns in the United States. Two firms said they could supply a nylon yarn that is similar to one of the subject nylon yarns, but that the quantity needed by the petitioner is very small. The proposed action would likely benefit U.S. firms that make apparel containing lace fabrics of the subject yarns in eligible Andean countries, and their U.S.-based workers, as well as U.S. consumers.

#### Background

On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment to apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2006 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).<sup>1</sup>

<sup>1</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Mar. 3, 2006 (71 F.R. 10992) and consult the Commission's website at [www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm).

The Commission's advice in this report relates to a petition received by CITA on March 9, 2006, alleging that certain yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim duty-free treatment under the ATPDEA for apparel containing lace fabrics of the subject yarns, regardless of the source of the yarns.<sup>2</sup>

### **Discussion of the product**

The petition states that the subject yarns are used in lace fabrics for apparel and are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheadings providing for certain metalized textile yarn (5605.00.10) and certain plied synthetic filament yarn (other than sewing thread), not put up for retail sale, of nylon (5402.31.60) or of polyesters (5402.62.00). Lace fabrics of the subject yarns can be used in numerous apparel articles, including women's lingerie classified in HTS chapter 61 (apparel, knitted or crocheted).<sup>3</sup> Such lingerie is subject to a U.S. general duty rate of 14.9 percent ad valorem.

The petitioner, Encajes, S.A., Bogota, Colombia, makes lace fabrics at its facilities in Colombia.<sup>4</sup> The petitioner states that it will source the yarns from Mexico, Brazil, Taiwan, Spain, France, Germany, Italy, and Japan (the yarn specifications are shown in the following tabulation). The petitioner also states that the apparel articles will be made in Colombia.

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<sup>2</sup> The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

<sup>3</sup> If CITA designates the specified apparel as eligible for ATPDEA duty-free entry, all other yarns used in the apparel must be U.S. formed and all other fabrics used must be U.S. formed from U.S. yarns, subject to the special rules for findings and trimmings, certain interlinings, and de minimis fibers and yarns under sec. 204(b)(3)(B)(vi) of ATPDEA.

<sup>4</sup> Information on the petitioner, which makes lace, curtain panels, lace tablecloths, and curtain fabric, is from the petition, its website (<http://www.encajes.com>), and e-mail correspondence with Commission staff.

<b>Yarn specifications</b>			
<b>HTS No.</b>	<b>Fiber content</b>	<b>Yarn features</b>	<b>Yarn size</b>
Yarn 1 5605.00.10	100% metallic covered in polyester <sup>1</sup>	Flat, non-textured; in silver or gold color	25 microns, unginped, and untwisted or with twist of less than 5 turns per meter
Yarn 2 5402.62.00	100% cationic <sup>2</sup> polyester	Flat, non-textured; bright luster; trilobal cross-section <sup>4</sup>	305 decitex, 96 filaments, plied, with 120 twists in "S" <sup>3</sup> by meter
Yarn 3 5402.62.00	100% cationic <sup>2</sup> polyester	Flat, non-textured; bright luster; trilobal cross-section <sup>4</sup>	78 decitex, 48 filaments, plied, with 120 twists in "S" <sup>3</sup> by meter
Yarn 4 5402.31.60	100% polyamide 6.6 high-tenacity nylon <sup>5</sup>	Textured; bright luster; trilobal cross-section <sup>4</sup>	312 decitex, 102 filaments, plied, with 450 twists in "S" <sup>3</sup> by meter

<sup>1</sup> HTS heading 5605 covers yarn consisting of any textile material combined with metal thread or strip and yarn of any textile material covered with metal by any other process (the subject yarn has a shiny metallic surface).

<sup>2</sup> Refers to polyesters that have been modified chemically to make them receptive to cationic dyes.

<sup>3</sup> A yarn can be twisted to form either an "S" twist (twisted in the clockwise direction) or a "Z" twist (twisted in the counterclockwise direction).

