

**United States International Trade Commission**

# **Commercial Availability of Apparel Inputs (2005):**

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

**Compilation of Reports Requested in 2005**

Investigation No. 332-465  
USITC Publication 3848  
March 2006



# **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 (2005):**

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

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**Publication 3848**



**March 2006**

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# OVERVIEW

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On January 13, 2005, following receipt of a request from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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 2005 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* (70 F.R. 3728) on January 26, 2005.

During 2005, the Commission was requested to provide advice under “commercial availability” provisions for 11 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 2005 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 2004 is shown in a table in appendix C. The investigations conducted by the U.S. International Trade Commission (USITC) in 2001, 2002, 2003, and 2004 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; and *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.

<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 2005 (Investigation No. 332-465)**

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
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

<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.

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# Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-001

Products	Knitted Apparel of Anti-Microbial Elastomeric Filament Yarn
Requesting Parties	Ge-Ray Fabrics, Inc.
Date of Commission Report USTR Public	February 14, 2005 February 2005
Commission Contact	Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 14, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The Commission's analysis concerns granting duty-free treatment to U.S. imports of knitted apparel made in eligible Caribbean Basin, Andean, and Sub-Saharan African countries from certain anti-microbial elastomeric filament yarn, regardless of the source of the yarn. Four U.S. producers said they either make, or can make, anti-microbial elastomeric yarns. To the extent that the U.S. yarns are like or substitutable for the subject yarn, the proposed preferential treatment could have an adverse effect on U.S. yarn producers and their workers. However, adequate information is not available on the extent to which the U.S. yarns are like or substitutable for the subject yarn or whether any of the four U.S. producers can meet the requirements of the petitioner or apparel producers in terms of product specifications, quality, quantity, or price. The proposed preferential treatment could also have a slight adverse effect on U.S. producers of apparel likely to contain the subject yarn (e.g., hosiery) and their workers. The proposed action would likely benefit U.S. firms making such apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 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 Jan. 26, 2005 (70 F.R. 3728) 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 January 3, 2005, alleging that certain anti-microbial elastomeric filament 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 knitted apparel made in eligible CBTPA, AGOA, and ATPDEA beneficiary countries from such yarn, regardless of the source of the yarn.<sup>2</sup>

## Discussion of the product

The petition states that the subject yarn is classified in subheadings 5402.49.90 and 5404.10.80 of the Harmonized Tariff Schedule of the United States (HTS), which provide for a broader group of synthetic filament yarn (other than sewing thread), not put up for retail sale, and synthetic monofilament. Included are elastomeric yarn of particular types, including synthetic monofilament measuring less than 67 decitex (statistical reporting number 5402.49.9005), and synthetic monofilament measuring 67 decitex or more and of which no cross-sectional dimension exceeds 1 millimeter (5404.10.8005). The subject yarn is made from elastomeric filament fibers and ranges from about 22 to 78 decitex (20 to 70 denier).<sup>3</sup> The yarn will be used to make knitted fabrics for apparel classified in HTS chapter 61 (apparel, knitted or crocheted). The rates of duty on apparel likely to be made from the subject yarn, such as hosiery articles, range from about 10 percent to 19 percent ad valorem.

The petition states that the subject yarn contains both anti-microbial and elastomeric (stretch) properties and that this combination of properties in one yarn is not found in yarn made domestically.<sup>4</sup> The anti-microbial agent is incorporated into the yarn before extrusion--that is, the agent is added to the fiber-forming substance before the substance is fed through a spinneret (a showerhead-like disc) to form the elastomeric filament fiber (e.g., spandex). The yarn looks and can be processed like any other ordinary elastomeric yarn of the same composition, but contains an agent that inhibits the growth of microbes and, in turn, controls odor in such goods as hosiery, underwear, brassieres, sweatsuits, and jogging suits. The petition states that the anti-microbial agent represents 0.2 to 5 percent by weight of the elastomeric yarn and that, even in such small quantities, it renders the entire fabric made with the yarn to be anti-microbial.<sup>5</sup> Because the anti-microbial agent "is inherent in the yarn," its effectiveness is longer lasting after repeated washings than is a anti-microbial solution applied to a finished yarn or fabric.

The petition states that only a small percentage of anti-microbial yarn is needed to make an anti-microbial fabric and that only a small percentage of elastomeric yarn is needed to make a stretch fabric. If both properties are imparted to the fabric by a small percentage of a single yarn, the remainder of the yarn in the fabric can be selected from a wide range of yarns with neither anti-microbial nor stretch properties. The petition notes that the use of the subject yarn provides for great flexibility in the production of a wide range of anti-microbial stretch fabrics and garments because the yarn can be knitted into fabrics with yarns made from different materials, such as rayon, polyester, or nylon.

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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> Decitex and denier are units of measure of linear density, or weight per unit length, of a yarn. Decitex indicates the weight, in grams, of 10,000 meters of yarn; denier indicates the weight, in grams, of 9,000 meters of yarn (the higher the number, the heavier or thicker the yarn). The conversion from denier to decitex is "denier x 1.1111".

<sup>4</sup> Information in the remainder of this section on the yarn and the petitioner is from the petition filed with CITA on behalf of Ge-Ray Fabrics, Inc., by BJ Shannon, Alston & Bird LLP, Washington, DC, Jan. 3, 2005.

<sup>5</sup> \*\*\*

The petitioner (Ge-Ray Fabrics) produces and finishes knitted fabrics at its plant in Ashville, NC. The firm uses cotton and manmade-fiber yarns in the production of its knitted fabrics, many of which contain elastomeric yarn. The firm seeks to purchase \*\*\* of the anti-microbial elastomeric filament yarn annually, in order to make \*\*\* of knitted fabrics. The subject yarn is made in Korea by the Hyosung Corp.

## Discussion of affected U.S. industries, workers, and consumers<sup>6</sup>

### *Fiber and yarn producers*

Commission staff contacted INVISTA, RadiciSpandex Corp., Unifi, Inc., Dorlastan Fibers and Monofil GmbH, and Milliken & Co. regarding domestic production of the subject yarn. All of these firms, except Dorlastan Fibers and Monofil GmbH, submitted written statements to CITA in opposition to the petition.

INVISTA, a U.S. producer of fibers and intermediates (formerly DuPont Textiles & Interiors), stated in its submission to CITA that it has developed U.S. anti-microbial elastomeric filament yarns at its plant in Waynesboro, VA. The firm noted that it incorporates a small amount of anti-microbial agent in its elastomeric yarn before extrusion without affecting the yarn's clarity, surface gloss, or physical properties, and that the firm is "fully prepared to supply such materials in commercial quantities in a timely fashion." An INVISTA representative stated that the firm has the capacity and capability to expand U.S. production of the yarn and can supply the yarn in commercial quantities and in the specified sizes ranging from 20 to 70 denier.<sup>7</sup> According to the representative, \*\*\*.

In its submission to CITA, Milliken & Co., Spartanburg, SC, a diversified producer of textile mill products and chemicals for use in textile and packaging products, stated that its proprietary product imparts silver inorganic anti-microbial properties to elastomeric fiber (and other fiber), and that combining this technology with available domestic elastomeric-spandex fiber/yarn will yield commercial quantities of the subject yarn.<sup>8</sup>

A representative of RadiciSpandex Corp., Gastonia, NC, a U.S. producer of elastomeric filament yarn, said that the firm has the capability, willingness, and interest to make the subject yarn.<sup>9</sup> In its written submission to CITA, the firm stated that it could satisfy the technical requirements for such a yarn and that supply will be made available within 60 days of the date of its submission. A representative of RadiciSpandex stated that the firm is capable of producing the subject yarn, \*\*\*<sup>10\*\*\*</sup>.

Unifi, Inc., Greensboro, NC, a U.S. producer of textured yarns, including anti-microbial elastomeric yarn, stated that it makes anti-microbial elastomeric yarns that are substitutable for the subject yarns.<sup>11</sup> A Unifi official said the firm produces a yarn that combines spandex with polyester and nylon yarns with anti-microbial properties that is substitutable for the subject yarn. He explained that Unifi's yarns are produced by gimping<sup>12</sup> a standard spandex yarn with a polyester or nylon yarn that has an embedded anti-microbial agent. The resulting yarn when knitted into a fabric, imparts anti-microbial properties to the fabric. The Unifi official also noted that \*\*\*.

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<sup>6</sup> In general, the manufacturing progression for knitted apparel made from the subject yarn is (1) the anti-microbial additive is mixed in the fiber-forming solution, which is then extruded through spinnerets into elastomeric filament yarn, (2) the yarn is knitted with other yarns (e.g., polyester or nylon) into fabrics, (3) the knitted fabrics are printed, dyed, and cut into components, and (4) the components are sewn into finished garments.

<sup>7</sup> Manufacturing the different deniers is a function of changing spinnerets. Mary K. Vane, Vice President, International Trade, INVISTA, telephone interviews by Commission staff, Jan. 28 and Feb. 2, 2005.

<sup>8</sup> Milliken reportedly has significant capacity to produce its proprietary product (Alphsan). Matt Richardson, Vice President, Specialty Yarns & Fibers, Milliken & Co., telephone interview by Commission staff, Feb. 7, 2005.

<sup>9</sup> \*\*\*

<sup>10</sup> \*\*\*

<sup>11</sup> Information on Unifi is from \*\*\*.

<sup>12</sup> Gimping is a process of wrapping a core yarn, such as a spandex yarn, with another yarn. A gimped yarn differs from twisted yarn in that the core yarn does not twist with the yarn that is wrapped around it.

A representative of Dorlastan Fibers and Monofil GmbH, Charleston, SC, a U.S. producer of fibers, stated that the firm currently produces anti-microbial elastomeric yarns \*\*\*, in commercial quantities \*\*\*, and in a timely manner \*\*\*.<sup>13</sup> \*\*\*

The petitioner, Ge-Ray Fabrics, stated in its petition that to its knowledge, Hyosung Corp. of Korea is the sole producer of anti-microbial elastomeric filament yarn and that it manufactures the yarn at its facilities in Korea under the brand-name Creora C100B.<sup>14</sup> Ge-Ray stated that other yarns such as those made of polyester or nylon had anti-microbial but not elastomeric properties, whereas other yarns had elastomeric but not antimicrobial properties. Ge-Ray stated that it had not been able to find any U.S.-made yarns that combined elastomeric properties with anti-microbial properties. \*\*\*

### ***Fabric and apparel producers***

The petitioner was the only U.S. firm identified as producing knit fabric from the subject yarns for use in knitted apparel such as underwear, hosiery, sweatsuits, and jogging suits. \*\*\*<sup>15</sup>\*\*\*

Sara Lee was identified as a U.S. producer of apparel (e.g., under the Hanes label) that uses anti-microbial elastomeric yarn; \*\*\*.<sup>16</sup> \*\*\*.

### **Views of interested parties**

RadiciSpandex Corp. filed a written submission with the Commission voicing its opposition to the petition. The firm asserted that it can and will manufacture commercially viable anti-microbial elastomeric filament yarns for the proposed uses contemplated by the petitioner within 60 days. RadiciSpandex noted that it has been actively engaged in activity specific to providing an anti-microbial elastomeric filament yarn that will satisfy the petitioner's technical requirements and has manufactured samples of the same.

### **Probable economic effect advice<sup>17</sup>**

The Commission's analysis concerns granting duty-free treatment to U.S. imports of knitted apparel made in eligible CBTPA, ATPDEA, and AGOA countries from the subject anti-microbial elastomeric filament yarn, regardless of the source of the yarn. Four U.S. producers state that they either make, or can make, anti-microbial elastomeric filament yarns. To the extent that the U.S. yarns are like or substitutable for the subject yarn, the proposed preferential treatment could have an adverse effect on U.S. yarn producers and their workers because it could reduce demand for the U.S. yarns and, in turn, weaken demand for U.S.-made spandex used in the yarns. However, adequate information is not available on the extent to which the U.S. yarns are like or substitutable for the subject yarn or whether any of the four U.S. producers can meet the requirements of the petitioner or apparel producers in terms of product specifications, quality, quantity, or price. \*\*\*

The proposed preferential treatment also could have a slight adverse effect on U.S. producers of apparel articles made with anti-microbial elastomeric yarn, such as hosiery products. U.S. producers reportedly account for an estimated 45 percent of the domestic market for hosiery products, many of which contain anti-microbial elastomeric yarn.<sup>18</sup> (Another important market for such yarn is underwear; however, the domestic market for underwear reportedly is supplied almost entirely by imports.) The proposed

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<sup>13</sup> \*\*\*, telephone interview by Commission staff, Feb. 9, 2005.

<sup>14</sup> \*\*\*

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

<sup>16</sup> Jerry Cook, Sara Lee, Winston Salem, NC, telephone interview by Commission staff, Feb. 4, 2005.

<sup>17</sup> The Commission's advice is based on information currently available to the Commission.

<sup>18</sup> Don St. Louis, Director, Hosiery Technology Center, telephone interview by Commission staff, Feb. 8, 2005.

preferential treatment would likely benefit U.S. firms making apparel products from the subject yarn in eligible beneficiary countries, and their U.S.-based workers, by increasing the supply and availability of the yarn. The proposed preferential treatment would also likely benefit U.S. consumers of the apparel made from the subject yarn to the extent that importers pass on some of the duty savings to retail consumers.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-002

Products	Cotton Sweaters Containing Certain Open-End Spun Yarns
Requesting Parties	Bernette Textile Co., LLC, New York, NY, and Outlast Technologies, Inc., Boulder, CO
Date of Commission Report USTR Public	February 25, 2005 March 2005
Commission Contact	Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 25, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The yarns named in the petition filed by Outlast Technologies, Inc. and Bernette Textile Co., LLC with the Committee for the Implementation of Textile Agreements (CITA) in January 2005, and under review in this report, are identical to those named in the petition that Bernette Textile Co. filed with CITA in October 2004. CITA denied the earlier petition, stating that the subject yarns could be supplied by the domestic industry in commercial quantities in a timely manner.<sup>1</sup> The current petition clarifies the description of the yarns by specifying the percentage of certain acrylic fibers contained in the yarn.

Based on information currently available to the Commission, it is likely that granting duty-free treatment to U.S. imports of chief-weight cotton sweaters made in eligible Caribbean Basin countries from the subject yarns, regardless of the source of such yarns, would not have an adverse effect on a U.S. domestic industry or its workers. The Commission is unaware of any firm that makes or can make sweaters containing the subject yarns in the United States. Furthermore, because of the specialized characteristics of the sweaters made from the subject yarns, it appears that there is no U.S. production of sweaters that could act as substitutes for those made from the subject yarns. Currently, there is no domestic production of fibers, yarns, or knitted fabrics made from a blend of reclaimed cotton and acrylic staple fiber with "phase change materials" (PCMs). Furthermore, based on information currently available to the Commission, there appears to be no domestic production of yarns that have the same physical properties as the subject yarns. The proposed action would likely benefit U.S. firms making sweaters in eligible Caribbean Basin countries from the subject yarns, and their U.S.-based workers, as well as U.S. consumers.

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<sup>1</sup> CITA's decision regarding the open-end spun yarns named in the October 2004 petition appeared in the *Federal Register* of December 31, 2004 (69 F.R. 76455). The U.S. International Trade Commission conducted its review of the yarns in its report, "Cotton Sweaters Containing Certain Open-End Spun Yarns," investigation No. 332-458-022, Nov. 2004.

## Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 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>2</sup>

The Commission's advice in this report relates to a petition received by CITA on January 12, 2005, alleging that certain open-end spun yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for knitted apparel made in eligible CBTPA beneficiary countries from such yarn, regardless of the source of the yarns.<sup>3</sup>

## Discussion of the product

The petition filed by Bernette Textile Co. (Bernette), New York, NY, which designs, manufactures, and markets sweaters and other knitwear,<sup>4</sup> and Outlast Technologies, Inc. (Outlast), Boulder, CO, a technology firm engaged in developing phase change materials designed to balance temperatures in fibers, fabrics, and foams,<sup>5</sup> describes the subject yarns as open-end spun yarns<sup>6</sup> ranging in size from 6/1 to 18/1 English count (10.16/1 to 30.47/1 metric) and made in a blend of cotton and acrylic staple fibers.<sup>7</sup> The only difference between the product description provided in the initial petition and the new petition is that the new petition specifies that the subject yarns are made from "not less than 35 percent nor more than 49 percent by weight of Outlast licensed phase change acrylic staple fibers produced under license from Outlast." The new petition states that these chief-weight cotton yarns are classified in subheadings 5206.11.00 and 5206.12.00 of the Harmonized Tariff Schedule of the United States (HTS), which provide for cotton single yarn (other than sewing thread), containing less than 85 percent cotton by weight, of uncombed fibers, not put up for retail sale.<sup>8</sup> The yarns will be used by the petitioner to make chief-weight cotton sweaters, which are

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<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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>3</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>4</sup> \*\*\*

<sup>5</sup> Information about Outlast Technologies, Inc. is from the firm's website, <http://www.outlast.com>, retrieved Feb. 17, 2005.

<sup>6</sup> In the initial petition, Bernette stated that the yarns were "colored," open-end spun yarns with the same specifications as identified in the current petition. Although the new petition does not use the term "colored" yarns to describe the subject yarns, colored, open-end spun yarns are still the focus of the petition, according to Adam Siskind, President and Chief Financial Officer, Bernette Textile Co., telephone interview with Commission staff, Feb. 11, 2005.

<sup>7</sup> The English count indicates the number of 840-yard lengths of yarn in one pound (the higher the yarn number, the finer the fiber). The metric yarn number indicates the number of 1,000-meter lengths of yarn in one kilogram.

<sup>8</sup> Data on U.S. imports of the subject yarns are not available because the yarns are grouped with other related cotton yarns in HTS subheadings 5206.11.00 (yarns not exceeding 14 nm) and 5206.12.00 (yarns exceeding 14 nm but not exceeding 52 nm). The term "nm" means the number of 1,000-meter lengths of yarn in one kilogram.

classified in HTS chapter 61 (apparel, knitted or crocheted) and subject to a general rate of duty of 16.5 percent ad valorem.