<sup>4</sup> The trilobal fibers used in the subject yarns each have three lobes, which help to reflect more light and give an attractive sparkle to the finished goods.

<sup>5</sup> The CITA notice states that this textured nylon yarn is a "high-tenacity" nylon yarn ("tenacity" is the amount of force needed to break a yarn). While textured nylon yarn is used in apparel, high-tenacity nylon yarn is normally used in industrial goods such as tire cord fabric and as a reinforcement in automotive and appliance belts. A trade source indicated that the use of the term "high-tenacity" in the petition likely refers--incorrectly--to the high number of twists incorporated into the nylon yarn.

## **Discussion of affected U.S. industries, workers, and consumers**

### ***Apparel producers***

The Commission was unable to locate any U.S. producers of apparel containing lace fabrics of the subject yarns. Any U.S. production of such apparel is likely to consist of specialty goods made in small quantities and sold in niche segments of the U.S. apparel market.

### ***Fabric producers***

Commission staff contacted four U.S. producers identified by industry officials as possible sources of the lace fabrics. Two of the mills (Beverly Knits and Alamac Knit Fabrics)<sup>5</sup> said they do not make the fabrics;

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<sup>5</sup> Telephone interviews by Commission staff with \*\*\*, Mar. 23 and 28, 2006, respectively.



## **Yarn producers**

Commission staff contacted U.S. yarn producers identified in the petition and by other industry officials as possible sources of the subject yarns, but none of them stated that they make the metallic textile yarns (yarn 1 in the tabulation above), the cationic polyester yarns (yarns 2 and 3), or the 100-percent polyamide 6.6 nylon yarns (yarn 4). Only with respect to yarn 4 did several firms indicate an interest. An official of INVISTA (formerly DuPont Textiles & Interiors), Wichita, KS, said the firm can supply yarn 4, but not with the required number of twists specified in the petition.<sup>6</sup> The INVISTA official said the firm would likely not oppose the petition because the subject nylon yarn (yarn 4) does not compete in the firm's major markets and because the yarn requirements of the petitioner are very small and likely to remain so because of the specialty nature of the yarn. The INVISTA official stated that the characterization of yarn 4 in the petition as a "high-tenacity" nylon yarn is not consistent with U.S. industry practice; she said the tenacity being referred to in the petition likely relates to the high number of twists in the yarn, rather than a characteristic imparted by any drawing (stretching) process.

An official of Unifi, Inc., Greensboro, NC, the principal U.S. producer of textured synthetic yarn,<sup>7</sup> said Unifi can supply yarn 4, but is unable to twist the nylon as specified in the petition. She said the yarn needs of the petitioner as specified in the petition are likely to be too small to interest U.S. yarn producers that might be capable of making the nylon yarn. However, she expressed concern that if the petition is approved, apparel manufacturers in Colombia might expand production of garments containing lace fabrics of the subject nylon yarn (yarn 4) and require large volumes of yarn that U.S. producers would want to supply.

An official of Premier Fibers Corp., Ansonville, NC, said the firm does not make the subject yarns, but does make nylon fibers of a kind used to produce the 100-percent polyamide 6.6 nylon yarn (yarn 4).<sup>8</sup> Nylstar, Inc., High Point, NC, makes 6.6 high-tenacity nylon yarns, but not in the yarn sizes specified in the petition.<sup>9</sup> An official of Nan Ya Plastics, Lake City, SC, said the firm makes nylon and polyester yarns for apparel uses, but it cannot make the yarns named in the petition.<sup>10</sup> An official of \*\*\* no longer makes synthetic yarn since it closed its \*\*\* plant in 2005.<sup>11</sup> Other yarn mills contacted by Commission staff that stated they do not make the subject yarns for apparel uses include \*\*\*.<sup>12</sup>

## **Views of interested parties**

No written submissions were filed with the Commission.

## **Probable economic effect advice<sup>13</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of apparel made in eligible ATPDEA countries and containing lace fabrics of the subject yarns, regardless of the source of the yarns, would likely have little or no effect on U.S. apparel, fabric, and yarn producers or their workers. The Commission is unaware of any U.S. producers of apparel or fabrics that contain the subject yarns or that are directly substitutable for the subject goods.

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<sup>6</sup> Mary Vane, INVISTA, telephone interviews by Commission staff, Mar. 23, and Apr. 7 and 11, 2006.

<sup>7</sup> Information on Unifi is from Jane L. Johnson, Government Relations Manager, Unifi, Inc., written submission to CITA, Mar. 29, 2006, and a telephone interview by Commission staff, Mar. 29, 2006.

<sup>8</sup> John Ammirtharaj, President Premier Fibers, Ansonville, NC, telephone interview by Commission staff, Mar. 22, 2006.

<sup>9</sup> Sunny Walker, President, Nylstar, Inc., High Point, NC, telephone interviews by Commission staff, Mar. 17 and Apr. 7, 2006.

<sup>10</sup> \*\*\*, telephone interview by Commission staff, Mar. 17, 2006.

<sup>11</sup> \*\*\*, telephone interview by Commission staff, Apr. 5, 2006.

<sup>12</sup> Telephone interviews by Commission staff with \*\*\*.

<sup>13</sup> The Commission's advice is based on information currently available to the Commission.

The Commission is also unaware of any firms producing the subject yarns in the United States. Two firms said they could supply nylon yarn that is similar to the subject 100-percent polyamide 6.6 nylon yarn (yarn 4), but without the required number of twists specified in the petition. However, the quantity of the subject nylon yarn required annually by the petitioner as stated in the petition is likely to be too small to interest U.S. yarn producers that might be capable of making the nylon yarn. The apparel articles containing lace fabrics of the subject nylon yarn are specialty items of a kind sold in small quantities in niche segments of the U.S. apparel market.

The proposed preferential treatment would likely benefit U.S. consumers of the specified apparel articles to the extent that importers pass on some of the duty savings to retail consumers. It would also likely benefit U.S. firms, if any, that make the apparel articles in eligible ATPDEA countries, and their U.S.-based workers.

**APPENDIX A**  
**REQUEST LETTER FROM THE UNITED**  
**STATES TRADE REPRESENTATIVE**

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EXCERPT  
NUMBER

2472

Office of the  
Secretary  
U.S. Trade Commission

EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

2006 FEB 22 / February 16, 2006

The Honorable Stephen Koplan  
Chairman  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Dear Chairman Koplan:

This letter requests that the U.S. International Trade Commission (Commission) initiate its sixth annual "umbrella" investigation under section 332 of the Tariff Act of 1930 to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed in 2006 with the Committee for the Implementation of Textile Agreements under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and/or the Andean Trade Promotion and Drug Eradication Act (ATPDEA). This letter supersedes previous requests on this matter.

Please conduct this investigation on the same terms as the Commission employed in such investigations in 2005 and prior years.

We do not anticipate that the information and analysis contained in the Commission's report and working papers will concern economic matters relating to the national security as specified in Executive Order 12958, as amended. If, however, the Commission believes that the information or analysis developed in connection with its advice could raise national security issues, we ask that the Commission bring such information or analysis to USTR's attention. In such case, a USTR official with original classification authority will provide you with written instructions.

I would again like to thank the Commission and its staff for the excellent work and analysis that have gone into the Commission's reports on commercial availability petitions to date. We greatly appreciate the Commission's assistance in this matter.