Bernette reportedly is the largest sweater supplier to department store and mid-tier retailers.<sup>9</sup> It is the only firm licensed to design and market sweaters in the United States containing Smart Fabric Technology® developed and patented by Outlast.<sup>10</sup> Bernette will be the first sweater supplier to use the Smart Fabric Technology.<sup>11</sup> The technology is embedded in the acrylic staple fibers, which are mixed with reclaimed and reprocessed cotton fibers and spun into yarns (i.e., the subject yarns). The acrylic fibers are made in the United Kingdom under exclusive license from Outlast and contain patented micro-encapsulated PCMs that “store, absorb, and release heat.” According to the petition, garments containing this acrylic fiber are able “to store excess body heat and release it during the day, thereby making the wearer more comfortable than he or she would otherwise be.” The petition also notes that the use of this particular acrylic fiber, along with the use of reclaimed and reprocessed cotton, which enables Bernette to market the sweaters as “environmentally friendly,”<sup>12</sup> provides the firm with “an important marketing advantage with strong appeal to many U.S. consumers.”<sup>13</sup>

Trade sources note that the subject yarns cost substantially more than similar cotton-acrylic blended yarns made in the United States. The subject yarns cost about \$\*\*\* per pound, compared with \$\*\*\* per pound for cotton-acrylic yarns made domestically, that do not incorporate the proprietary technology.<sup>14</sup> The petitioner states that a sweater made from the subject yarns will likely sell for about \$\*\*\* at retail.

As discussed later in this report, the higher cost of the subject yarns largely reflects the significant investment made in specialized equipment and production processes to produce acrylic staple fibers with PCMs and blend them into yarns with reclaimed and reprocessed cotton. A Bernette representative said

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<sup>9</sup> Outlast Technologies, Inc., Boulder, CO, news release, “Outlast Forms Partnership with Bernette Textile Company to Spin Fashionable Sweaters with a Technical Twist,” Aug. 11, 2004, found at [http://www.fabriclink.com/pk/newsreleases/Outlast\\_0804.html](http://www.fabriclink.com/pk/newsreleases/Outlast_0804.html), retrieved Oct. 26, 2004.

<sup>10</sup> Outlast has launched its ‘Smart Fabric Technology®’ in outerwear, footwear, and bedding. Originally developed for NASA, Outlast fibers, fabrics and foams contain patented micro-encapsulated phase change materials (PCMs) called Thermocules®, which store, absorb and release heat, providing increased comfort to consumers. The PCMs are very small - most are around 2 microns in diameter. They have an outer durable shell. The PCMs are manufactured from a water-based emulsion and so are best suited to acrylic fiber manufacturers that use a water-based solvent system. The micro-capsules need to be prepared as a stable dispersion in the solvent system to be used and they are then introduced into the polymer stream by a late injection system. The acrylic polymer/PCM mixture needs to be mixed immediately before it is extruded through the very small holes of the spin jet. The acrylic fiber is then formed with the micro-capsules as part of the fiber structure. This process requires specialized equipment that costs about \$3 million. The firm developed its first PCMs in 1994 and launched its first commercial products three years later. John Mitchell, Vice President, Business Development, Outlast Technologies, telephone interviews by Commission staff, Oct. 25 and Nov. 1, 2004; Brad Poorman, “Outlast Forms Partnership with Bernette Textile Company to Spin Fashionable Sweaters with a Technical Twist,” news release, Aug. 11, 2004; Roland Cox, Market Development Manager, Amicor, email to Commission staff, Nov. 1, 2004; Paul Saunders, President & Co-Owner, Sterling Fibers, telephone interview by Commission staff, Nov. 1, 2004, and Duncan L. Edwards, Chief Operating Officer, Outlast Technologies, Inc., email to Commission staff, Feb. 11, 2005.

<sup>11</sup> Yarns made from acrylic staple fibers containing PCMs have been used to knit socks, hats, gloves, and other apparel articles.

<sup>12</sup> Bernette considers the sweaters “environmentally friendly” because the cotton used in the subject yarns is obtained by “garnetting” cutting scraps left from the production of cotton T-shirts and other cotton knitwear (i.e., recover the fibers from the fabric scraps), instead of incinerating or disposing of the scraps in landfills. Adam Siskind, President and Chief Financial Officer, Bernette Textile Co., telephone interview by Commission staff, Nov. 12, 2004.

<sup>13</sup> Handtags provided by Outlast to licensees state the following: “This product features Outlast smart fabric technology. It will keep you comfortable by absorbing body heat when you create too much and releasing it when you need it most. By buffering skin temperature, Outlast material reduces overheating and sweating when you’re active and prevents chill when you stop. Fabric and insulations stay drier and maintain their effectiveness, so you stay comfortable all day long.” Charles Bremer, Consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

<sup>14</sup> Spiro Pantziris, Chief Executive Officer, Spintex Yarns, Toronto, Canada, telephone interview by Commission staff, Oct. 28, 2004. According to U.S.-based Jimtex Yarns, which spins yarns from reclaimed cotton and standard staple acrylic fiber, \*\*\*. Harry Matusow, President, Jimtex Yarns, Philadelphia, PA, email to Commission staff, Nov. 11, 2004.

that the company is willing to pay a higher price for the subject yarns because of the efficacy of the thermal management properties of sweaters made from the subject yarns.<sup>15</sup> He stated that although the difference between the subject yarns and those without PCMs is not discernible to the human eye, a person wearing a sweater knit from yarns containing PCMs would be able to notice the difference. According to Dr. Douglas Hittle, Professor and Director, Energy System Laboratory, Colorado State University, as long as a fabric has a sufficient level of PCMs in it, the thermal regulating properties of the fabric will be perceptible to the consumer. He noted that the "not less than 35 percent nor more than 49 percent by weight of Outlast licensed phase change acrylic staple fibers produced under license" that make up the subject yarn is more than sufficient to create a perceptible difference to the consumer.<sup>16</sup>

In a written statement to CITA in opposition to the current petition, Jimtex Yarns, a U.S. yarn producer that produces yarns from reclaimed cotton and standard acrylic staple fibers for use in sweaters, socks, upholstery, home furnishings, and crafts, stated that the "heating and cooling effects of phase change materials in clothing may have little effect on the human thermal perception" as indicated in a study conducted by the Institute for Environmental Research, Kansas State University.<sup>17</sup> However, according to an Outlast representative,

"the Kansas State University study that Jimtex Yarns refers to was conducted sometime before Outlast had commercial products in the marketplace and was done using a foam PCM product that was manufactured by Frisby Technologies, a competitor of Outlast Technologies. It is not surprising that this study was not conclusive as the early foam products containing PCMs were not optimized for the market and frankly were not very good products - Frisby Technologies is now bankrupt, out of business and no longer in the marketplace. Outlast products, by contrast, incorporate the PCMs into the actual fiber, yarn and fabric of a garment and take advantage of the changing environment that was specifically called out as an efficacious use of the technology."<sup>18</sup>

Commission staff contacted \*\*\*.<sup>19</sup> \*\*\* representatives stated that garments made from the subject yarns containing PCMs are effective in helping to regulate body temperature and enhance garment comfort and performance, but that the degree of efficacy appears to vary by application. The highest effectiveness, they said, appears in garments such as gloves, boot liners, long underwear, and hats that are worn close to the skin. They noted, though, that the perception of the efficacy is subjective and that the effectiveness of the PCMs has evolved over time – from less effective when the PCMs were only in the coating of yarns and fabrics, to greater effectiveness when the PCMs were inserted into the fibers and yarns. \*\*\*

The petition states that the sweaters will be cut and assembled in El Salvador from knit fabric made in the United States and El Salvador. \*\*\*<sup>20</sup> A representative of Bernette states that the company is the only firm licensed to make sweaters from the subject yarns<sup>21</sup> and that it intends to make them mainly at its owned subsidiary in El Salvador, \*\*\*.<sup>22</sup> The Bernette representative contends that there are no acceptable alternative yarns for the subject yarns. He also asserts that the subject open-end spun yarns are much faster to make than ring-spun yarns, and that they provide the rugged, athletic

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<sup>15</sup> Adam Siskind, President and Chief Financial Officer, Bernette Textile Co., telephone interview with Commission staff, Feb. 11, 2005.

<sup>16</sup> Dr. Douglas Hittle has worked as a consultant to Outlast Technologies, Inc. Hittle's method for testing the dynamic effect of adding the phase change materials to fabric has been approved and accepted as a standard method for testing the steady state and dynamic thermal performance in textile materials by ASTM International, a large voluntary standards development organization. Dr. Douglas Hittle, Professor and Director, Energy System Laboratory, Colorado State University, telephone interview with Commission staff, Feb. 15, 2005.

<sup>17</sup> Edward J. Farrell and David M. Schwartz, Counsel on behalf of Jimtex Yarns, written statement to CITA, Feb. 9, 2005.

<sup>18</sup> Duncan L. Edwards, Chief Operating Officer, Outlast Technologies, Inc., email to Commission staff, Feb. 11, 2005.

<sup>19</sup> \*\*\*, telephone interviews with Commission staff, Feb. 15, 2005.

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<sup>21</sup> \*\*\*, telephone interview by Commission staff, Nov. 1, 2004.

<sup>22</sup> \*\*\*

appearance and harsher hand desired for the sweaters \*\*\*<sup>23</sup>\*\*\*. U.S. sweater production is limited and imports supply most of the domestic market for sweaters.

## Discussion of affected U.S. industries, workers, and consumers<sup>24</sup>

### *Fiber producers*

Commission staff contacted the Fiber Economics Bureau<sup>25</sup> and two U.S. acrylic staple fiber producers, Solutia, St. Louis, MO, and Sterling Fibers, Inc., Pace, FL. A representative of the Fiber Economics Bureau stated that currently there is no production of acrylic fiber with PCMs in the United States, or in Mexico, "nor is there any probability that production will occur in the future since Acordis of the United Kingdom has an exclusive license to manufacture this specialty acrylic fiber."<sup>26</sup> A representative of Solutia stated that the company does not make the acrylic fiber used in the subject yarns.<sup>27</sup> A representative of Sterling Fibers stated that the firm made acrylic fiber with the PCMs for Outlast Technologies for two years, about three years ago.<sup>28</sup> The representative stated that \*\*\*. Several Outlast Technologies representatives confirmed that their firm worked with Sterling Fibers for two years about three years ago to produce acrylic fibers with PCMs.<sup>29</sup> They also noted, however, that Sterling filed for bankruptcy during that time<sup>30</sup> and that \*\*\*. Outlast Technologies representatives stated that Acordis,<sup>31</sup> an international manufacturer of fibers, \*\*\*.<sup>32</sup>

### *Yarn producers*

The only known firm that currently produces open-end spun yarns from a blend of reclaimed cotton and acrylic staple fiber, in the United States, is Jimtex Yarns, Inc.<sup>33</sup> According to a Jimtex representative, although the firm does not make the subject yarns (i.e., yarns made from a blend of reclaimed cotton and staple acrylic fiber containing PCMs), it does spin yarns from reclaimed cotton and staple acrylic fiber (predominantly 74 percent cotton, 24 percent acrylic, and 2 percent other fibers) at its plant in Lincolnton, GA. The plant uses the open-end spinning system to produce the cotton-acrylic blend yarns. Jimtex's open-end spun yarns are sold to customers that make men's and women's sweaters, gloves, socks, \*\*\*, T-shirts, sweatshirts, knit caps, and some home textiles. The Jimtex representative noted that although production of

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<sup>24</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. This section repeats the detailed industry discussion provided in the Commission's earlier report on the subject yarns almost verbatim except where relevant new information was provided in the current petition.

<sup>25</sup> The Fiber Economics Bureau is the Statistics division of the American Fiber Manufacturers Association, Inc., the trade association representing U.S. producers of synthetic and cellulosic fibers.

<sup>26</sup> Frank Horn, President, Fiber Economics Bureau, email to Commission staff, Oct. 29, 2004.

<sup>27</sup> Mark Bass, Business Director- Acrylic Fibers, Solutia, telephone interview with Commission staff, Oct. 29, 2004.

<sup>28</sup> Paul Saunders, President and Co-Owner, Sterling Fibers, telephone interview with Commission staff, Nov. 1, 2004.

<sup>29</sup> John Mitchell, Vice President, Business Development, telephone interview with Commission staff, Oct. 27, 2004 and Brad Poorman, Senior Vice President, Sales and Marketing, Outlast Technologies, telephone interview with Commission staff, Nov. 16, 2004.

<sup>30</sup> Sterling and its subsidiaries filed for bankruptcy in 2001. See "Sterling Chemicals, Inc. - Company Profile," found at <http://biz.yahoo.com/ic/51/51332.html>, retrieved Nov. 17, 2004.

<sup>31</sup> Acordis, headquartered in the Netherlands, is a multinational group of businesses supplying customers worldwide with man-made fibers and specialty materials for industrial, textile, medical, and hygiene applications. It has production facilities in Europe, including the United Kingdom, the United States, and South America.

<sup>32</sup> Brad Poorman, Senior Vice President, Sales and Marketing, Outlast Technologies, Inc., telephone interview with Commission staff, Nov. 16, 2004.

<sup>33</sup> Information on Jimtex Yarns is from its website at <http://www.jimtexyarns.com>, retrieved Feb. 17, 2005. Outlast Technologies has granted a license to a U.S. firm, Pharr Yarns, that produces 100 percent ring-spun acrylic yarn for the production of knit garments such as socks, gloves, and hats made from ring-spun yarns containing PCMs rather than open-end spun yarns.

cotton-acrylic blend yarns requires a specialized process, it is not particularly difficult.<sup>34</sup> He asserted that in addition to Outlast Technologies, other companies offer fibers with thermostatic properties, such as Thermax® and CoolMax®.<sup>35</sup> He also noted that Jimtex has a broad inventory of "fashion" colors, at least 50 that it can offer its customers from the myriad scraps that its parent company collects and it can blend various colors together, as well, to create different tones.

In its written submission to CITA in opposition to the first petition concerning the subject yarns, Jimtex Yarns stated that it has been making "this type of yarn for chief weight cotton sweaters since 1998" and in 2004 supplied colored open-end spun yarn blended from reclaimed and reprocessed cotton and various natural and solution-dyed acrylic staple fiber (known as "PDF") to Bernette Textile Co. for its El Salvador account.<sup>36</sup> Jimtex Yarns further noted that it has excess manufacturing capacity available to produce even more yarn and could add even more capacity. Jimtex Yarns also stated that its yarns are nearly identical in all respects to the yarns manufactured by Spintex, Bernette's Canadian supplier, and further noted that both companies use similar and readily available cotton carding machines and cotton open-end spinning machines to produce the yarns. Jimtex Yarns also asserted that, if requested, it would be able to make this product or a commercial substitute that has similar thermostatic/thermal-regulating/user-comfort properties and that it currently manufactures yarn products utilizing other acrylic fiber technologies.

In its written submission to CITA in opposition to the current petition, Jimtex Yarns asserted that it has the capacity and can also can make the investment required to modify its production processes to produce the subject yarn in commercial quantities in a timely manner.<sup>37</sup> Jimtex Yarns stated that the effectiveness of the subject yarns in imparting thermal management to sweaters made from same is inconclusive. Jimtex furthermore states that "no good faith attempt was made to source the subject yarn production in the United States."

According to a representative of Outlast Technologies, "there is no other viable substitute product that provides our unique, patented and proprietary introduction of PCMs into acrylic fibers that actually increases the ability of a yarn, fabric and garment to absorb latent energy, store that energy, and release the stored energy into a clothing system...Ours is a truly unique technology that incorporates PCMs that actively and dynamically work with the body and the environment to provide superior comfort and performance...The graphic results of the DSC testing (Differential Scanning Calorimeter, which measures the capacity of a material to store or release latent energy) shows traditional, Jimtex Yarns 'substitute technology' yarns to have absolutely no capacity to store or release energy..."<sup>38</sup>

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<sup>34</sup> Another industry representative stated that there is nothing unique about spinning acrylic fiber with reclaimed cotton. However, she emphasized that spinning the subject yarns from a blend of reclaimed cotton with acrylic staple fiber that contains PCMs embedded into it presents a unique challenge. It took time and considerable financial investment to develop a special process to ensure that the PCMs remained intact and undamaged by the spinning process. The resulting yarn is expensive. \*\*\* Mary Vane, Director-International Trade and Business Development, Invista, telephone interview with Commission staff, Nov. 4, 2004.

<sup>35</sup> CoolMax® is a "moisture transport fiber" developed by DuPont that provides wicking capability. It is a four-channel fiber that when spun into a fabric helps wick moisture quickly away from the skin (when the body perspires) to the outer layer of the fabric. CoolMax® is used in men's and women's underwear, hosiery/socks, T-shirts, sports bras, hats/gloves, and pants/shorts. CoolMax® focuses on moisture management rather than temperature management. Mary Vane, Director-International Trade and Business Development, Invista (\*\*\*), telephone interview with Commission staff, Nov. 4, 2004, and DuPont CoolMax Performance Fabrics, "CoolMax, The High Tech Fabric That Keeps You Dry and Comfortable," found at <http://www.fabriclink.com/pk/coolmax/home.html>, retrieved Nov. 4, 2004. Information on Thermax® was not readily available to Commission staff.

<sup>36</sup> Information in this paragraph is from Edward J. Farrell and David M. Schwartz, Counsel, on behalf of Jimtex Yarns, written submission to CITA, Nov. 4, 2004.

<sup>37</sup> Edward J. Farrell and David M. Schwartz, Counsel, on behalf of Jimtex Yarns, written statement to CITA, Feb. 9, 2005.

<sup>38</sup> Duncan L. Edwards, Chief Operating Officer, Outlast Technologies, Inc., email to Commission staff, Feb. 11, 2005.

A representative of Outlast Technologies stated that Outlast licenses all business relationships<sup>39</sup> with its customers and manufacturers (along the entire production chain) to \*\*\*<sup>40</sup>\*\*\*. Outlast said it sources the acrylic fiber yarn containing PCMs exclusively from Acordis, whose facility in the United Kingdom uses highly specialized equipment to inject the PCMs into the acrylic fiber.