Sincerely,

  
Rob Portman

**APPENDIX B**  
**FEDERAL REGISTER NOTICE**

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**NEW MEXICO****Bernalillo County**

New Mexico Madonna of the Trail, (Route 66 through New Mexico MPS) Jct. of Marble Ave. and 4th St., Albuquerque, 06000151

**Cibola County**

Bowlin's Old Crater Trading Post, (Route 66 through New Mexico MPS) 7650 Frontage Rd., Bluewater, 06000150

**Dona Ana County**

Bentley, L.B., General Merchandise, 16125 Old Organ Main St., Organ, 06000155

**McKinley County**

Cousins Bros. Trading Post, 768 A-D Cousins Rd., Chi Chil Tah, 06000153

**Quay County**

Cactus Motor Lodge, 1316 E. Tucumcari Blvd., Tucumcari, 06000154

**Taos County**

Beimer, Bernard J., House, 215 Beimer Ave., Taos, 06000156

**NEW YORK****Madison County**

Oneida Lake Congregational Church, 2508 NY 31, Oneida Lake, 06000159  
Spirit House, NY 26, Georgetown, 06000160

**Nassau County**

Cock—Cornelius House, 34 Birch Hill Rd., Locust Valley, 06000157

**Suffolk County**

Congregation Tifereth Israel Synagogue, 519 Fourth St., Greenport, 06000161  
Tuthill, Jesse and Ira, House, Main Rd. and Cardinal Dr., Mattituck, 06000158

**VIRGINIA****Southampton County**

Vaughan, Rebecca, House, 26315 Heritage Ln., Courtland, 06000162

**WASHINGTON****Pierce County**

MV KALAKALA (ferry), Hulebos Creek Waterway, 1801 Taylor Way, Tacoma, 06000177

**Spokane County**

Nettleton's Addition Historic District, Area bounded by W. Summit, Mission, N Summit, A St. Bridge, and Chestnut, Spokane, 06000176  
Richardson—Jackson House, 1226 N. Summit Blvd., Spokane, 06000178

**WEST VIRGINIA****Berkeley County**

Evans, John, House, 2298 Winchester Ave., Martinsburg, 06000168  
Marlowe Consolidated School, 9580 Williamsport Pike, Marlowe, 06000169  
Miller Tavern and Farm, E side Golf Course Rd., Martinsburg, 06000167  
Newcomer Mansion, 1735 Douglas Grove Rd., Martinsburg, 06000170  
Scrabble Historic District, Scrabble Rd. and Dam No. 4 Rd., Scrabble, 06000171

Snodgrass Tavern (Boundary Increase), Hedgesville Rd., WV 9, W of Hedgesville, Hedgesville, 06000172  
Strode—Morrison—Tabler House and Farm, 1270 Jacobs Rd., Hedgesville, 06000173

**Jefferson County**

Elmwood-on-the-Opequon, 3898 Sulphur Springs Rd., Kearneysville, 06000165

**Kanawha County**

Downtown Charleston Historic District, Roughly bounded by Washington St. E, Leon Sullivan Way, Knawha Blvd. and Summers St., Charleston, 06000166

**Lewis County**

May—Kraus Farm, 3052 Crooked Run Rd., Alum Bridge, 06000175

**Ohio County**

Lang—Hess House, 1625 Wood St., Wheeling, 06000174

**Raleigh County**

Sophia Historic District, Main St., bet. Polk St. and Riffe St., Sophia, 06000163

**Randolph County**

Wees Historic District, Generally bounded by Randolph and S. Randolph Aves., Sycamore St., Diamond St. and Boundary and Terrace Aves., Elkins, 06000164

A request for removal has been made for the following resource:

**LOUISIANA****St. Landry Parish**

MacLand Plantation House 3.4 mi. N of Washington on LA 10 Washington vicinity, 80004322

[FR Doc. E6-2999 Filed 3-2-06; 8:45 am]

**BILLING CODE 4312-51-P**

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 332-473]

**Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel From Sub-Saharan African, Caribbean Basin, and Andean Countries**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation.

**DATES:** *Effective Date:* February 27, 2006.

**SUMMARY:** Following receipt of a request from the United States Trade Representative (USTR) dated February 16, 2006, the Commission instituted its sixth annual investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19

U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment to apparel made from fabrics or yarns that are the subject of petitions filed in 2006 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). The Commission conducted similar investigations in the years 2001-05 to provide advice with respect to petitions filed in those years.