According to Outlast, until its partnership with Spintex Yarns,<sup>41</sup> the firm had not been able to find any yarn spinner that could produce a yarn made from a blend of its acrylic fiber containing PCMs with reclaimed cotton.<sup>42</sup> According to Spintex, ring spinning cannot be used to produce a yarn made of acrylic fiber with PCMs.<sup>43</sup> A Spintex representative stated that the firm spent 18 months and invested hundreds of thousands of dollars to retool its equipment to create a unique open-end spinning method that can produce yarns made from a blend of reclaimed cotton and acrylic fiber with PCMs without damaging the PCMs.<sup>44</sup> The production processes for the subject yarns that Spintex developed are proprietary and are protected by exclusive licensing arrangements. Spintex has recently initiated efforts to patent its production process for the subject yarn.<sup>45</sup> A Spintex official also stated that the firm can make any color yarn \*\*\*.<sup>46</sup> These benefits contrast with what other yarn spinners offer because their yarn color selections are limited primarily to the color of the scraps they obtain from the leftovers of roll goods that are made into T-shirts and other garments.<sup>47</sup> According to an Outlast representative, other yarn spinners may offer a variety of colors, but sometimes their blending of colors results in a "heathered" look rather than rich, solid colors.<sup>48</sup>

According to a Bernette representative \*\*\*<sup>49</sup> However, Bernette found that they are not equipped to spin the blend that Bernette requires. Other yarn spinners they contacted, including Parkdale Yarns, Avondale Mills, and Frontier Yarns, indicated that they were not interested in supplying the subject yarn in the color assortments that Bernette requires. \*\*\*<sup>50</sup>\*\*\*<sup>51</sup> The Bernette official said that since Asian firms dominate the sweater market, Bernette constantly seeks unique, innovative products in order to compete. \*\*\*

## Views of interested parties

No written submissions were filed with the Commission.

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<sup>40</sup> All of the information in this paragraph is from Jeff Siskind, President and Chief Operations Officer, Bernette Textile Co., telephone interview with Commission staff, Nov. 17, 2004, and John Mitchell, Vice President, Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 27, 2004.

<sup>41</sup> Spintex Yarns, a leading producer of cotton and cotton blend yarn made primarily from recycled components, developed an open-end spinning process to produce the subject yarn. John Mitchell, Vice President, Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 25, 2004.

<sup>42</sup> About 20 to 30 other companies worldwide reportedly attempted to produce a yarn from a blend of reclaimed cotton with acrylic fibers that contain PCMs. None of these firms was successful. Spiro Pantziris, Chief Executive Officer, Spintex Yarns, Toronto, Canada, telephone interview with Commission staff, Oct. 28, 2004. \*\*\*

<sup>43</sup> Except where otherwise noted, information in this paragraph is principally from a Commission telephone interview with Spiro Pantziris, Chief Executive Officer, Spintex Yarns, Oct. 28, 2004.

<sup>44</sup> Open-end spun yarns, in addition to providing a quicker turnaround than ring spun yarn, also provide the rugged, athletic appearance and harsher hand desired for the sweaters Bernette intends to market to men. Charles Bremer, Consultant on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

<sup>45</sup> Spiro Pantziris, Chief Executive Officer, Spintex Yarns, telephone interview with Commission staff, Nov. 18, 2004.

<sup>46</sup> \*\*\* Spiro Pantziris, Chief Executive Officer, Spintex Yarns, Toronto, Canada, telephone interview with Commission staff, Nov. 12, 2004.

<sup>47</sup> John Mitchell, Vice President of Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 25, 2004.

<sup>48</sup> John Mitchell, Vice President of Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 25, 2004.

<sup>49</sup> Charles Bremer, Consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

<sup>50</sup> Charles Bremer, Consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

<sup>51</sup> Adam Siskind, President and Chief Financial Officer, Bernette Textile Co., telephone interview with Commission staff, Feb. 11, 2005.

## Probable economic effect advice<sup>52</sup>

Based on information available to the Commission, it is likely that granting duty-free treatment to U.S. imports of chief-weight cotton sweaters made in eligible CBTPA beneficiary countries from the subject yarns, regardless of the source of such yarns, would not have an adverse effect on a U.S. domestic industry or its workers. Based on information available to the Commission, currently there is no U.S. production of sweaters made from the subject yarns and, because these sweaters can be considered a new unique product, they will not likely compete with existing sweater lines. Although there are sweaters that offer either heating or cooling properties or moisture management to the end consumer, there appear to be none that are produced in the United States that offer both heating and cooling properties in the same garment. Furthermore, production of the sweaters spun from the subject yarns will target a small, high-end segment of the U.S. sweater market (with a price point averaging \$<sup>\*\*\*</sup>) that will not compete with existing sweater lines.<sup>53</sup> In addition, because imports already supply most of the domestic market for cotton sweaters, it is unlikely that granting the petition would displace U.S. production of sweaters. <sup>\*\*\*</sup> The proposed preferential treatment also would likely benefit U.S. consumers of sweaters made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

Granting the petition will likely not have an adverse impact on U.S. fiber, yarn, or fabric producers and their workers because currently there is no domestic production of fibers, yarns, or knitted fabrics made from a blend of reclaimed cotton and acrylic staple fiber with PCMs. Bernette Textile Co. is the only U.S. firm licensed to knit fabrics from yarns containing the PCMs and there appears to be no like or substitutable fabrics made domestically. Based on information available to the Commission, there also appears to be no domestic production of yarns that have the same physical properties as the subject yarns. The subject yarns are the only known yarns of textile materials with both heating and cooling properties, whereas other U.S. yarns made with thermal properties, such as Coolmax,<sup>®</sup> either offer cooling or heating but not both, or they handle moisture management only. The differentiation in yarns is further supported by the fact that the subject yarns are sold at least double the price of yarns spun domestically from reclaimed cotton and standard acrylic staple fiber.

Information available to the Commission also suggests that the domestic industry still does not have the specialized technology in place or necessary licenses to produce yarns made from a blend of reclaimed cotton and staple acrylic fibers containing PCMs. Although U.S.-based Jimtex Yarns asserts that, if requested, it would be able to make the subject yarns or a commercial substitute, it currently does not. Furthermore, it appears that Jimtex Yarns would not be able to produce the subject yarns in a timely manner because it lacks the specialized equipment or necessary licenses required. A representative of Spintex Yarns of Canada said that it needed 18 months and an investment of several hundred thousand dollars to develop a unique, open-end spinning process to produce the subject yarns. <sup>\*\*\*</sup>

It appears unlikely that the proposed preferential treatment would have any adverse impact on any segment of U.S. industry because (1) the scope of the petition is narrow, both in terms of the inputs required to produce the subject yarn, and in the end-use application (sweaters) in contrast to the wider set of end use-applications (e.g., socks, underwear, and sweaters) for domestically produced cotton-acrylic yarn, and (2) the end-use target markets are different - - department stores for the sweaters made from the subject yarns versus mass-market discounters for other garments made from domestic cotton-acrylic yarns that do not contain PCMs.

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<sup>52</sup> The Commission's advice is based on information currently available to the Commission.

<sup>53</sup> Jeff Siskind, President and Chief Operations Officer, Bernette Textile Co., telephone interview with Commission staff, Nov. 17, 2004.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-003

Products	Shirts and Blouses of Certain Flannel Fabrics
Requesting Parties	B*W*A, New York, NY
Date of Commission Report: USTR Public	April 14, 2005 April 2005
Commission Contact	Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON APRIL 14, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

This report contains the Commission's advice on three flannel fabrics contained in three separate petitions. The fabrics named in the petitions filed by B\*W\*A, New York, NY, with the Committee for the Implementation of Textile Agreements (CITA) in March 2005, and under review in this report, are similar to those named in earlier petitions filed with CITA in 2004. The subject fabrics are, however, made of finer yarns than those in the earlier petitions. CITA approved the earlier petitions, stating that the subject fabrics could not be supplied by the domestic industry in commercial quantities in a timely manner.<sup>1</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts and blouses 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. yarn, fabric, or apparel producers and their workers. The Commission is unaware of any firm that makes shirts and blouses containing the subject fabrics in the United States or any firm that makes shirts and blouses that are readily substitutable for the subject shirts in the United States. The Commission is also unaware of any domestic production of the subject flannel fabrics. The proposed action would likely benefit U.S. firms making shirts and blouses in eligible Caribbean Basin countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

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<sup>1</sup> The flannel fabrics named in the three petitions covered by this review are generally similar to the flannel fabrics specified in five earlier groups of petitions concerning such fabrics filed with CITA in 2004. CITA determined that the flannel fabrics covered by the groups of petitions received on May 12, June 21, August 3 and 16, and September 24 of 2004 could not be supplied by the domestic industry in commercial quantities in a timely manner. The fabrics named in the petitions were the subject of Commission investigations Nos. 332-458-005, 332-458-009, 332-458-010, 332-458-015, and 332-458-021.

## Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 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>2</sup>

The Commission’s advice in this report relates to three petitions received by CITA on March 3, 2005,<sup>3</sup> alleging that certain flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for shirts and blouses made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>4</sup>

## Discussion of the product

The petitions filed by B\*W\*A, New York, NY, an apparel company that designs and produces flannel apparel, cover four types of 100-percent cotton flannel fabrics that are imported under statistical reporting numbers 5208.43.00.00, 5209.43.00.50, 5209.49.00.90, and 5209.59.00.25 of the Harmonized Tariff Schedule of the United States (HTS). The 2005 general rates of duty on the fabrics, which are for use in shirts and blouses, range from free to 8.4 percent ad valorem. The apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and the general rates of duty range from 15.4 to 19.7 percent ad valorem.

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<sup>2</sup> For more information on the investigation, see the Commission’s notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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>3</sup> Two of these petitions were withdrawn and new petitions were subsequently filed with CITA on March 9, 2005, which covered the same fabrics as the original petitions plus an additional flannel fabric. The petitions before the Commission cover fabric 1) 4-thread twill weave flannel fabrics of singles yarns; fabric 2) 4-thread twill flannel fabrics of plied yarns; fabric 3) herringbone twill woven flannel fabric (the new fabric); and fabric 4) double-faced irregular sateen weave flannel fabrics.

<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.

<b>Fabric Specifications</b>				
<b>HTS statistical reporting number and description</b>	<b>Finish<sup>1</sup></b>	<b>Weight and Width<sup>2</sup></b>	<b>Construction</b>	<b>Yarn number for the warp, filling, and overall average yarn number (AYN)<sup>3</sup></b>
Fabric 1: 5208.43.0000 4-thread twill of singles yarns	Plaid of 2 or more and up to 8 yarns of different colors	136-140 g/m <sup>2</sup> ; 148-152 cm	38-40 warp ends/cm; 28-30 filling picks/cm; total: 66-70 threads/cm <sup>2</sup>	Warp: 48-52 metric Filling: 48-52 metric AYN: 48-50 metric
Fabrics 2 & 3: 5209.43.0050 4-thread twill of plied yarns 5209.49.0090 herringbone twill	Plaid of yarns of different colors in the warp and filling	301-303 g/m <sup>2</sup> ; 142-145 cm	25-26 warp ends/cm; 23-24 filling picks/cm total: 48-50 threads/cm <sup>2</sup>	Warp: 35/2-36/2 metric Filling: 35/2-36/2 metric AYN: 32-34 metric
Fabric 4: 5209.59.0025 double-faced irregular sateen	Double-faced; yarns of different colors; printed with fiber reactive dyes on one side	325-327 g/m <sup>2</sup> 148-152 cm	33-35 warp ends/cm; 57-59 filling picks/cm total: 90-94 threads/cm <sup>2</sup>	Warp: 50-52 metric; Filling: 23-25 metric AYN: 28-30 metric
<sup>1</sup> In addition, all the fabrics are napped on both sides and sanforized. <sup>2</sup> All the widths are "cuttable" widths, useable for making the garments. <sup>3</sup> For each of the four fabrics, the warp yarn is ring spun and the filling yarn is open-end spun.				

According to the petitioner, shirts and blouses made from the subject flannel fabrics, \*\*\*, are "designed and manufactured to give a richer appearance, softer feel, greater durability (can sustain more washings), and exhibit less shrinkage."<sup>5</sup> The petitioner states that the quality of the subject fabrics exceeds that of other flannels. In addition, garments made from the subject flannel fabrics reportedly offer the consumer a "superior, visual appearance and hand." All the subject fabrics are made from finer yarns than the flannel fabrics named in the petitions filed in 2004. The subject fabrics are made of dyed yarns of different colors, woven into plaid and/or gingham check patterns; the double-faced fabric has an all-over print printed on a background of dyed yarns. All the subject fabrics are double napped (meaning the fabrics are napped on both sides). Napping is a time-consuming process that provides the fuzzy finish. Double napping takes twice as long to manufacture, is twice as costly, and requires specialized machinery. All the subject fabrics are sanforized to prevent shrinkage.

The subject fabrics differ from each other by weight, finish, construction, and/or yarn size. The double-faced fabric requires the use of pick and pick looms, which constitute a small portion of the looms in the United States and which are more expensive than single-filling insertion looms. Most flannel fabrics woven in the United States use open-end spun yarns, whereas the subject flannel fabrics use ring-spun yarns in the warp yarn.<sup>6</sup>

<sup>5</sup> Most of the information in this paragraph is from Charles Bremer, Consultant on behalf of B\*W\*A, interview with Commission staff, Mar. 17, 2004.

<sup>6</sup> Charles Bremer, Consultant on behalf of B\*W\*A, interview with Commission staff, Mar. 17, 2005.

Shirts and blouses made from the subject fabrics generally compete in the higher end of the retail market. In contrast to mass-market flannel shirts and blouses, which, according to the petitioner, sell at retail for \$\*\*\* each, shirts and blouses made from the subject fabrics will retail for the following prices: shirts and blouses made from the double-faced sateen fabrics at \$\*\*\* per unit, from fabrics made of the singles yarns at \$\*\*\* per unit and from fabrics made of the plied yarns at \$\*\*\* per unit.<sup>7</sup>

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

### *Yarn producers*

The Commission is unaware of any U.S. producers of ring-spun yarn for the subject flannel fabrics. \*\*\*.  
\*\*\*9\*\*\*10\*\*\*

### *Fabric producers*

Commission staff contacted the National Council of Textile Organizations (NCTO)<sup>11</sup> and the five firms believed to weave cotton flannel fabric in the United States for use in apparel: Dan River, Inc., Danville, VA; Wade Manufacturing Co., Wadesboro, NC; Carolina Mills, Maiden, NC; Mount Vernon Mills, Inc., Greenville, SC; Avondale Mills, Granitville, SC, and Cone Denim, a division of International Textiles Group (ITG),<sup>12</sup> Greensboro, NC. According to a NCTO official, domestic production of flannel fabric has been shrinking in recent years.<sup>13</sup> None of the five weavers that Commission staff contacted produces the subject fabrics. Dan River no longer produces any type of flannel fabrics.<sup>14</sup> Although it is a leading manufacturer of flannel fabrics, Wade Manufacturing does not make the subject fabrics.<sup>15</sup> Carolina Mills specializes in producing heavier-weight flannels and does not currently produce or have any plans to produce the subject fabrics.<sup>16</sup> Avondale Mills manufactures only heavier-weight flannel used in pants and slacks<sup>17</sup> and Cone Denim "makes no flannel."<sup>18</sup>

The petitioner states that it imports flannel fabrics.<sup>19</sup><sup>20</sup>

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<sup>7</sup> Charles Bremer, Consultant on behalf of B\*W\*A, email to Commission staff, Mar. 23, 2005.

<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. This section repeats the detailed industry discussion provided in the Commission's earlier report on the subject yarns almost verbatim except where relevant new information was provided in the current petition.

<sup>9</sup> \*\*\* telephone interview with Commission staff, Mar. 21, 2005.

<sup>10</sup> \*\*\*, telephone interview with Commission staff, Mar. 21, 2005.

<sup>11</sup> The NCTO represents the entire textile sector - - the fiber, yarn, fabric, and supplier industries. This organization absorbed the American Yarn Spinners Association, the former national trade association representing the sales yarn manufacturing industry.

<sup>12</sup> Cone Denim is a division of ITG which acquired the former Cone Mills LLC.

<sup>13</sup> Michael Hubbard, Executive Vice President, NCTO, telephone interview with Commission staff, Mar. 23, 2005.

<sup>14</sup> Damien McDermott, Product Merchandiser, Dan River, telephone interview with Commission staff, Mar. 14, 2005.

<sup>15</sup> \*\*\* telephone interview with Commission staff, Mar. 14, 2005.

<sup>16</sup> Stephen Dobbins, President & CEO, Carolina Mills, telephone interview with Commission staff, Mar. 18, 2005.

<sup>17</sup> Keith Hull, President & CEO, Avondale Mills, telephone interview with Commission staff, Mar. 23, 2005.

<sup>18</sup> Mary Black, Assistant to Director, Process and Strategy Analysis, Cone Mills, telephone interview with Commission staff, Mar. 17, 2005.

<sup>19</sup> \*\*\* interview with Commission staff, Mar. 17, 2005.

<sup>20</sup> \*\*\* email to Commission staff, Mar. 17, 2005.

## **Apparel Producers**

Commission staff contacted a B\*W\*A representative who indicated that the firm designs men's and boys' shirts and women's and girls' blouses made with the subject fabrics, conducts the merchandising and sales operations at its New York City offices, and \*\*\*<sup>21</sup>\*\*\*<sup>22</sup>

According to a representative for \*\*\*.<sup>23</sup>

According to an official at \*\*\*.<sup>24</sup>

Based on discussions with an industry representative, it appears that U.S.-produced flannel shirts and blouses generally are not substitutable for shirts and blouses made of the subject flannel fabrics.<sup>25</sup> This industry representative stated that \*\*\*.

## **Views of interested parties**

No written submissions were filed with the Commission.

## **Probable economic effect advice<sup>26</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts and blouses made in eligible CBTPA countries from the subject flannel fabrics, regardless of the source of such fabrics, is not likely to have an effect on U.S. yarn, fabric, or apparel producers and their workers. Currently, there is no known U.S. production of shirts and blouses made from the subject fabrics. In addition, there appears to be no U.S. production of shirts and blouses that could be considered substitutable for ones made from the subject fabrics. Most flannel shirts and blouses imported into the U.S. market are generally sold at lower price points than the majority of shirts and blouses made of the subject fabrics. To the extent that the shirts and blouses made from the subject fabrics are substitutable for shirts and blouses sold in the United States, they likely would displace imports since imports supply most of this U.S. market.

Granting the petition will not likely have any impact on U.S. fiber, yarn, or fabric producers and their workers, because currently there is no known U.S. production of the subject fabrics or yarns or fibers designated for the subject fabrics.

U.S. firms making apparel in eligible CBTPA countries and their U.S. based workers would likely benefit from the proposed preferential treatment. The proposed preferential treatment would likely benefit U.S. consumers of shirts and blouses made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

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<sup>21</sup> \*\*\* telephone interview with Commission staff, Mar. 23, 2005.

<sup>22</sup> \*\*\* interview with Commission staff, Mar. 17, 2005.

<sup>23</sup> \*\*\* telephone interview with Commission staff, Mar. 24, 2005.

<sup>24</sup> \*\*\* telephone interview with Commission staff, Apr. 11, 2005.

<sup>25</sup> \*\*\* , telephone interview with Commission staff, Apr. 1, 2005.

<sup>26</sup> The Commission's advice is based on information currently available to the Commission.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-004

Products	Certain apparel of coat weight fabrics of camel hair, cashmere, and wool blends
Requesting Parties	S. Rothschild & Co., Inc. of New York, NY
Date of Commission Report: USTR Public	May 11, 2005 May 2005
Commission Contact	Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MAY 11, 2005. 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 outerwear, such as long coats and short jackets, made of fabrics of coat weight 100-percent carded camel hair, 100-percent carded cashmere, and a blend of carded cashmere and wool fibers<sup>1</sup> made in eligible Caribbean Basin countries from the subject fabrics, regardless of the source of such fabrics, would likely have some adverse effect on U.S. apparel producers which produce outerwear of the subject fabrics or of fabrics that may be substitutable for the subject fabrics. Granting preferential treatment to such outerwear also would have some adverse effect on U.S. fabric producers and their workers that produce the subject fabrics and any fabrics that might be substitutable for the subject fabrics. Granting preferential treatment to such outerwear is currently not likely to have an effect on U.S. yarn producers, \*\*\*. The proposed action would likely benefit U.S. firms making outerwear of the subject fabrics in eligible Caribbean Basin countries, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the

<sup>1</sup> See Discussion of the product section of this review for explanations of the fabrics and apparel which are the subject of this review.

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>2</sup>

The Commission's advice in this report relates to a petition received by CITA on March 30, 2005, alleging that certain coat weight<sup>3</sup> 100-percent carded camel hair fabric, coat weight 100-percent carded cashmere fabric, and coat weight fabric made of blends of 20-percent by weight carded cashmere and 80-percent carded wool cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for outerwear, long coats and short jackets, for both women and men, made from the above fabrics in eligible CBTPA beneficiary countries, regardless of the source of the fabrics.<sup>4</sup>

### Discussion of the product

The petition filed by S. Rothschild & Co., Inc. of New York, NY, (an apparel company that designs and imports outerwear, in this case, from factories in the Caribbean Basin countries), includes garments from three types of outerwear fabrics that are all imported under statistical reporting number 5111.19.6020 of the Harmonized Tariff Schedule of the United States (HTS). This statistical reporting number covers woven fabrics of carded wool or fine animal hair, containing 85 percent or more by weight of wool or fine animal hair, and weighing 300 gms/m<sup>2</sup> up to 400 gms/m<sup>2</sup>.<sup>5</sup> However, the petition refers to "coat weight" fabrics defined in the petition as fabrics weighing 335 gms/m<sup>2</sup> up to 400 gms/m<sup>2</sup>. Therefore, the petition covers only fabrics in that weight range. The 2005 general rate of duty on the fabrics which are for use in outerwear, such as long coats and short jackets, is 25 percent ad valorem under subheading 5111.19.60. The outerwear articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and the 2005 general rate of duty on imports of such outerwear is an ad valorem equivalent of 17.4 percent.<sup>6</sup>

The fabric specifications for each of the three fabrics are included in the tabulation on the following page.

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<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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>3</sup> In this case, "coat weight" refers to the weight of the fabric defined in the petition, which is 335 gms/m<sup>2</sup> to 400 gms/m<sup>2</sup>. For further information on the fabrics and apparel that are subject to the petition see Discussion of the product section of this review.

<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> Carded yarns of wool or fine animal hair have not been granted "short supply designation." Combed yarns of wool or fine animal hair have been granted "short supply designation" under the CBTPA. See *Federal Register* of May 28, 2002 (67 F.R. 36858-36859).

<sup>6</sup> The general rate of duty on the outerwear is a compound rate of 41¢/kg + 16.3 percent ad valorem.

<b>Fabric specifications</b>			
<b>Fabric description</b>	<b>Yarn type<sup>1</sup></b>	<b>Weight</b>	<b>Width<sup>2</sup></b>
Fabric 1: 100-percent camel hair	Carded	370-400 gm/m <sup>2</sup>	148-150 cm
Fabric 2: 100-percent cashmere	Carded	335-400 gm/m <sup>2</sup>	148-150 cm
Fabric 3: 80-percent wool/20-percent cashmere	Carded	370-400 gm/m <sup>2</sup>	148-150 cm

<sup>1</sup>Carding is a process in the manufacturing of yarns of wool or fine animal hair whereby the wool or fine animal hair fibers are opened, cleaned, aligned and/or straightened, and formed into a continuous, untwisted strand called a sliver. The production of the sliver is the first step that combines wool fibers into a form that can be drawn (or reduced in bulk) and eventually twisted into a “woolen” yarn. To produce a smoother, tighter “worsted” yarn, a process known as “combing” is performed after carding. Combing further straightens the fibers and extracts any remaining foreign matter and the shorter fibers. Combing produces a stronger, more even, more compact, finer, smoother yarn than carding. Wool or fine animal hair fabrics woven of combed yarns are known as worsted fabrics. Hoechst Celanese Corp., *Dictionary of Fiber & Textile Technology*, Charlotte, NC, 1989, pp. 24, 31, and 143.

<sup>2</sup> All the widths are “cuttable” widths, useable for making the garments.

The fabrics are imported from Italy and according to the petitioner, are coat weight fabrics of what are commonly known as “luxury fibers,” that is camel hair, cashmere, and wool/cashmere blends.<sup>7</sup> A spokesperson for \*\*\*<sup>8</sup> The fabrics are made of carded yarns and thus have a fuzzier appearance than if the fabrics were made of combed yarns. Carded yarns of wool or fine animal hair are often used in the production of both women’s and men’s outerwear as opposed to combed yarns of the same fibers, which are used more often in tailored suits and sport coats. The petition states that the use of the subject fabrics is limited by their weight to only the production of outerwear. Thus, the petitioner asserts that any U.S. weaving mills that produce lighter weight fabrics used in the production of tailored suits and sport coats should not be affected by granting short supply designation for the subject coat weight fabrics.<sup>9</sup>

The petition states that the long coats and short jackets made of the subject fabrics are sold in “mid-level” retail stores, such as Federated Department Stores, May Company, Dillards, Macy’s, and Bloomingdales.<sup>10</sup> The petitioner, Rothschild, states that in order to meet its customers’ needs, it must purchase the exact fabrics requested by its customers at lower price points.<sup>11</sup>

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<sup>7</sup> Margaret R. Polito, “Petition Regarding the Commercial Availability of Certain 100-percent Coat Weight Camelhair Fabric; 100-percent Coat Weight Cashmere Fabric; and Certain Coat Weight Blends of Cashmere and Wool Fabric Under the Caribbean Basin Trade Partnership Act”, filed with CITA, Mar. 30, 2005, p. 1.

<sup>8</sup> \*\*\*

<sup>9</sup> Margaret R. Polito, Counsel for S. Rothschild & Co., Inc., “Petition Regarding the Commercial Availability of Certain 100-percent Coat Weight Camelhair Fabric; 100-percent Coat Weight Cashmere Fabric; and Certain Coat Weight Blends of Cashmere and Wool Fabric Under the Caribbean Basin Trade Partnership Act,” filed with CITA, Mar. 30, 2005, p. 5.

<sup>10</sup> *Ibid.*, p. 2.

<sup>11</sup> *Ibid.*, pp. 2 and 3.

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

### *Apparel Producers*

Commission staff contacted four U.S. producers that produce outerwear coats and jackets of the subject fabrics domestically. \*\*\*12

An official of \*\*\*13\*\*\* This figure compares with the retail price quoted in the petition of under \$385 per coat for Rothschild's line of Larry Levine® coats of cashmere/wool blended fabrics.<sup>14</sup> \*\*\*15\*\*\*

An official of \*\*\*16\*\*\*

An official for \*\*\*17\*\*\*18\*\*\*19\*\*\*

An official from \*\*\*20\*\*\*21\*\*\*22

### *Fabric producers*

The Commission contacted the National Textile Association (NTA), which represents producers of the subject fabrics or fabrics which may be substitutable for the subject fabrics,<sup>23</sup> and the three firms believed to produce domestically the subject fabrics or substitutable fabrics. NTA stated to Commission staff and in its submission to CITA that three of its members currently produce or have the capacity to produce the subject fabrics or fabrics substitutable for the subject fabrics.<sup>24</sup> Two of these firms—the Warren Corp. and Victor Forstmann, Inc.--submitted written statements to CITA stating that, in the case of the Warren Corp., the company is currently producing domestically all the fabrics included in the petition; and in the case of Victor Forstmann, Inc., that Forstmann is a domestic producer of the subject fabrics and can produce these fabrics for Rothschild. Forstmann also included in its submission production data on fabrics of blends of wool and camelhair and cashmere that may be substitutable for subject fabrics. \*\*\*25

According to officials of the Warren Corp. and other members of the textile and apparel industries, the Warren Corp. currently produces the subject fabrics domestically and sells these fabrics to domestic producers of the subject outerwear.<sup>26</sup> Warren also sells the subject fabrics to U.S. apparel producers which use Warren's fabrics in production of the subject coats and jackets offshore. In response to the petitioner's

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<sup>14</sup> See "Petition Regarding the Commercial Availability of Certain 100-percent Coat Weight Camelhair Fabric; 100-percent Coat Weight Cashmere Fabric; and Certain Coat Weight Blends of Cashmere and Wool Fabric Under the Caribbean Basin Trade Partnership Act," filed with CITA, Mar. 30, 2005, p. 3.

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<sup>23</sup> David Trumbull, National Textile Association (NTA), Boston, MA, telephone interviews by Commission staff, Apr. 19 and 28, 2005.

<sup>24</sup> Karl Spilhaus, President, NTA, submission to CITA, "RE: Opposition to Rothschild & Co., Inc. Petition Regarding the Commercial Availability of certain coat weight fabrics of 100 percent carded camelhair, 100 percent carded cashmere, or a blend of carded cashmere and wool fibers for use in the manufacture of outerwear articles," p. 1.

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<sup>26</sup> See previous section on U.S. apparel producers.

claim that Warren has limited capacity to produce the subject fabrics and, therefore, could not meet Rothschild's needs, Warren stated in its submission to CITA that it currently has sufficient unused capacity to meet Rothschild's needs and stated that \*\*\*27\*\*\*<sup>28</sup> In response to the petitioner's claim that Warren's prices for the subject fabrics would not allow Rothschild to meet its customers' price points,<sup>29</sup> Warren stated in its submission that quantity discounts are common in the industry and that Warren's designers work with potential customers to try to meet the customers' price points by adjusting the "particular grade of quality" of its fabrics.<sup>30</sup> \*\*\*31\*\*\*

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One effect of approval of the subject petition on the \*\*\*32\*\*\*

### ***Yarn producers***<sup>33</sup>

\*\*\*34\*\*\*<sup>35</sup>

### **Views of interested parties**

No written submissions were filed with the Commission.

### **Probable economic effect advice**<sup>36</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of outerwear coats and jackets made in eligible CBTPA countries from the subject fabrics, regardless of the source of such fabrics, would likely have some adverse effect on U.S. apparel producers and U.S. fabric producers and their workers. Information provided to the Commission indicates that there is U.S. production of the subject long coats and short jackets made from the subject fabrics produced both domestically and abroad. In addition, \*\*\*. U.S. apparel producers of the subject outerwear coats and jackets could face increased competition from the subject apparel made in Caribbean Basin countries as producers there might have access to lower fabric costs because of the duty savings resulting from approval of the commercial availability petition. To the extent that imports of the subject apparel from the Caribbean Basin would increase, these increased imports might displace other imports of the subject apparel, especially since imports are believed to account for a substantial share of the U.S. market for this outerwear and U.S.-produced outerwear made of the subject fabrics.

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

<sup>28</sup> Lisa A. Cornish, Vice-President Finance and Administration, Warren Corp., "RE: Opposition to Rothschild & Co., Inc. Petition Regarding the Commercial Availability of certain coat weight fabrics of 100 percent carded camelhair, 100 percent carded cashmere, or a blend of carded cashmere and wool fibers for use in the manufacture of outerwear articles," Apr. 15, 2005, p. 1.

<sup>29</sup> The NTA's and Warren's submissions stated that CITA does not consider price differences in making its commercial availability determinations.

<sup>30</sup> Lisa A. Cornish, Vice-President Finance and Administration, Warren Corp., "RE: Opposition to Rothschild & Co., Inc. Petition Regarding the Commercial Availability of certain coat weight fabrics of 100 percent carded camelhair, 100 percent carded cashmere, or a blend of carded cashmere and wool fibers for use in the manufacture of outerwear articles," Apr. 15, 2005, p. 2.

<sup>31</sup> \*\*\*

<sup>32</sup> \*\*\*

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<sup>34</sup> \*\*\*

<sup>35</sup> \*\*\*

<sup>36</sup> The Commission's advice is based on information currently available to the Commission.

Information provided to the Commission indicates that there is current U.S. production of the subject fabrics  
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Although there are domestic producers that have the capacity to spin carded cashmere, camel hair, and wool/cashmere blended yarns, \*\*\*

U.S. firms making apparel in eligible CBTPA countries and their U.S. based workers would likely benefit from the proposed preferential treatment. The proposed preferential treatment would likely benefit U.S. consumers of long coats and short jackets made from the subject fabrics to the extent that the producers in the Caribbean Basin pass on some of the duty savings to retail consumers.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-005

Products	Shirts and Blouses of Cotton, Carbon-Emerized Fabric
Requesting Parties	Dillard's, Inc., Little Rock, AK
Date of Commission Report: USTR Public	May 18, 2005 May 2005
Commission Contact	Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)

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THIS REPORT IS A PUBLIC VERSION OF THE REPORTED SUBMITTED TO USTR ON MAY 19, 2005. ALL CONFIDENTIAL INFORMATION CONTAINED 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 shirts and blouses made in eligible Caribbean Basin countries from the subject carbon-emerized fabrics of cotton, regardless of the source of such fabrics, would not likely have an effect on U.S. yarn, fabric, or apparel producers and their workers. The Commission is unaware of any firm that makes shirts and blouses containing the subject fabrics in the United States or any firm that makes shirts and blouses that are directly substitutable for the subject shirts in the United States. The Commission is also unaware of any domestic production of the subject fabrics. The proposed action would likely benefit U.S. firms making shirts and blouses in eligible Caribbean Basin countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 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>

The Commission's advice in this report relates to a petition received by CITA on April 6, 2005, alleging that certain carbon-emerized fabrics cannot be supplied by the domestic industry in commercial quantities in a

<sup>1</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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).

timely manner. The petitioner requests that the President proclaim preferential treatment for shirts and blouses made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>2</sup>

### Discussion of the product

The petition filed by Dillard's, Inc., Little Rock, Arkansas, a retail department chain store offering fashion apparel and home furnishings, states that the piece-dyed, carbon-emerized fabrics of 100 percent cotton are imported under subheading 5208.33.00 of the Harmonized Tariff Schedule of the United States (HTS). This subheading provides for woven fabrics of cotton, containing 85 percent or more by weight of cotton, weighing not more than 200 grams per square meter, and of 3-thread or 4-thread twill construction. The 2005 general rate of duty on the fabrics, which are for use in men's and boys' shirts and women's and girls' blouses, is 10.3 percent ad valorem. These apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and subject to general rates of duty ranging from 15.4 to 19.7 percent ad valorem.

<b>Fabric Specifications</b>				
<b>HTS subheading and description</b>	<b>Finish</b>	<b>Weight and width<sup>1</sup></b>	<b>Construction</b>	<b>Yarn number for the warp, filling, and overall average yarn number (AYN)<sup>2</sup></b>
5208.33.00 Fabric of cotton: 3- or 4-thread twill	Piece-dyed, carbon-emerized on both sides	176-182 g/m <sup>2</sup> ; 168-172 cm	43-45 warp ends/cm; 24-26 filling picks/cm; total: 61-71 threads/cm <sup>2</sup>	Warp: 39/1-41/1 metric Filling: 39/1-41/1 metric AYN: 38-40 metric
<sup>1</sup> All the widths are "cuttable" widths, useable for making the garments. <sup>2</sup> The yarns are ring spun. The warp yarns are combed and the filling yarns are carded.				

According to the petitioner, shirts and blouses made from the subject carbon-emerized fabrics, \*\*\*, have a "soft, luxurious hand and a suede-like appearance but cost much less"[than suede].<sup>3</sup> The subject fabrics are made from ring-spun, combed warp yarns and ring-spun, carded filling yarns. The use of ring-spun yarns is critical for enabling the fabrics to "withstand the effects of emerizing<sup>4</sup> and imparts a better hand." The petitioner states that the subject fabric is lightly carbon emerized on the fabric back and somewhat more so on the fabric face.<sup>5</sup> In the particular carbon emerizing process of the subject fabric, the fabric is "abraded" (i.e., worn away or rubbed) by bristles of pure carbon - a process similar to sanding a piece of wood. The fiber ends of the fabric, rather than the whole fibers, are raised above the fabric surface, but less so than in

<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> \*\*\*, emails to Commission staff, Apr. 19 and May 5, 2005.