*Background:* The Commission will follow procedures similar to those followed in the commercial availability reviews in 2005 under investigation No. 332-465. Thus, in 2006, the Commission will provide advice for each commercial availability review under one investigation number. The Commission will post a notification letter announcing the initiation of each review on its Internet site (<http://www.usitc.gov>) and send the notification letter to a list of interested parties who wish to be automatically notified about any requests for which the Commission initiates analysis. Interested parties may be added to this list by notifying Jackie W. Jones (202-205-3466, [jackie.jones@usitc.gov](mailto:jackie.jones@usitc.gov)) or Heidi Colby-Oizumi (202-205-3391, [heidi.colby@usitc.gov](mailto:heidi.colby@usitc.gov)). The notification letter will specify the article(s) under consideration, the deadline for submission of public comments on the proposed preferential treatment, and the name, telephone number, and Internet e-mail address of a staff contact for additional information. The Commission has a special area on its Internet site ([http://www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm)) to provide the public with information on the status of each request for which the Commission initiated analysis. CITA publishes a summary of each request from interested parties in the **Federal Register** and posts them on its Internet site (U.S. Department of Commerce, Office of Textiles and Apparel, at <http://otexa.ita.doc.gov/fr.htm>).

The Commission will submit its reviews to the USTR not later than the 42nd day after receiving a request for advice. The Commission will post a public version of each review on its website as soon as possible thereafter, with any confidential business information deleted.

**FOR FURTHER INFORMATION CONTACT:**

*Project Leader:* Jackie W. Jones (202-205-3466, [jackie.jones@usitc.gov](mailto:jackie.jones@usitc.gov)).

*Deputy Project Leader:* Heidi Colby-Oizumi (202-205-3391, [heidi.colby@usitc.gov](mailto:heidi.colby@usitc.gov)).

Industry-specific information may be obtained from the above persons. For more information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations at 202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ONLINE) at <http://edis.usitc.gov/hvwebex>.

*Written submissions:* Because of time constraints, the Commission will not hold public hearings in connection with the advice provided under this investigation number. However, interested persons are invited to submit written statements containing data and other information concerning the matters to be addressed by the Commission. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and should be received no later than the close of business (5:15 p.m. EST) on the date stated in the notification letter of each review of a petition. All written submissions must conform with the provisions of § 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and three (3) copies of each document be filed. In the event that confidential treatment of the document is requested, at least two (2) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see *Handbook for Electronic Filing Procedures*, [ftp://ftp.usitc.gov/pub/reports/electronic\\_filing\\_handbook](ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook)). Persons with questions regarding electronic filing should contact the

Office of the Secretary (202-205-2000 or [edis@usitc.gov](mailto:edis@usitc.gov)).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. Some or all of the confidential business information provided may be included in the reviews that the Commission sends to the USTR. The Commission plans to publish a public version of each review shortly after a review is sent to the USTR. However, in the public version the Commission will not publish confidential business information in a manner that would reveal the operations of the firm supplying the information.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202-205-2000.

By order of the Commission.

Issued: February 28, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E6-3082 Filed 3-2-06; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1089 (Final)]

### Certain Orange Juice From Brazil

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission (Commission) determines,<sup>2</sup> pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Brazil of certain orange juice, provided for in subheading 2009.11.00,

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's *Rules of Practice and Procedure* (19 CFR 207.2(f)).

<sup>2</sup> Vice Chairman Deanna Tanner Okun, Commissioner Jennifer A. Hillman, and Commissioner Daniel R. Pearson dissenting.

2009.12.25, 2009.12.45, and 2009.19.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV). The Commission makes a negative finding with regard to critical circumstances.