<sup>4</sup> According to the petitioner, emerizing a fabric weakens it and therefore the fabric must be made of strong yarns. \*\*\* email to Commission staff, Apr. 19, 2005.

<sup>5</sup> Ronald J. Sorini, Senior Trade Advisor, Sandler, Travis & Rosenberg, P.A., "Re: Petition Regarding the Commercial Availability of Certain Woven Fabric," Mar. 31, 2005.

napping, reportedly resulting in a smoother, more even surface than is produced by napping. Emerized fabrics also reportedly do not pill and can withstand repeated washings. Furthermore, the use of combed, ring-spun warp yarns in the subject fabric ensures a clean, even appearance on the fabric face. The petitioner asserts that conventional brushing does not create as smooth a hand. Because carbon fiber is expensive, and specialized equipment and expertise<sup>6</sup> are required, carbon emerizing costs more and requires more careful handling and time than ordinary brushing or sanding. Because of the numerous differences in processing the final product, napped flannel fabrics are not generally considered substitutable for emerized fabrics. Sport shirts and blouses will be made from the subject fabrics and are expected to compete in a higher-end market, selling at retail for \$\*\*\* per unit in Dillard's chain stores throughout the United States. \*\*\*<sup>7</sup>

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

### ***Apparel Producers***

Commission staff contacted six firms \*\*\* that the American Apparel and Footwear Association and other industry experts identified as possible manufacturers of shirts and blouses in the United States.<sup>9</sup> None of the firms that Commission staff reached stated it produced shirts and blouses of the subject carbon-emerized fabrics or fabrics that would be considered substitutable.<sup>10</sup> Consequently, it appears that there is no U.S. production of shirts and blouses made of the subject carbon-emerized fabrics, nor of fabrics that could be considered directly substitutable.

### ***Fabric producers***

Commission staff contacted the National Council of Textile Organizations (NCTO)<sup>11</sup> and seven firms believed to weave cotton fabrics in the United States for use in apparel: \*\*\*. According to a NCTO official, none of its members voiced any opposition to the petition and several fabric producers indicated that they did not know what carbon-emerized fabrics were.<sup>12</sup> In addition, none of the seven weavers that Commission staff contacted currently produces the subject fabrics nor could they identify fabrics that could be considered substitutable for the subject fabrics.<sup>13</sup> The petitioner stated that it imports carbon-emerized fabrics from \*\*\*<sup>14</sup>

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<sup>6</sup> "Long experience in operating a machine using carbon emerizing techniques instead of conventional brushing is required. Fabric is abraded by bristles of pure carbon which are extremely hard. One mistake can cause the fabric to be ruined. \*\*\*, email to Commission staff, Apr. 19, 2005.

<sup>7</sup> \*\*\*, email to Commission staff, Apr. 19, 2005.

<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. This section repeats the detailed industry discussion provided in the Commission's earlier report on the subject yarns almost verbatim except where relevant new information was provided in the current petition.

<sup>9</sup> \*\*\*

<sup>10</sup> \*\*\*

<sup>11</sup> The NCTO represents the entire textile sector - - the fiber, yarn, fabric, and supplier industries. This organization absorbed the American Yarn Spinners Association, the former national trade association representing the sales yarn manufacturing industry.

<sup>12</sup> Michael Hubbard, Executive Vice President, NCTO, telephone interviews with Commission staff, Apr. 26, 2005 and May 4, 2005.

<sup>13</sup> \*\*\* voicemail message to Commission staff, Apr. 19, 2005.

<sup>14</sup> \*\*\*, email to Commission staff, May 5, 2005.

### **Yarn producers**

The Commission is unaware of any U.S. yarn producers who make ring-spun yarn specifically for the subject carbon-emerized fabrics. \*\*\*<sup>15</sup>\*\*\*<sup>16</sup> As discussed in the previous section, based on information available to the Commission, there is no known U.S. production of emerized fabrics. Consequently, there appear to be no yarn producers that would likely be affected by the granting of the petition.

### **Views of interested parties**

No written submissions were filed with the Commission.

### **Probable economic effect advice<sup>17</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts and blouses made in eligible CBTPA countries from the subject carbon-emerized fabrics, regardless of the source of such fabrics, is not likely to have an effect on the domestic textile and apparel industries or their workers, because currently there is no known U.S. production of shirts and blouses made from the subject fabrics or production of either the subject fabrics or the yarns used to make the fabrics. In addition, there appears to be no U.S. production of shirts and blouses that could be considered viable substitutes for ones made from the subject fabrics. To the extent that the shirts and blouses made from the subject fabrics are substitutable for any shirts and blouses sold in the United States, they likely would displace imports because imports supply most of this U.S. market. U.S. firms making apparel in eligible CBTPA countries and their U.S. based workers would likely benefit from the proposed preferential treatment. The proposed preferential treatment would also likely benefit U.S. consumers of shirts and blouses made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

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<sup>15</sup> \*\*\* telephone interview by Commission staff, Apr. 22, 2005.

<sup>16</sup> \*\*\* telephone interview by Commission staff, Apr. 21, 2005, and \*\*\* , telephone interview with Commission staff, Apr. 21, 2005.

<sup>17</sup> The Commission's advice is based on information currently available to the Commission.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-006

Products	Shirts and blouses of 2x2 twill cotton flannel fabrics
Requesting Parties	Oxford Industries, Inc., Atlanta, GA
Date of Commission Report: USTR PUBLIC	May 20, 2005 May 2005
Commission Contact	Vincent DeSapio (202-205-3435; vincent.desapio@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MAY 20, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The fabrics named in the petition filed by Oxford Industries with the Committee for the Implementation of Textile Agreements (CITA) in April 2005, and under review in this report, are similar to those named in several petitions filed with CITA in 2004.<sup>1</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts and blouses 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 firm that makes shirts and blouses containing the subject fabrics in the United States or any firm that makes shirts and blouses that are directly substitutable for the subject products in the United States. The Commission is also unaware of any domestic production of the subject flannel fabrics. The proposed action would likely benefit U.S. firms making shirts and blouses in eligible Caribbean Basin countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 with CITA under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-

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<sup>1</sup> For information on the CITA's decisions regarding the 2004 petitions, see the *Federal Register* of Apr. 21, 2004 (69 F.R. 21500); May 6, 2004 (69 F.R. 26077); Nov. 30, 2004 (69 F.R. 69588); and Dec. 27, 2004 (69 F.R. 77231).

Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).<sup>2</sup>

The Commission's advice in this report relates to a petition received by CITA on April 8, 2005, 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 preferential treatment for shirts and blouses made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>3</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 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 subject fabrics are 100-percent cotton flannel fabrics, in a 2x2 twill weave construction, for use in men's and boys' shirts and women's and girls' blouses. 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 15.4 to 19.7 percent ad valorem.

<b>Fabric specifications</b>				
<b>HTS subheading and description</b>	<b>Finish<sup>1</sup></b>	<b>Weight and width<sup>2</sup></b>	<b>Construction</b>	<b>Yarn number for the warp, filling, and overall average yarn number (AYN)<sup>3</sup></b>
5208.43.00.00 2X2 thread twill	Yarns of different colors; napped	150-160 gm/m <sup>2</sup> ; 148-152 cm in width	50-52 warp ends/cm; 42-46 filling picks/cm; total: 92-98 threads/cm <sup>2</sup>	Warp: 34 metric Filling: 34 metric AYN: 60-62 metric
<sup>1</sup> In addition, all the fabrics are napped on both sides. <sup>2</sup> All the widths are "cuttable" widths, useable for making the garments. <sup>3</sup> The yarn is two-ply, combed, and ring-spun.				

The petitioner, Oxford Industries, Atlanta, GA, produces and markets branded and private-label apparel for men, women, and children, with most of its products sourced from offshore sources.<sup>4</sup> Oxford will import the

<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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>3</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>4</sup> In its fiscal year 2004, Oxford Industries sourced approximately 97 percent of its products from offshore sources, either from its owned offshore manufacturing facilities (11 percent of total) or its offshore joint ventures and third-party producers (86 percent). The remaining 3 percent of its products were sourced from domestic sources. See the firm's Form 10-K filed with

subject fabric into a CBTPA beneficiary country for use in the manufacture of shirts and blouses which will then be exported to the United States.<sup>5</sup> According to the petitioner, consumers of shirts and blouses made from the subject flannel fabrics are looking for a "unique softness and warmth of the fabric."<sup>6</sup> In addition, the petition asserts that "it is important to consumers and retailers that yarn-dyed flannels provide a neater, cleaner and more durable pattern than printed flannels." Fabrics made of ring spun yarns are also said to be "softer, stronger and more durable than fabrics made from open-end yarns." Two-ply yarns also "produce a softer hand-feel and also produce better pattern and color execution . . . and compensate for the minor inconsistencies in yarn thickness in the individual yarns resulting in a more even yarn."

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

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

### ***Apparel producers***

A representative of \*\*\*<sup>9</sup>\*\*\*.

A representative of \*\*\*.<sup>10</sup>

A representative for the apparel industry stated that \*\*\*<sup>11</sup> Commission staff contacted six firms<sup>12</sup> believed to be domestic producers of shirts and blouses of cotton woven fabrics and possible producers of the subject apparel of flannel fabrics. These firms' officials stated that their firms do not make shirts and blouses of flannel fabrics or shirts and blouses of fabrics that might be substitutable for the subject flannel fabrics.

Consequently, information available to the Commission indicates that there is likely no U.S. production of shirts and blouses of the subject flannel fabrics and there appears to be no U.S. production of shirts and blouses that would be directly substitutable for the subject shirts and blouses.

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

There are no known U.S. producers of the subject flannel fabrics or of the yarn used to make them.<sup>13</sup> \*\*\*<sup>14</sup>

Among U.S. fabric mills, a representative of Dan River, Inc., Danville, VA, said the firm ceased production of flannel fabrics in late 2004.<sup>15</sup> 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>16</sup> He noted that

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the U.S. Securities and Exchange Commission for the fiscal year ended May 28, 2004, p. 4.

<sup>5</sup> \*\*\*

<sup>6</sup> Except as noted, the information in this paragraph is from Oxford Industries' petition.

<sup>7</sup> \*\*\* , telephone interview by Commission staff, Apr. 12, 2005.

<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. This section repeats the detailed industry discussion provided in the Commission's earlier report on the subject yarns almost verbatim except where relevant new information was provided in the current petition.

<sup>9</sup> Information on the firm is from \*\*\* , interview by Commission staff, Apr. 26, 2005.

<sup>10</sup> \*\*\* , telephone interview by Commission staff, Apr. 25, 2005.

<sup>11</sup> \*\*\* , telephone interview by Commission staff, Apr. 26, 2005.

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<sup>14</sup> \*\*\* , telephone interview by Commission staff, Apr. 19, 2005.

<sup>15</sup> James Martin, President, Apparel Fabrics Division, Dan River, Inc., telephone interview by Commission staff, Apr. 26, 2005.

<sup>16</sup> \*\*\* , telephone interviews by Commission staff, Apr. 17 and 25, 2005. \*\*\*

the firm makes flannel from open-end spun yarns rather than ring-spun yarns and that apparel flannel \*\*\*.<sup>17</sup> Other firms producing flannel fabrics make heavier-weight flannel (Carolina Mills, Maiden, NC, and Avondale Mills, Granitville, SC). According to the Carolina Mills official, \*\*\*.<sup>18</sup> The Avondale Mills official said his firm weaves only heavier-weight flannel for use in pants and slacks.<sup>19</sup>

The petitioner said the subject fabrics used by his firm in shirts and blouses are sourced from \*\*\*<sup>20</sup>\*\*\*.

### **Views of interested parties**

No written submissions were filed with the Commission.

### **Probable economic effect advice<sup>21</sup>**

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

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

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<sup>17</sup> \*\*\*, telephone interview by Commission staff, Apr. 25, 2005.

<sup>18</sup> \*\*\*, telephone interview by Commission staff, Mar. 18, 2005.

<sup>19</sup> \*\*\*, telephone interview by Commission staff, Apr. 17, 2005.

<sup>20</sup> Information in this paragraph on the subject fabrics is from \*\*\*, telephone interview by Commission staff, Apr. 25, 2005.

<sup>21</sup> The Commission's advice is based on information currently available to the Commission.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-007

Products	Apparel of woven bamboo-cotton fabric
Requesting Parties	Columbia Sportswear Co., Portland, OR
Date of Commission Report USTR Public	June 29, 2005 June 2005
Commission Contact	Robert Wallace (202-205-3458; robert.wallace@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JUNE 29, 2005. 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 sub-Saharan African and Caribbean Basin countries from the subject woven bamboo-cotton fabric, regardless of the source of such fabric, would likely have a slight adverse effect on the U.S. textile industry and its workers to the extent that it thwarts some U.S. firms' current efforts to weave bamboo-cotton fabric and spin bamboo and bamboo-cotton yarns. The proposed action would have no effect on the U.S. apparel industry because there are no known firms making apparel of the subject fabric domestically. The proposed preferential treatment would likely benefit U.S. firms that may make bamboo apparel in eligible beneficiary countries and their U.S.-based workers, to the extent that it spurs demand for such apparel. Given the unique nature of bamboo textiles and apparel, there appears to be no U.S. production of goods that could be considered directly substitutable for the bamboo articles. The proposed action would likely benefit U.S. consumers to the extent that woven bamboo-cotton garments become more available in the U.S. market and that importers pass on some of the duty savings to retail consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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 for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2005 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>

The Commission's advice in this report relates to a petition received by CITA on May 18, 2005, alleging that certain woven bamboo-cotton fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible AGOA and CBTPA beneficiary countries from such fabric, regardless of the source of the fabric.<sup>2</sup>

## Discussion of the product

The petition states that the subject fabric is classified in subheading 5516.42.00 (statistical reporting number 5516.42.0022) of the Harmonized Tariff Schedule of the United States (HTS), which provides for dyed woven fabrics of artificial staple fibers, containing less than 85 percent by weight of artificial staple fibers, mixed mainly or solely with cotton. According to the petitioner, the subject fabric is a plain-woven sheeting fabric (1) of 59 percent bamboo fiber and 41 percent cotton by weight; (2) of ring-spun single yarns of metric number 33.6 for the cotton warp yarn and 23.5 for the bamboo filling yarn;<sup>3</sup> (3) containing 27-28 warp ends and 20-21 filling picks per centimeter, or a total of 47-49 threads per square centimeter; and (4) weighing 170 grams per square meter and measuring 130-133 centimeters in width. The petitioner said the fabric will be used initially in women's woven blouses, classified in HTS chapter 62 (apparel, not knitted or crocheted) and dutiable at U.S. general rates of duty of 26.9 percent (HTS subheading 6206.40.30) or 16 percent ad valorem (6211.43.00), depending on the type of blouse.

Bamboo is processed into textile fiber in a manner similar to the viscose process used to make rayon, a manufactured fiber made of regenerated cellulose such as wood pulp. In general, the manufacture of bamboo fiber involves (1) processing the bamboo into a pulp, (2) chemically treating the pulp to form a viscose liquid, (3) extruding the liquid through a spinneret into filaments, and (4) cutting the filaments into short ("staple") fibers. As such, for tariff purposes, bamboo fiber is designated as an artificial (cellulosic) fiber, a type of manmade fiber.<sup>4</sup>

The petitioner, Columbia Sportswear Co., designs, sources, and markets outerwear apparel, with nearly all its apparel sourced from independent foreign producers, located mainly in the Far East.<sup>5</sup> \*\*\*

Bamboo textiles and apparel are relatively new to the U.S. market and come almost entirely from China, where most of the world's supply of bamboo is grown and where most of the processing into textile fiber

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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 Jan. 26, 2005 (70 F.R. 3728) 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> The metric yarn number indicates the number of 1,000 meter lengths in a kilogram of yarn. Warp yarns run lengthwise on the loom and in the fabric and filling (weft) yarns run across the width of the loom and fabric.

<sup>4</sup> U.S. textile labeling acts do not recognize bamboo fiber as a generic fiber (Carol Jennings, Federal Trade Commission (FTC), telephone interview, June 9, 2005). \*\*\* For information on textile labeling, see the FTC business guide, *Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts*, available on the FTC website at [www.ftc.gov](http://www.ftc.gov).

<sup>5</sup> See the firm's Form 10-K filed with the Securities and Exchange Commission for the fiscal year ended Dec. 31, 2004.

takes place.<sup>6</sup> Trade sources claim that bamboo is unlike any other material used in textiles and apparel, because bamboo has (1) antibacterial properties that eliminate odor naturally,<sup>7</sup> even after many washings, and do not cause skin allergies as chemical antimicrobials sometimes do; (2) outstanding moisture absorption; and (3) unique breathability and moisture transmission properties. They contend that bamboo fabrics, compared with cotton fabrics, require less dyestuffs to achieve a desired color level, absorb dyestuffs better and faster, and show the colors better. They note that bamboo fabric has a soft hand or texture, good wear resistance, excellent drape, and vibrant colors. They also claim that bamboo articles are “green” or “environmentally friendly” goods, because bamboo is a renewable resource and a viable replacement for wood and petroleum-based materials.

Bamboo fiber and articles made of it cost much more than similar goods made of cotton. In fiber form, trade sources state that the per-pound price of bamboo fiber is \$1 - \$1.50 versus about \$0.50 for cotton, depending on fiber grade. In yarn form, trade sources state that the landed duty-paid value of ring-spun bamboo yarn from China is about \$1.95 - \$2.25 a pound, compared with \$1.60 - \$1.75 for Chinese ring-spun cotton yarn. Trade sources claim that the price of U.S.-made ring-spun bamboo yarn is roughly \$4 a pound. \*\*\*<sup>8</sup> The f.o.b. (free on board) price of the subject fabric is \*\*\*.<sup>9</sup>

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

A representative of the National Council of Textile Organizations (NCTO) said that U.S. mills have begun using bamboo fiber only recently for spinning and weaving.<sup>10</sup> He said one mill is working on a bamboo-cotton fabric similar to the subject fabric, and at least three spinning mills make yarns with bamboo fiber. There are no known U.S. producers of woven bamboo-cotton apparel. Given the newness of bamboo yarn, fabric, and apparel in the U.S. market, as well as the unique nature of such goods, there appears to be no U.S. production of products that could be considered directly substitutable for the bamboo articles.