#### Background

The Commission instituted this investigation effective December 27, 2004, following receipt of a petition filed with the Commission and Commerce by Florida Citrus Mutual, Lakeland, FL; A. Duda & Sons, Inc., Oviedo, FL; Citrus World, Inc., Lake Wales, FL; and Southern Garden Citrus Processing Corp., Clewiston, FL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain orange juice from Brazil were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 7, 2005 (70 FR 53251). The hearing was held in Washington, DC, on January 10, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 27, 2006. The views of the Commission are contained in USITC Publication 3838 (February 2006), entitled *Certain Orange Juice from Brazil: Investigation No. 731-TA-1089 (Final)*.

By order of the Commission.

Issued: February 28, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E6-3085 Filed 3-2-06; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[USITC SE-06-016]

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:**  
International Trade Commission.

**TIME AND DATE:** March 14, 2006 at 1 p.m.

**APPENDIX C  
PETITIONS FOR WHICH THE  
COMMISSION PROVIDED ADVICE  
UNDER THE “COMMERCIAL  
AVAILABILITY” PROVISIONS OF THE  
AGOA, CBTPA, AND ATPDEA, 2001-2005**

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**Petitions for which the Commission provided advice under the “commercial availability” provisions of the AGOA, CBTPA, and ATPDEA, 2001-2005**

<b>No.</b>	<b>Brief product description</b>	<b>CITA received</b>	<b>AGOA</b>	<b>CBTPA</b>	<b>ATPDEA</b>	<b>CITA decision</b>
<b>2005 Petitions, Inv. No. 332-465:</b>						
001	Knitted apparel of antimicrobial elastomeric filament yarn	01/03/05	X	X	X	Denied
002	Cotton sweaters containing certain open-end spun yarns	01/14/05		X		Approved
003 <sup>1</sup>	Shirts and blouses of certain flannel fabrics	03/03/05		X		Approved
004	Apparel of coat-weight fabrics of camel hair, cashmere, and wool blends	03/30/05		X		Denied
005	Shirts and blouses of cotton carbon-emerized fabric	04/06/05		X		Approved
006	Shirts and blouses of 2x2 twill cotton flannel fabrics	04/08/05		X		Approved
007	Apparel of woven bamboo/cotton fabric	05/18/05	X	X		Denied
008	Certain apparel of compacted, plied, ring-spun cotton yarns	05/23/05		X	X	Approved
009 <sup>2</sup>	Shirts, blouses, and sleepwear of cotton seersucker fabric	06/01/05 06/07/05		X		Denied
010	Certain knitted apparel of nylon flat filament yarn	11/09/05	X			Approved
011	Apparel of certain yarn-dyed twill-woven flannel fabrics	11/18/05			X	Approved
<b>2004 Petitions, Inv. No. 332-458:</b>						
001	Apparel of combed compact yarns	01/14/04	X	X	X	Approved
002	Apparel containing certain fusible materials in waistbands	01/20/04	X	X	X	Denied
003	Apparel containing certain lycra crochet material in waistbands	01/20/04	X		X	Denied
004	Apparel of flannel fabrics	02/13/04		X		Denied
005	Apparel of flannel fabrics	03/04/04		X		Denied <sup>3</sup>
006	Apparel of cotton corduroy fabrics	03/05/04	X	X	X	Denied
007	Apparel, such as trousers and skirts, made with certain fusible interlinings used in waistbands	04/16/04		X		Not revoked <sup>4</sup>
008	Apparel of certain two-way stretch twill fabric	06/18/04		X		Denied
009	Apparel of certain cotton flannel fabrics	07/14/04		X		Approved <sup>5</sup>
010	Apparel of cotton flannel fabrics of yarns of different colors	07/31/04		X		Approved <sup>5</sup>
011	Apparel of certain polyester lining fabric	08/03/04		X		Denied
012	Apparel of certain cotton twill fabric	08/03/04		X		Denied
013	Apparel of certain fancy polyester-rayon blend fabric	08/03/04		X		Withdrawn
014	Apparel of certain fancy polyester fabric	08/03/04		X		Denied
015	Apparel of certain cotton napped sheeting fabric	08/12/04		X		Approved
016	Women's and children's apparel of polyester monofilament yarn	08/23/04			X	Denied

See footnotes at end of table.