#### ***Apparel***

The two known U.S. producers of bamboo apparel, The M Group (Bamboosa apparel), Awendaw, SC, and Goodwear Corp., Essex, MA, use knitted, rather than woven, fabrics of bamboo or bamboo-cotton yarns to make knitwear such as T-shirts.<sup>11</sup> \*\*\*

#### ***Fabric***

Alice Manufacturing Co., Inc., Easley, SC, is the only known U.S. fabric producer working with bamboo fiber.<sup>12</sup> An Alice official stated that the firm is conducting trial production runs in 100-percent bamboo and 50-50 bamboo-cotton fabrics \*\*\*. The Alice official said that the bamboo yarns being used in the trial runs are made domestically \*\*\*. The Alice official noted that woven cotton-blend fabrics are the firm's “bread and

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<sup>6</sup> Information in the paragraph is from the petition filed with CITA by Columbia Sportswear and the websites of Swicofil AG ([www.swicofil.com](http://www.swicofil.com)), The M Group ([www.bamboosa.com](http://www.bamboosa.com)), Bamboo Textile ([www.bambooclothes.com](http://www.bambooclothes.com)), and China Bambro Textile Co., Ltd. ([www.bambrotex.com](http://www.bambrotex.com)).

<sup>7</sup> In a report issued by China Bambro Textile Co., Ltd., entitled *Bamboo Fiber Technical Guidance*, the organization suggests that a bamboo-cotton yarn contain at least 70 percent bamboo fiber in order to “reach a satisfying anti-bacteria effect.” The report is available on the organization's website at [www.bambrotex.com](http://www.bambrotex.com).

<sup>8</sup> \*\*\*

<sup>9</sup> \*\*\*

<sup>10</sup> Michael S. Hubbard, Vice President, NCTO, written submission to the Commission, June 9, 2005.

<sup>11</sup> Information on the firms was obtained by Commission staff in telephone interviews with Morris Saintsing, The M Group, June 15, 2005, and Steve Liquori, Goodwear Corp., June 22, 2005, and from their websites at [www.bamboosa.com](http://www.bamboosa.com) and [www.goodwear.com](http://www.goodwear.com), respectively.

<sup>12</sup> Information on Alice Manufacturing is from its written submission to CITA and from Jack Miller, Vice President of the firm, telephone interview by Commission staff, June 13, 2005.

butter” product and that the firm has the capacity and know-how to make ring-spun bamboo-cotton fabrics, having made cotton-cellulosic rayon fabrics for many years.

### **Yarn**

Bamboo yarn of a kind used to make the subject fabric is made by Tuscarora Yarns, Inc., Mount Pleasant, NC, which, according to its website, makes ring-spun bamboo-cotton yarn in English cotton counts of 4/1 to 36/1.<sup>13</sup> \*\*\*

\*\*\* 14 15 16

### **Views of interested parties**

The only written submission received by the Commission was from NCTO, a Washington, DC-based lobbying group representing the fiber, fabric, supplier, and yarn industries, which stated that it opposes the proposed preferential treatment.<sup>17</sup> As noted above, NCTO said that there currently are at least three U.S. mills making yarns with bamboo fiber and at least one U.S. weaving mill working on a fabric similar to the subject fabric.

### **Probable economic effect advice<sup>18</sup>**

The Commission’s analysis indicates that granting duty-free treatment to U.S. imports of apparel made in eligible AGOA and CBTPA countries from the subject woven bamboo-cotton fabric, regardless of the source of such fabric, would likely have a slight adverse effect on the U.S. textile industry and its workers to the extent that it thwarts some U.S. firms’ current efforts to weave bamboo-cotton fabric and spin bamboo and bamboo-cotton yarns. \*\*\* Bamboo products represent a very small share of total production of U.S. yarn and fabric producers, and the U.S. market for fabrics containing bamboo fiber is currently very small. The bamboo products are part of the business strategies of these U.S. yarn and fabric producers to develop new market niches in which to compete since the United States eliminated import quotas on textiles and apparel on January 1, 2005. Given the newness of bamboo textiles and apparel in the U.S. market, as well as the unique nature of such products, there appears to be no U.S. production of goods that could be considered directly substitutable for the bamboo articles.

The proposed preferential treatment would have no effect on the U.S. apparel industry because there are no known firms making apparel of the subject woven bamboo-cotton fabric domestically. The proposed action would likely benefit U.S. firms that may make the bamboo apparel in eligible beneficiary countries and their U.S.-based workers, to the extent that it spurs demand for such apparel. It would also likely benefit U.S. consumers of apparel made of the subject fabric to the extent that the garments become more available in the U.S. market and that importers pass on some of the duty savings to retail consumers.

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<sup>13</sup> Information on Tuscarora Yarns is from its website at [www.tuscarorayarns.com](http://www.tuscarorayarns.com) and Peter J. Hegarty, President of the firm, telephone interview by Commission staff, June 14, 2005.

<sup>14</sup> \*\*\*

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

<sup>16</sup> \*\*\*

<sup>17</sup> Michael S. Hubbard, Vice President, NCTO, written submission to the Commission, June 9, 2005.

<sup>18</sup> The Commission’s advice is based on information currently available to the Commission.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-008

Products	Certain apparel of compacted, plied, ring-spun cotton yarns
Requesting Parties	Galey & Lord, Inc., New York, NY
Date of Commission Report	June 30, 2005
Commission Contact	Heidi Colby-Oizumi (202-205-3391; heidi.colby@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 14, 2005. 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 Caribbean Basin and Andean countries from U.S.-formed fabrics containing the subject yarns, regardless of the source of such yarns, would likely not have an adverse effect on U.S. yarn spinners or their workers, as there is currently no known U.S. production of the subject yarns, and U.S. production capacity for the yarns is reportedly very limited. Given the unique properties of the subject yarns, there appears to be no U.S. production of yarns that could be considered directly substitutable for the subject yarns. The proposed preferential treatment would benefit U.S. mills weaving fabrics of the subject yarns and their workers, as duty-free treatment for the specified apparel would apply only to those garments made in eligible countries from fabrics formed in the United States. The proposed action would likely benefit U.S. firms making the specified apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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 for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2005 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 Jan. 26, 2005 (70 F.R. 3728) 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 May 23, 2005, alleging that certain compacted, plied, ring-spun cotton yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA and ATPDEA beneficiary countries from U.S.-formed fabrics containing such yarns, regardless of the source of the yarns.<sup>2</sup>

## Discussion of the product

The petition, filed by AM&S Trade Service, L.L.P., on behalf of Galey & Lord, New York, NY, states that the subject yarn is classified in subheadings 5205.42.00, 5205.43.00, 5205.44.00, 5205.46.00, and 5205.47.00 of the Harmonized Tariff Schedule of the United States (HTS statistical reporting numbers 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, and 5205.47.0020), which provide for multiple (folded) yarn of combed fibers (other than sewing thread), containing 85 percent or more by weight of cotton, not put up for retail sale, depending on yarn count.<sup>3</sup> The U.S. general rates of duty on yarns classified under these subheadings range from 6.5 percent to 12 percent ad valorem. The yarns will be used to make fabric for men's and boys' woven cotton trousers and shirts, and women's and girls' woven cotton trousers, shirts, and blouses, garments that will be both cut and sewn in CBTPA or ATPDEA beneficiary countries from U.S.-formed fabrics containing the subject yarns. These apparel articles 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.

The petition describes the subject yarns as 100-percent cotton ring-spun yarns that are compacted and plied.<sup>4</sup> The subject yarns range in size from 42 to 102 metric (25 to 60 English cotton count). The yarns are produced on compact ring spinning frames<sup>5</sup> using an advanced spinning process that avoids the conventional "spinning triangle."<sup>6</sup> During the spinning process, air suction and compaction is used to condense the fibers, causing them to lay closer together and parallel with each other, resulting in a smooth, tight yarn that has less air between the fibers. The process removes short fibers from the yarn, reduces undesirable yarn hairiness, and increases strength and evenness. Fabrics woven with compacted yarns have a smooth look and feel, increased pilling resistance, and added luster. Twill fabrics made from such yarns reportedly have a cleaner look and a sharp, well-defined twill line.

Galey & Lord intends to use the subject yarns in the production of twill or plain weave fabric at its plant in NC, then ship the fabric to companies in CBTPA and ATPDEA countries for use in the manufacture of shirts,

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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> In this case, multiple yarns refers to plied yarns. Data on U.S. imports of the subject yarns are not available because the yarns are grouped with other related cotton yarns in HTS statistical reporting numbers 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, and 5205.47.0020.

<sup>4</sup> Information in this and the following paragraph is from the petition and telephone interviews by Commission staff with Carlos Moore, President of AM&S Trade Services, LLC, June 14, 2005; Al Blalock, Galey & Lord, June 14, 2005; Dennis Gilrian, Managing Director, Swift Galey, June 14, 2005; and \*\*\*.

<sup>5</sup> There are reportedly three companies, Rieter, Suessen, and Zinser, that currently manufacture compact yarn spinning systems.

<sup>6</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.

blouses, and trousers for \*\*\*. According to the petitioner, the customer has specified that compacted yarns be used to produce the fabric. \*\*\*. If commercial availability designation is given, Galey & Lord states that it would likely obtain the subject yarns from \*\*\*.

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

### ***Apparel Producers***

A representative of the American Apparel and Footwear Association stated that he was unaware of any firms making apparel of the subject yarns domestically and indicated that most U.S. production of shirts, blouses, and pants consists of products made for the U.S. military or by U.S. companies that produce custom products or small quantities of goods to augment their import lines for replenishment purposes.<sup>7</sup> Staff attempted to contact companies believed to be domestic producers of apparel similar to the garments described in the petition, but did not receive responses from most firms.<sup>8</sup> One company, \*\*\*.<sup>9</sup> A representative of \*\*\* stated that there is no domestic production of pants similar to or substitutable for the garments made of fabrics containing the subject yarns.<sup>10</sup>

### ***Fabric producers***

There are no known U.S. producers of fabrics made from the subject yarns.<sup>11</sup> The petitioner, Galey & Lord, has been asked to make such fabrics for use in apparel for \*\*\*.<sup>12</sup> \*\*\*.

Regarding possible substitutable yarns, Galey & Lord states that \*\*\*.

### ***Yarn producers***

There is no known U.S. production of the subject yarns, and there is very limited capacity to produce such yarns in the United States. Commission staff contacted the National Council of Textile Organizations (NCTO), Parkdale Mills, Ramtex, Tuscarora Mills, and R.L. Stowe Mills regarding possible domestic production of the subject yarn. NCTO identified Parkdale Mills as a potential producer of compacted yarns, and suggested three possible substitutes that exhibit properties similar to compacted yarns and are produced by a number of U.S. producers: 1) ring-spun combed and plied yarns; 2) yarns spun using the Siro double creel method; 3) and mercerized cotton yarns. NCTO also indicated that in lieu of using compact spinning machines to produce the yarn, an attachment exists that can be installed on conventional spinning systems that mimics the traditional compact spinning process.

Commission staff spoke with Parkdale Mills (Parkdale), Gastonia, NC, which is the only known domestic yarn producer that currently owns a compact ring spinning frame.<sup>13</sup> According to a company official, \*\*\*.<sup>14</sup>

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<sup>7</sup> Stephen Lamar, American Apparel & Footwear Association, telephone interview by Commission staff, Apr. 26, 2005, and e-mail correspondence to Commission staff, June 14, 2005.

<sup>8</sup> Staff contacted \*\*\*, but did not receive responses as of June 28, 2005.

<sup>9</sup> \*\*\*, telephone interview by Commission staff, June 12, 2005.

<sup>10</sup> \*\*\*, telephone interview by Commission staff, June 12, 2005.

<sup>11</sup> In telephone interviews with Commission staff on June 13 and 14, 2005, Michael Hubbard of the National Council of Textile Organizations indicated that he is unaware of any U.S. production of fabrics using compacted yarns. In addition, none of the yarn spinners or fabric producers contacted regarding this petition indicated knowledge of any U.S. fabric mills making the subject fabrics.

<sup>12</sup> Information in this paragraph is from Carlos Moore, President of AM&S Trade Services, LLC; Al Blalock, Galey & Lord; and Dennis Gilrian, Swift Galey, telephone interviews by Commission staff, June 14, 2005.

<sup>13</sup> Information in this and the following paragraph is from \*\*\*, telephone interview by Commission staff, June 15, 2005.

<sup>14</sup> \*\*\*.

The Parkdale representative noted that \*\*\*15\*\*\*.

An official of R.L. Stowe Mills, Inc., Belmont, NC, said that the company does not produce compacted yarns \*\*\*. The official said the company makes ring-spun yarns in the yarn sizes listed in the petition, and suggested that certain of its combed cotton ring-spun yarns resemble compacted yarns, depending on the quality of the fibers used. In addition, the company notes that decreased hairiness, a desirable characteristic of the compacted yarns, can be obtained through mercerization or gassing of traditional ring-spun yarns.<sup>16</sup> In the gassing process, yarns are run through a flame, which singes off the hairy fibers. Mercerized yarns are run through a caustic bath, which increases the smoothness and luster of the yarn.

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Ramtex, a Ramseur, NC, based woven-fabric and yarn producer, stated that it \*\*\*.<sup>18</sup>

A representative of Tuscarora Mills, Inc., Mount Pleasant, NC, indicated that the firm does not make compacted yarns but that the substitution of combed cotton yarns for the compacted yarns will result in a fabric with the same look and feel as one woven with compacted cotton yarns.<sup>19</sup>

According to a report of the Department of Spinning Technology and Yarn Structure, Technical University of Lodz, Poland, researchers conducted a technical analysis and comparison of combed and carded cotton yarns spun on compact spinning frames and combed and carded cotton yarns spun on conventional ring spinning frames. Such research determined that when compared to the combed cotton, plied, ring-spun yarns, the compacted yarns showed greater smoothness, fewer irregularities, less hairiness, higher tenacity, and more luster.<sup>20</sup>

### Views of interested parties

The Commission received a written submission in opposition to the petition from NCTO, which comprises four separate councils representing the fiber, yarn, fabric, and supplier industries. NCTO indicated that, while there is little domestic capacity to spin compacted yarns, virtually identical substitutes exist, which are widely available from U.S. spinners. NCTO claims that plied ring-spun combed cotton yarns and yarns produced using the Siro double creel method exhibit properties similar to compacted yarns, including decreased hairiness, greater strength, and increased elongation and roundness. In particular, according to NCTO, yarns spun with the Siro double creel process and then plied are indistinguishable from and frequently used as substitutes for compacted yarns. NCTO also mentions mercerized yarn as an additional alternative to compacted yarns. NCTO further claims that U.S. yarn spinners are currently developing proprietary methods of producing other yarns that could substitute for compacted yarns.

### Probable economic effect advice<sup>21</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of men's and boys' woven cotton trousers and shirts, and women's and girls' woven cotton trousers, shirts, and blouses made in

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

<sup>16</sup> \*\*\*, telephone interview by Commission staff, June 15, 2005.

<sup>17</sup> \*\*\*, telephone interviews with Commission staff, June 14 and 30, 2005.

<sup>18</sup> \*\*\*, telephone interview by Commission staff, June 20, 2005.

<sup>19</sup> \*\*\*, telephone interview by Commission staff, June 14, 2005.

<sup>20</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>21</sup> The Commission's advice is based on information currently available to the Commission.

eligible CBTPA or ATPDEA beneficiary countries from U.S.-formed fabrics containing the subject yarns, regardless of the source of the yarns, is not likely to have an adverse effect on U.S. yarn spinners or their workers, because there is currently no known U.S. production of the subject yarns. While one U.S. firm indicated that it owns and runs one machine that makes compacted yarns, \*\*\*. While some U.S. yarn spinners indicate that alternative yarns made by domestic firms can be used to produce fabric that is largely indistinguishable from fabrics made with compacted yarns, input from other industry and academic sources suggests that some of the alternative yarns are not commonly produced in the United States and that compacted yarns possess different physical and chemical properties that result in a different look, feel, and performance in the finished fabric.<sup>22</sup> Given the unique properties of the subject yarns, there appears to be no U.S. production of yarns that could be considered directly substitutable for the subject yarns. Further, according to the petitioner, the customer is not willing to substitute alternate or similar yarns to make the fabric used in the specified apparel, because the company is sourcing the apparel from several \*\*\* locations and desires uniformity in its product.

The proposed preferential treatment would likely benefit U.S. firms weaving the specified fabrics from the subject yarns, because it will provide U.S. fabric mills with an opportunity to reclaim a portion of the textiles business \*\*\*. As there is no known U.S. production of the specified apparel or substitutable garments, the proposed preferential treatment would not have an adverse effect on domestic apparel producers but could benefit U.S. firms making apparel in eligible CBTPA or ATPDEA beneficiary countries and their U.S.-based workers. The proposed preferential treatment would also likely benefit U.S. consumers of the specified shirts, blouses, and pants to the extent that importers pass on some of the duty savings to retail consumers.

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<sup>22</sup> \*\*\*, telephone interviews by Commission staff, June 14-15 and 28, 2005; and 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.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-009

Products	Shirts, blouses, and sleepwear of cotton seersucker fabrics
Requesting Parties	B*W*A, New York, NY
Date of Commission Report: USTR Public	July 13, 2005 July 2005
Commission Contact	Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JULY 13, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*).

### Summary of findings

This report contains the Commission's advice for 100-percent cotton seersucker fabrics named in three petitions filed on behalf of B\*W\*A, New York, NY. The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts, blouses, and sleepwear produced in eligible Caribbean Basin countries from the subject cotton seersucker fabrics, regardless of the source of such fabrics, is unlikely to have an effect on the U.S. apparel industry or its workers because it appears that the domestic garments do not compete in the same segments of the domestic market as the imported garments. Given the unique construction of seersucker fabrics, it is unlikely that the specified apparel articles made from other types of fabric would be viewed as good substitutes for the subject articles. To the extent that seersucker fabrics currently produced in the United States are substitutable for the subject 100-percent cotton seersucker fabrics, the proposed action might have a slight adverse effect on U.S. fabric and yarn mills. The proposed action would likely benefit U.S. firms making the specified garments in eligible Caribbean Basin countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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 for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2005 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>

The Commission's advice in this report relates to two petitions received by CITA on June 1, 2005, and one petition received by CITA on June 7, 2005, each alleging that certain cotton seersucker fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for shirts, blouses, and sleepwear made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>2</sup>

### Discussion of the product

The three petitions state that the subject fabrics are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheadings providing for woven fabrics of cotton, containing 85 percent or more by weight of cotton, depending on fabric weight, whether the fabric was dyed in fabric form ("piece-dyed") or made of yarns of different colors ("yarn-dyed"), and average yarn number (yarn size).<sup>3</sup> Such fabrics weighing more than 100 grams but not more than 200 grams per square meter are classified in subheadings 5208.32.30, 5208.32.40, and 5208.32.50, if piece-dyed, and in subheadings 5208.42.30, 5208.42.40, and 5208.42.50, if yarn-dyed. Fabrics weighing more than 200 grams per square meter are classified in subheadings 5209.31.60 (piece-dyed) and 5209.41.60 (yarn-dyed). The petitions state that the subject fabrics are for use in woven shirts, blouses, and sleepwear, classified in HTS chapter 62 (apparel, not knitted or crocheted) and subject to U.S. general rates of duty ranging from 6.1 percent to 19.7 percent ad valorem.

The three petitions state that the subject fabrics are 100-percent cotton seersucker fabrics woven on looms having two warp beams.<sup>4</sup> The warp yarns are divided equally between the two beams, with one set of warp yarns subject to "normal warp tension" and the other set subject to a "relaxed or tensionless state."<sup>5</sup> The crinkled or puckered appearance of seersucker fabrics results from the difference in tension between the two sets of warp yarns. All three petitions have identical fabric specifications, except that petition 1 covers piece-dyed fabrics; petition 2, yarn-dyed fabrics having both dyed warp and filling yarns; and petition 3, yarn-dyed fabrics having only dyed warp yarns, as shown in the following tabulation.

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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 Jan. 26, 2005 (70 F.R. 3728) 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> The three petitions each state that the subject fabrics weigh 101 to 255 grams per square meter and have an overall average yarn number of 30 to 115 metric.

<sup>4</sup> Except as noted, information in this paragraph is from the petitions filed on behalf of B\*W\*A by John C. Kingery, Of Counsel, Sandler, Travis & Rosenberg, P.A., and received by CITA, June 1 and 7, 2005.

<sup>5</sup> Warp yarns run vertically on the loom and in the fabric; filling yarns run horizontally across the loom and fabric.

<b>Fabric specifications</b>				
<b>HTS subheading and description</b>	<b>Finish</b>	<b>Weight and Width<sup>1</sup></b>	<b>Construction</b>	<b>Yarn number for the warp, filling, and overall average yarn number (AYN)</b>
Petition 1: 5208.32.30, 5208.32.40, 5208.32.50 & 5209.31.60 Plain weave 100-percent cotton, double warp beam seersucker fabrics	Piece-dyed	101-255 gm/m <sup>2</sup> ; 136-152 cm in width	23-48 warp ends/cm 19-40 filling picks/cm total: 42-88 threads/cm <sup>2</sup>	2 warp: (1) 33/1-119/1 metric; (2) 33/1-119/1 & 33/2-119/2 metric filling: 33/1-119/1 metric AYN: 30-115 metric
Petition 2: 5208.42.30, 5208.42.40, 5208.42.50 & 5209.41.60 Plain weave 100-percent cotton, double warp beam seersucker fabrics	Of yarns of different colors in the warp & filling	101-255 gm/m <sup>2</sup> ; 136-152 cm in width	23-48 warp ends/cm 19-40 filling picks/cm total: 42-88 threads/cm <sup>2</sup>	2 warp: (1) 33/1-119/1 metric; (2) 33/1-119/1 & 33/2-119/2 metric filling: 33/1-119/1 metric AYN: 30-115 metric
Petition 3: 5208.42.30, 5208.42.40, 5208.42.50 & 5209.41.60 Plain weave 100-percent cotton, double warp beam seersucker fabrics	Of yarns of different colors in the warp	101-255 gm/m <sup>2</sup> ; 136-152 cm in width	23-48 warp ends/cm 19-40 filling picks/cm total: 42-88 threads/cm <sup>2</sup>	2 warp: (1) 33/1-119/1 metric; (2) 33/1-119/1 & 33/2-119/2 metric filling: 33/1-119/1 metric AYN: 30-115 metric
<sup>1</sup> All the widths are "cuttable" widths, usable for making the garments.				

The petitioner, B\*W\*A, is a New York-based firm that produces apparel offshore. \*\*\*<sup>6</sup> B\*W\*A plans to make the garments in a CBTPA country from 100-percent cotton seersucker fabrics woven in \*\*\*. \*\*\*

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

### ***Apparel producers***

A representative of the American Apparel & Footwear Association (AAFA) said he was unaware of any firms making significant quantities of seersucker shirts, blouses, and sleepwear in the United States.<sup>7</sup> He said that, in general, most U.S. apparel production is either for the U.S. military or by U.S. firms producing custom goods or small quantities of apparel to augment their import lines for replenishment purposes.

Cotton seersucker shirts are made domestically by at least \*\*\* firms (\*\*\*)<sup>8</sup> \*\*\*<sup>9</sup> \*\*\*<sup>10</sup>

<sup>6</sup> Except as noted, information in the paragraph is from Charles Bremer, e-mail with Commission staff, June 16, 2004.

<sup>7</sup> Information in this paragraph is from a telephone interview by Commission staff, Apr. 26, 2005, and e-mail correspondence to Commission staff, June 14, 2005, with Stephen Lamar, AAFA, Arlington, VA.

<sup>8</sup> \*\*\*

<sup>9</sup> \*\*\*, telephone interview by Commission staff, June 24, 2005.

<sup>10</sup> \*\*\*, telephone interview by Commission staff, June 27, 2005.

Based on this information, it appears that the cotton seersucker shirts made domestically by \*\*\* do not compete in the same segments of the domestic market as those made abroad by B\*W\*A.<sup>11</sup> The retail price of cotton seersucker shirts made abroad by B\*W\*A and sold by such retailers as \*\*\* is \*\*\*, compared with about \*\*\* for those of \*\*\* and \*\*\* for those of \*\*\*. \*\*\*

### **Fabric producers**

The only known U.S. producers of seersucker fabrics are Dan River, Inc., Danville, VA, and Russell Fabrics, a division of the Russell Corporation, Alexander City, AL. \*\*\*12\*\*\*13\*\*\*

In a written submission to CITA, Russell Fabrics stated that it recently resumed production of 100-percent cotton seersucker fabrics to fill an order for delivery in \*\*\* and that its seersucker fabrics in polyester/cotton blends are substitutable for the 100-percent cotton seersucker fabrics named in the petitions.<sup>14</sup> \*\*\*15  
Although Russell stated that currently it has operated its looms at full capacity producing primarily polyester/cotton seersucker fabrics because demand has been for the blended fabrics, Russell stated that as demand for 100-percent cotton seersucker fabric increases, the mill is capable and will change its production to meet market demand.<sup>16</sup> Russell's statement of opposition stated further that it could expand capacity "through new capital investments,"<sup>17</sup> and that it \*\*\*.18 \*\*\*19 \*\*\*20 \*\*\*21\*\*\*

\*\*\*22\*\*\*23\*\*\*24\*\*\*25

In its written submission to CITA, Russell said its polyester/cotton seersucker fabrics are substitutable for the subject 100-percent cotton seersucker fabrics. \*\*\*26

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### **Yarn producers**

Cotton yarns of a kind used to make the subject fabrics are reportedly made by several U.S. yarn mills, including Parkdale Mills, Gastonia, NC, the largest producer of cotton yarn in the Western Hemisphere; Tuscarora Mills; Avondale Mills; National Textiles; Ramtex; RL Stowe Mills; Swift Spinning; and Buhler

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<sup>11</sup> Information in this paragraph is from telephone interviews by Commission staff with \*\*\*.

<sup>12</sup> James Martin, President, Apparel Fabric Division, Dan River, telephone interview by Commission staff, June 16, 2005.  
<sup>13</sup> \*\*\*

<sup>14</sup> Information in this paragraph is from the written statement of opposition filed with CITA on behalf of the Russell Corp. by B.J. Shannon, Alston & Bird, LLP, June 23, 2005.

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

<sup>16</sup> Written statement of opposition filed with CITA on behalf of the Russell Corp. by B.J. Shannon, Alston & Bird, LLP, June 23, 2005, p. 4.

<sup>17</sup> Ibid.

<sup>18</sup> Information is from the written statement of opposition filed with CITA on behalf of the Russell Corp. by B.J. Shannon, Alston & Bird, LLP, June 23, 2005.

<sup>19</sup> Ibid.

<sup>20</sup> \*\*\*

<sup>21</sup> \*\*\*

<sup>22</sup> \*\*\*

<sup>23</sup> \*\*\*

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

<sup>26</sup> \*\*\*

Quality Yarns.<sup>27</sup> Although Russell Fabrics only recently resumed domestic production of 100-percent cotton seersucker fabrics, these yarn mills may have been selling cotton yarn to Russell and Dan River for use in the production of polyester/cotton blended seersucker fabrics.

### **Views of interested parties**

No written submissions were filed with the Commission.

### **Probable economic effect advice<sup>28</sup>**

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of woven shirts, blouses, and sleepwear made in eligible CBTPA countries from 100-percent cotton seersucker fabrics, regardless of the source of such fabrics, is unlikely to have an effect on the U.S. apparel industry or its workers, because it appears that the domestic and imported seersucker garments do not compete in the same segments of the domestic market. The subject seersucker garments reportedly represent a very small share of total production of U.S. apparel producers and the U.S. market for such garments is currently very small. Given the unique construction of seersucker fabrics, it is unlikely that shirts, blouses, and sleepwear made from other types of fabric would be viewed as good substitutes for the subject articles.

To the extent that seersucker fabrics currently produced in the United States are substitutable for the subject 100-percent cotton seersucker fabrics, the proposed action might have a slight adverse effect on U.S. fabric and yarn mills. Russell Fabrics states that it recently resumed production of 100-percent cotton seersucker fabrics in response to a pick-up in demand for such fabrics and that its polyester/cotton seersucker fabrics are substitutable for the subject 100-percent cotton seersucker fabrics. However, a representative of the petitioner claims that the polyester/cotton blended seersucker fabrics are not substitutable for the 100-percent cotton seersucker fabrics, \*\*\*. Russell Fabrics also stated that it recently "has operated its looms to capacity" making primarily polyester/cotton seersucker fabrics, that it "can and will shift its production" to make cotton seersucker fabrics as demand for them increases, that it "could also expand its overall capacity to produce seersucker fabrics through new capital investments," and that "even given its current capacity and its current contractual obligations to fill orders for polyester/cotton seersucker fabrics, \*\*\*<sup>29</sup> To the extent that substitutable fabrics are currently produced domestically, any U.S. yarn producers that may supply cotton yarns to these mills may experience a similar slight adverse effect.

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

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<sup>27</sup> Telephone interviews by Commission staff with Peter Hagerty, President, Tuscarora Mills, and Michael Hubbard, Vice President, National Council of Textile Organization (NCTO), June 14, 2005. NCTO is a Washington, DC-based lobbying group representing the fiber, fabric, supplier, and yarn industries.

<sup>28</sup> The Commission's advice is based on information currently available to the Commission.

<sup>29</sup> Written statement of opposition filed with CITA on behalf of the Russell Corp. by B.J. Shannon, Alston & Bird, LLP, June 23, 2005, p. 4.



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-010

Products	Certain knitted apparel of nylon flat filament yarn
Requesting Parties	Shibani Inwear, Mauritius
Date of Commission Report: USTR Public	December 21, 2005 December 2005
Commission Contact	Jackie W. Jones (202-205-3466; <a href="mailto:jackie.jones@usitc.gov">jackie.jones@usitc.gov</a> ) Andrea W. Boron (202-205-3433; <a href="mailto:andrea.boron@usitc.gov">andrea.boron@usitc.gov</a> )

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON DECEMBER 21, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of findings

This report contains the Commission's advice for 100-percent nylon flat filament yarn named in the petition filed by Shibani Inwear of Mauritius.<sup>1</sup> The Commission's analysis indicates that granting duty-free treatment to U.S. imports of knitted camisoles, T-shirts, singlets, panties, and briefs produced in eligible African Growth and Opportunity Act (AGOA) countries from the subject nylon filament yarn, regardless of the source of such yarn, is likely to have little or no adverse effect on the U.S. apparel industry or its workers. There is only one known domestic producer of women's seamless undergarments; however, the nylon filament yarn currently used by the firm in these garments differs from the subject filament yarn. The Commission's analysis also indicates that the proposed preferential treatment is likely to have little or no adverse effect on U.S. knit fabric producers and their workers, as there appears to be no current U.S. production of knit fabrics of the subject yarn. There is likely to be no adverse effect on U.S. filament yarn producers or their workers, as U.S. filament yarn producers currently do not produce the subject yarn or similar yarns. The proposed action would benefit any U.S. firms making the specified garments in eligible AGOA countries from the subject yarn, and their U.S.-based workers. The proposed action is also likely to benefit U.S. consumers.

If the subject nylon filament yarns are determined to be not commercially available prior to the implementation date for the Central American Free Trade Agreement (CAFTA), the subject yarns would also be considered not commercially available for purposes of CAFTA<sup>2</sup> and any 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 could be greater than the effects of granting duty-free treatment to U.S. imports of the subject undergarments from AGOA countries.

<sup>1</sup> Shibani Inwear is a wholly owned Mauritian company which knits, sews, dyes, and finishes garments in Mauritius, an AGOA beneficiary country. Shibani has more than 600 employees.

<sup>2</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, no effective date for CAFTA has been proclaimed.

## Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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 for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2005 with the Committee for the Implementation of Textile Agreements (CITA) under the “commercial availability” provisions of the 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 November 9, 2005, alleging that certain nylon filament yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for certain apparel made in eligible AGOA beneficiary countries from such yarns, regardless of the source of the yarns.<sup>4</sup>

## Discussion of the product

The petition filed by Shibani Inwear of Mauritius describes the subject yarns as 100-percent nylon 66,<sup>5</sup> fully-drawn flat filament yarns. These yarns are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheading 5402.41.90 (statistical reporting no. 5402.41.9040). The petition states that the yarns are knitted using seamless knitting machines and then cut and sewn into certain women’s undergarments, such as camisoles, singlets, and panties. These knitted garments are classified in HTS chapter 61 (apparel), under HTS subheadings 6108.22.90 (statistical reporting number 6108.22.9020) and 6109.90.10 (statistical reporting number 6109.90.1065) and subject to 2005 U.S. general rates of duty of 15.6 percent and 32 percent ad valorem, respectively.

The subject yarn is a branded yarn called Strata produced by INVISTA, Europe. The technical description of the yarn is a “fully drawn flat yarn” made from nylon 66 comprising filament fibers with a mixture of round and trilobal cross sections.<sup>6</sup> The yarn is designated as “156/71 Strata,” because it has a yarn count of 156

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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 Jan. 26, 2005 (70 F.R. 3728) 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> The numbers in nylon 66 indicate that in each of the two chemicals used in the manufacture of this nylon, there are 6 carbon atoms. There are other types of nylons which have a different number of carbon atoms, such as nylon 6,10. Information sourced from Marjory L. Joseph, *Introductory Textile Science*, 2<sup>nd</sup> Edition, Holt, Rinehart and Winston, Inc., New York, 1966, 1972, p. 116.

<sup>6</sup> E-mail from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, p. 1.

decitex (140 denier)<sup>7</sup> and consists of 71 filaments, of which 51 have trilobal cross sections<sup>8</sup> and 20 have round cross sections.<sup>9</sup> Combining filaments with different cross sections creates a yarn with different light reflectance properties than a yarn made of filament fibers that have the same cross sections. Because of this combination of different cross sections within one filament yarn, apparel knit of the subject yarn, after dyeing, has a “unique subtle luster” (as required by the petitioner’s client).<sup>10</sup> The presence of the two different cross sections of the filaments in the filament yarn reportedly makes the subject yarns unique. The lustrous effect of knitted garments made from the subject yarns is the result of the light reflectance properties created by the use of different cross sections in the yarns, not the result of differences in the dye-uptake of different fibers in the yarns.<sup>11</sup> None of the industry sources contacted disagreed with these assertions of the petitioner.<sup>12</sup> According to the petitioner, yarns made by blending together two or more fibers with different dye-uptakes cannot achieve the special subtle luster of knitted garments made from the subject yarns.<sup>13</sup> Reportedly, the cost of producing the subject yarn is high owing to the cost of manufacturing the spinnerets used to produce the yarn. Such spinnerets have extrusion holes with different shapes, while most spinnerets are made with holes of uniform shape.<sup>14</sup> As a result, the subject yarn is priced considerably higher than other filament yarns.

The petitioner, Shibani Inwear, also differentiates its knitted garments made of the subject yarns by using Santoni seamless knitting machines.<sup>15</sup> The Santoni machines knit one finished “body blank” at a time, ejecting each one from the machine as it is completed. Thus, there are no sewn seams in the body part of a camisole, and only the straps of the camisole or any trim would have to be sewn on. The machines also can be adjusted to knit garments of specific sizes. The traditional circular weft knitting machines knit a continuous type of tube from which all the garment pieces of the body are cut and sewn, resulting in considerably more seams in the knitted garment. The Santoni machines are high-priced knitting machines capable of producing intricate designs. Shibani also knits the subject fabrics and body blanks using a knitting technique known as “plaiting” (or “plating”). Plaiting occurs when two yarns, the subject yarn and a stretch yarn such as Lycra, are fed through the knitting needles at the same time. The subject nylon yarn will appear on the outside of the fabric or garment and the Lycra or other type of stretch yarn will appear on the reverse of the fabric. This results in a uniform appearance to the garment. The combination of seamless knitting with the Strata 156/71 yarn and use of the plaiting technique serves to make Shibani’s apparel unique from what is reported to be produced in the United States.<sup>16</sup>

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<sup>7</sup> In the case of a filament yarn, the relationship of yarn count and thickness of the yarn is the higher the number for decitex and denier, the finer the filament.