**Petitions for which the Commission provided advice under the “commercial availability” provisions of the AGOA, CBTPA, and ATPDEA, 2001-2005***Continued*

<b>No.</b>	<b>Brief product description</b>	<b>CITA received</b>	<b>AGOA</b>	<b>CBTPA</b>	<b>ATPDEA</b>	<b>CITA decision</b>
<b>2004 Petitions, Inv. No. 332-458—Continued</b>						
017	Apparel of fancy polyester-rayon suiting fabrics . . . .	08/24/04		X		Denied
018	Apparel of circular single knit jersey fabric . . . . .	08/31/04		X		Denied
019	Apparel of twill rayon-nylon-spandex warp stretch fabric . . . . .	08/31/04		X		Denied
020	Apparel of circular single knit printed jersey fabric . .	09/20/04		X		Denied
021	Apparel of woven double-napped cotton flannel fabric	09/23/04		X		Approved
022	Cotton sweaters containing certain open-end spun yarns . . . . .	10/12/04		X		Denied
023	Women's and girls' nightwear of certain circular knit jersey fabrics . . . . .	10/19/04		X		Denied
024	Boys' apparel of certain polyester fabrics . . . . .	12/12/04		X		Approved
025	Apparel of ring-spun micro-modal fiber yarn . . . . .	12/27/04	X	X	X	Approved
<b>2003 Petitions, Inv. No. 332-450:</b>						
001	Apparel made with lastol elastic yarn . . . . .	02/21/03	X	X		Denied
002	Apparel of certain corduroy fabrics . . . . .	03/17/03			X	Denied
003	Certain apparel of certain cotton velvet fabrics . . . .	03/21/03	X			Withdrawn
004	Certain apparel of certain cotton velvet fabrics . . . .	04/08/03	X			Denied
005	Men's and boys' shirts of certain fabrics . . . . .	06/02/03	X			Approved
006	Apparel of micro modal fiber/cotton yarn . . . . .	06/05/03	X	X	X	Approved
007	Apparel of open-end spun viscose rayon yarns . . . .	11/03/03	X	X		Approved
008	Apparel of certain printed, 100-percent rayon . . . . .	11/13/03		X		Denied
009	Apparel of viscose rayon filament yarn . . . . .	11/24/03			X	Approved
010	Blouses of certain plain-woven cotton fabrics . . . . .	12/18/03		X		Approved
011	Blouses of certain plain-woven polyester fabrics . . .	12/18/03		X		Approved
<b>2002 Petitions, Inv. No. 332-436</b>						
001	Blouses of certain shirting fabrics . . . . .	01/04/02		X		Denied
002	Apparel of combed cashmere and camel hair yarn . .	01/04/02		X		Approved
003	Certain apparel of fine-yarn, high-count woven fabrics . . . . .	02/28/02	X			Approved
004	Apparel of flannel fabrics . . . . .	06/11/02		X		Denied <sup>6</sup>
005	Men's suits and suit jackets of certain worsted wool fabrics . . . . .	07/19/02		X		Denied
006	Apparel made with certain fusible interlinings . . . . .	12/12/02		X		Approved
007	Blouses of certain shirting fabrics . . . . .	12/18/02		X		Approved
<b>2001 Petitions, Inv. No. 332-428:</b>						
001	Apparel of cashmere and camel hair yarns . . . . .	02/28/01		X		Denied
002	Blouses and nightwear of certain fabrics . . . . .	03/01/01	X			Approved
003	Apparel of crushed panne velour fabrics . . . . .	03/06/01		X		Approved
004	Knit apparel of viscose rayon yarns . . . . .	03/12/01		X		Denied

See footnotes at end of table.