<sup>8</sup> The cross section of a filament fiber refers to the actual shape of the fiber. In this case, a trilobal cross section indicates that the filament fiber has a rounded triangular shape, while a round cross section indicates that the filament has a circular shape.

<sup>9</sup> INVISTA recently changed the Strata yarn to 156/72 by adding one filament to the previous 71 total. E-mail from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, p. 1.

<sup>10</sup> Petition from Shibani Inwear of Mauritius submitted to CITA, “Ref: Commercial Availability Request Under African Growth and Opportunity Act (AGOA) Short Supply – Textile Filament Yarn,” Nov. 9, 2005, p. 4.

<sup>11</sup> Ibid.

<sup>12</sup> \*\*\*

<sup>13</sup> Ibid.

<sup>14</sup> Ibid., Mary Vane, INVISTA, telephone interview by Commission staff, Nov. 23, 2005.

<sup>15</sup> All the discussion in this paragraph is from an e-mail message from Alan Fellingham, Shibani Inwear, Mauritius, received by Commission staff, Dec. 5, 2005, pp. 2-4.

<sup>16</sup> The petitioner produces undergarments using seamless knitting machines using a plaiting technique. However, the proposed preferential treatment would grant duty-free treatment to imports of garments produced from the subject yarn using other techniques, in particular garments that are cut and sewn.

<sup>17</sup> \*\*\*

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

### *Apparel producers*

Acme McCrary Corp. is the only known U.S. producer of women's seamless knit undergarments of a kind similar to those made by the petitioner. Although Acme McCrary said it currently does not use the subject yarn, it indicated that it is using the same seamless knitting technology as the petitioner.<sup>18</sup> Acme McCrary stated that it has recently invested in this seamless knitting technology to produce intimate apparel and activewear. \*\*\*

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### *Fabric producers*<sup>21</sup>

Four U.S. producers of knit fabrics contacted by Commission staff<sup>22</sup> reported that they do not produce knit fabrics similar to the fabrics knitted from the subject yarn. \*\*\*23\*\*\*24\*\*\*25\*\*\*26\*\*\*27\*\*\*28\*\*\*

### *Yarn producers*

Commission staff contacted four U.S. filament yarn producers, other than INVISTA, identified by industry sources as possible domestic sources of filament yarns that might be similar to the subject yarn: Premier Fibers, Stanley, NC; Nylstar, Greensboro, NC; Unifi-Sans, Gastonia, NC; and Unifi, Inc., Greensboro, NC. Premier Fibers is a domestic producer of specialty nylon 66 yarns and other specialty fibers for the high end of the yarn market and produces filament yarns consisting of fibers with trilobal cross sections and yarns of bright colors.<sup>29</sup> \*\*\*30\*\*\* Unifi, Inc. submitted a statement to CITA indicating that Unifi does not produce the subject yarns.<sup>31</sup>

### **Probable economic effect advice**<sup>32</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of women's camisoles, T-shirts, singlets, panties, and briefs produced in eligible AGOA countries from the subject nylon filament yarns, regardless of the source of such yarns, is likely to have little or no adverse effect on the U.S. apparel industry or its workers. There is only one known domestic producer of women's seamless

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<sup>21</sup> Acme McCrary Corp. produces the subject apparel directly from yarn and therefore does not purchase or produce the fabric separately.

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<sup>26</sup> Most of the U.S. knit fabric producers manufacture circular knits from which garment parts are cut and then sewn. These circular knits are not the same product as the body blanks, for example, produced by Shibani using the seamless knitting technology.

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<sup>31</sup> Jane Johnson, Government Relations Manager, Unifi, Inc., submission to CITA, Nov. 21, 2005.

<sup>32</sup> The Commission's advice is based on information currently available to the Commission.

undergarments; however, the nylon filament yarn currently used by the firm in these garments differs from the subject filament yarn. Industry sources contacted agreed that comparable garments would require the subject yarns in order to create the unique subtle lustrous appearance.

The Commission's analysis indicates that the proposed preferential treatment is likely to have little or no adverse effect on U.S. knit fabric producers and their workers, as there appears to be no current U.S. production of knit fabrics produced with the subject yarn. U.S. knit fabric producers that indicated they could produce a fabric similar to the subject fabric also reported that they were currently not producing such a fabric and had no plans to produce it. \*\*\* The available trade data indicate that even with preferential treatment under the AGOA, AGOA countries supply a considerably smaller share of the U.S. market for these women's undergarments than the Caribbean Basin and Andean countries. Therefore, no significant displacement of U.S.-produced knit fabrics sent to women's undergarment producers in the Western Hemisphere is likely.

The Commission's analysis indicates that the proposed preferential treatment is likely to have no adverse effect on the U.S. filament yarn industry or its workers. Although U.S. filament yarn producers reported that they could make a similar yarn, none of the companies had plans to make such a yarn. \*\*\*

The proposed action would benefit any U.S. firms making the specified garments in eligible AGOA countries from the subject yarns, and their U.S.-based workers. The proposed action would also likely benefit U.S. consumers to the extent that duty savings are passed on by garment producers.

If CITA makes a determination before the implementation of CAFTA that the subject nylon filament yarns are not commercially available, the subject yarns would also be considered not commercially available for purposes of CAFTA<sup>33</sup> and any 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 U.S. industry are unknown, but could be greater than the effects of granting duty-free treatment to U.S. imports of the subject undergarments from AGOA countries. Caribbean Basin and Andean countries supply a considerably larger share of the U.S. market for the subject women's undergarments than the AGOA countries. Specifically, in 2004 CAFTA countries supplied approximately 20 percent of the total quantity of U.S. imports of these women's undergarments. The Commission does not know whether there are any producers in the CAFTA countries that use the seamless knitting technology.

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<sup>33</sup> CAFTA, Chapter Three, National Treatment and Market Access for Goods, Article 3.25: Rules of Origin and Related Matters, 4(e).



# Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-465-011

Products	Shirts, trousers, nightwear, robes, dressing gowns and woven underwear of 2x2 twill cotton flannel fabrics
Requesting Parties	Oxford Industries, Inc., Atlanta, GA
Date of Commission Report: USTR Public	January 9, 2006 January 2006
Commission Contact	Jeff Clark (202-205-3318, jeffrey.clark@usitc.gov)

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JANUARY 9, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The fabrics named in the petition filed by Oxford Industries with the Committee for the Implementation of Textile Agreements (CITA) in November 2005, and under review in this report, are similar to those named in several petitions filed with CITA in 2003 through 2005.<sup>1</sup>

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts, trousers, nightwear, robes, dressing gowns and woven underwear made in eligible Andean countries from the subject flannel fabrics, regardless of the source of such fabrics, would not be likely to have an effect on U.S. apparel, fabric, and yarn producers and their workers. The Commission is unaware of any firm in the United States that makes the subject products containing the specified flannel fabrics or that makes garments that are 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 shirts, trousers, nightwear, robes, dressing gowns and woven underwear in eligible Andean countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

### Background

On January 19, 2005, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-465, *Commercial Availability of Apparel Inputs (2005): 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)). This investigation 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 2005 with CITA under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-

<sup>1</sup> For information on the CITA's decisions regarding the 2003 to 2005 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).

Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).<sup>2</sup>

The Commission's advice in this report relates to a petition received by CITA on November 18, 2005, 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 preferential treatment for shirts, trousers, nightwear, robes, dressing gowns and woven underwear made in eligible ATPDEA beneficiary countries from such fabrics, regardless of the source of the fabrics.<sup>3</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 subject fabrics are 100-percent cotton flannel fabrics, in a 2x2 twill weave construction, napped on both sides, weighing not more than 200 grams per square meter, and made of ring-spun, 21-36 NM, dyed yarns. The fabrics are used in shirts, trousers, nightwear, robes, dressing gowns and woven underwear. 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.

The petitioner, Oxford Industries, Atlanta, GA, produces and markets branded and private-label apparel for men, women, and children, with most of its products sourced from offshore sources.<sup>4</sup> Oxford Industries will import the subject fabric into an ATPDEA beneficiary country for use in the manufacture of shirts, trousers, nightwear, robes, dressing gowns and woven underwear which will then be exported to the United States.<sup>5</sup> According to the petitioner, consumers of these garments made from the subject flannel fabrics are looking for the "unique softness and warmth of the fabric."<sup>6</sup> In addition, the petitioner asserts that "it is important to consumers and retailers that yarn-dyed flannels provide a neater, cleaner and more durable pattern than printed flannels." Fabrics made of ring-spun yarns are also said to be "softer, stronger and more durable than fabrics made from open-end yarns." The petitioner further claims that the subject fabrics "produce a softer hand-feel, as well as, produce better pattern and color execution."

Shirts, trousers, nightwear, robes, dressing gowns and woven underwear 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>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Jan. 26, 2005 (70 F.R. 3728) 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>3</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>4</sup> In its fiscal year 2005, Oxford Industries sourced approximately 99 percent of its products from offshore sources, either from its own offshore manufacturing facilities (6 percent of total) or its offshore joint ventures and third-party producers (94 percent). Less than 1 percent of its products was procured from domestic sources. See the firm's Form 10-K filed with the U.S. Securities and Exchange Commission for the fiscal year ended June 3, 2005, p. 7.

<sup>5</sup> \*\*\*, telephone interview by Commission staff, Dec. 28, 2005.

<sup>6</sup> Except as noted, the information in this paragraph is from Oxford Industries' petition.

<sup>7</sup> \*\*\*, telephone interview by Commission staff, Dec. 28, 2005.

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

### *Apparel producers*

A representative for the apparel industry stated that \*\*\*.<sup>9</sup> A representative of Cabella's, another retailer, stated that he is not aware of any domestic flannel apparel production and that \*\*\*.<sup>10</sup>

Consequently, information available to the Commission indicates that there is likely no U.S. production of apparel, particularly shirts and blouses, of the subject flannel fabrics and there appears to be no U.S. production of apparel that would be directly substitutable for the subject products.

### *Yarn and fabric producers*

There are no known U.S. producers of the subject flannel fabrics or of the yarn used to make them.<sup>11</sup> \*\*\*.<sup>12</sup>

Among U.S. fabric mills, a representative of Dan River, Inc., Danville, VA, said the firm ceased production of flannel fabrics in late 2004.<sup>13</sup> 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>14</sup> He noted that the firm makes flannel from open-end spun yarns rather than ring-spun yarns and that apparel flannel \*\*\*.<sup>15</sup> Other firms producing flannel fabrics make heavier-weight flannel (Carolina Mills, Maiden, NC, and Avondale Mills, Graniteville, SC). According to the Carolina Mills official, \*\*\*.<sup>16</sup> The Avondale Mills official said his firm weaves only heavier-weight flannel and denim yarns and fabrics.<sup>17</sup>

### *Views of interested parties*

No written submissions were filed with the Commission.

### *Probable economic effect advice<sup>18</sup>*

The Commission's analysis indicates that granting duty-free treatment to U.S. imports of shirts, trousers, nightwear, robes, dressing gowns and woven underwear made in eligible ATPDEA countries from the subject fabrics, regardless of the source of such fabrics, is not likely to have an effect on the 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 the subject products that could be considered substitutable for those made of the subject fabrics. Most flannel apparel imported into the U.S. market is generally sold at lower price points than the majority of

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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. This section repeats the detailed industry discussion provided in the Commission's earlier report on the subject yarns almost verbatim except where relevant new information was provided in the current petition.

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

<sup>10</sup> \*\*\*, telephone interview by Commission staff, Dec. 30, 2005.

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

<sup>12</sup> \*\*\*, telephone interview by Commission staff, Dec. 16, 2005.

<sup>13</sup> James Martin, President, Apparel Fabrics Division, Dan River, Inc., telephone interview by Commission staff, Apr. 26, 2005. Attempts to confirm that Dan River has ceased its production of flannel fabrics were answered by voicemail message stating that Dan River has completely closed its apparel division, Dec. 15, 2005.

<sup>14</sup> \*\*\*, telephone interviews by Commission staff, Dec. 7, 2005. \*\*\*

<sup>15</sup> \*\*\*, telephone interview by Commission staff, Dec. 7, 2005.

<sup>16</sup> \*\*\*, telephone interview by Commission staff, Dec. 16, 2005.

<sup>17</sup> \*\*\*, telephone interview by Commission staff, Dec. 16, 2005.

<sup>18</sup> The Commission's advice is based on information currently available to the Commission.

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.<sup>19</sup>

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 apparel in eligible ATPDEA countries and their U.S.-based workers. Granting the proposed petition could reduce the benefit given in 2003 to producers, including any U.S. firms, in CBTPA countries.<sup>20</sup>

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<sup>19</sup> Pursuant to Article 3.25 of the Central America-Dominican Republic-United States FTA and Annex 3.25 thereto, the United States has agreed that fibers, yarns or fabrics designated as commercially unavailable under the AGOA, the CBTPA, or the ATPDEA and obtained from outside the FTA region would not disqualify apparel products produced in another CAFTA party and imported into the United States for purposes of the rules of origin of the FTA. Both existing and future designations of such textile inputs under these three programs would extend to CAFTA parties, upon implementation of the FTA.

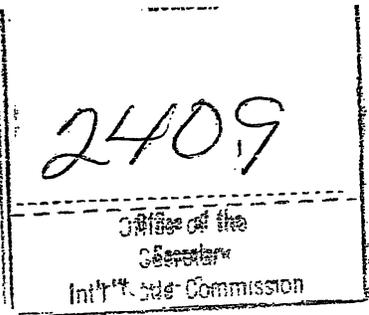
<sup>20</sup> CITA approved a petition for the subject fabrics and products from CBTPA countries, July 29, 2003 (68 F.R. 44528).

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

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

JAN 11 2005



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

Dear Chairman Koplan:

This is to request that the U.S. International Trade Commission (Commission) initiate its fifth annual "umbrella" investigation under section 332 of the Tariff Act of 1930 to provide advice regarding the probable economic effects of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed in 2005 with the Committee for the Implementation of Textile Agreements. Such petitions would be filed under the "commercial availability" provisions of the African Growth and Opportunity Act, the United States-Caribbean Basin Trade Partnership Act, and/or the Andean Trade Promotion and Drug Eradication Act. The terms of this request are the same as those in my request of December 23, 2002.

I would also 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

A handwritten signature in dark ink, appearing to read 'Bob Zoellick'.

A handwritten signature in dark ink, appearing to read 'Bob Zoellick'.

Robert B. Zoellick

2005 JAN 11 11:00 AM

U.S. INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436

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

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Dated: January 12, 2005.

Allan Oto,  
Special Projects Officer, Mid-Pacific Region.  
[FR Doc. 05-1490 Filed 1-25-05; 8:45 am]  
BILLING CODE 4310-MN-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-465]

### Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel From Sub-Saharan African, Caribbean Basin, and Andean Countries

**AGENCY:** International Trade  
Commission.

**ACTION:** Institution of investigation.

**DATES:** *Effective Date:* January 19, 2005.  
**SUMMARY:** Following receipt of a request from the United States Trade Representative (USTR) on January 13, 2005, the Commission instituted investigation No. 332-465, Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries. The Commission instituted the investigation 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 2005 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 2001-04 to provide advice with respect to petitions filed in those years.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact 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)) of the Office of Industries; for information on legal aspects, contact William Gearhart (202-205-3091, [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)) of the Office of the General Counsel. The media should contact Margaret O'Laughlin, Public Affairs Officer (202-205-1819; [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). General information about the Commission may be obtained by accessing its Internet server (<http://www.usitc.gov>). The

public record for this investigation may be viewed on the Commission's electronic docket (EDIS) <http://edis.usitc.gov>.

**Background:** The Commission will follow procedures similar to those followed in the commercial availability reviews in 2004 under investigation No. 332-458. Thus, in 2005, the Commission will provide advice for each commercial availability review under one investigation number. In addition, 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 reports to the USTR not later than the 42nd day after receiving a request for advice. The Commission will issue a public version of each report as soon as possible thereafter, with any confidential business information deleted.

**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 parties will be invited to submit written statements concerning the matters to be addressed by the Commission in this investigation. The Commission is particularly interested in receiving input from the private sector on the likely effect of any proposed preferential treatment on affected segments of the U.S. textile and apparel industries, their workers, and consumers. Submissions should be

addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), except that interested parties need file only a signed original (or copy designated as an original) and three (3) copies of each document. 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 (19 CFR 201.8) (see Handbook for Electronic Filing Procedures, [ftp://ftp.usitc.gov/pub/reports/electronic\\_filing\\_handbook.pdf](ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf)). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000 or [edis@usitc.gov](mailto:edis@usitc.gov)).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the Commission's Rules (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 CBI be clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested parties.

The public record for this investigation may be viewed on the Commission's electronic docket (EFIS) at <http://edis.usitc.gov>. Hearing impaired individuals are advised that information can be obtained by contacting our TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

### List of Subjects

Caribbean, African, Andean, tariffs, imports, yarn, fabric, and apparel.

Issued: January 24, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-1534 Filed 1-25-05; 8:45 am]

BILLING CODE 7020-02-P

**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, 2001-2004**

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
<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>1</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>2</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>3</sup>
010	Apparel of cotton flannel fabrics of yarns of different colors . . . . .	07/31/04		X		Approved <sup>3</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
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

See footnotes at end of table.

**Petitions for which the Commission provided advice under the “commercial availability” provisions of the AGOA, CBTPA, and ATPDEA, 2001-2004***Continued*

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
<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>4</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
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> 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>2</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>3</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>4</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)).