**Petitions for which the Commission provided advice under the “commercial availability” provisions of the AGOA, CBTPA, and ATPDEA, 2001-2005***Continued*

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
<b>2001 Petitions, Inv. No. 332-428–Continued</b>						
005	Apparel of textured polyester yarns . . . . .	03/26/01		X		Denied
006	Apparel of certain nonwoven fabrics . . . . .	05/08/01		X		Denied
007	Apparel of certain polyester-wool yarns . . . . .	05/11/01	X	X		Denied
008	Apparel of rayon filament yarns . . . . .	05/23/01	X	X		Approved
009	Knit apparel of open-end spun rayon yarns . . . . .	06/29/01	X	X		Denied
010	Apparel of cuprammonium rayon filament yarns . . . . .	11/20/01	X	X		Approved

<sup>1</sup> The fabrics were specified in three petitions filed by Sandler, Travis & Rosenberg, P.A., on behalf of B\*W\*A, New York, NY. On Mar. 9, 2005, CITA received a letter from the petitioner withdrawing two of the petitions, because the weight of the fabrics was incorrectly stated in both petitions. On that date, the petitioner re-submitted the two petitions covering the same fabrics and adding fabrics of herringbone twill construction.

<sup>2</sup> The seersucker fabrics were specified in three petitions filed by Sandler, Travis & Rosenberg, P.A., on behalf of B\*W\*A, New York, NY, and received by CITA on June 1 and 7, 2005. The seersucker fabrics named in all three petitions are identical as to weave construction; however, petition No. 1 is for solid-color (piece-dyed) fabrics, petition No. 2 is for yarn-dyed plaids and checks, and petition No. 3 is for yarn-dyed stripes.

<sup>3</sup> On May 12, 2004, CITA received a new petition from the same petitioners on the subject fabrics covered by the petition filed in March 2004. As CITA had already sought advice from the Commission in response to the earlier request, CITA did not do so again. On Aug. 8, 2004, CITA announced that “new information was subsequently obtained supporting the petitioners' claim that such fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.” As such, CITA designated apparel articles, excluding gloves, made in eligible CBTPA countries from the subject fabrics as eligible for duty-free treatment under the CBTPA commercial availability provisions (see CITA notice in *Federal Register* of Aug. 13, 2004 (69 F.R. 50171)).

<sup>4</sup> On Apr. 16, 2004, CITA received a petition filed on behalf of Narroflex alleging that the fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that CITA revoke its previous designation regarding the fabrics. On Aug. 31, 2004, CITA announced that it had determined that revoking the designation of the fabrics under the commercial availability provision of the CBTPA would have an adverse impact on a significant component of the U.S. textile industry. Thus, CITA decided not to revoke the previous designation regarding the fabrics, and apparel from such fabric will continue to be eligible for duty-free treatment under the CBTPA commercial availability provision (see CITA notice in *Federal Register* of Sept. 7, 2004 (69 F.R. 54133)).

<sup>5</sup> The fabrics were specified in 12 petitions filed by Sandler, Travis & Rosenberg, P.A., on behalf of Picacho, S.A. The petitioner subsequently withdrew three of the petitions because of errors in fabric description (see CITA notice in 69 F.R. 46137) and re-filed them with CITA on July 30, 2004 (see CITA notice in 69 F.R. 47915); the fabrics named in these petitions were the subject of Commission Investigation No. 332-458-010. In addition, the petitioner withdrew one of the remaining nine petitions during the 60-day congressional layover period because the fabric named in the petition was no longer available from its source (see CITA notice in 69 F.R. 69586).

<sup>6</sup> On Apr. 21, 2003, CITA received a new petition from counsel on behalf of several firms, including the original petitioner, which narrowed the scope of the petition filed in June 2002. As CITA had already sought advice from the Commission in response to the 2002 request, CITA did not do so again. On July 23, 2003, CITA announced that it had determined that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated apparel articles, excluding gloves, made in eligible CBTPA countries from the subject fabrics as eligible for duty-free and quota-free treatment under the commercial availability provisions of the CBTPA (see CITA notice in *Federal Register* of July 29, 2003 (68 F.R. 44528)).

