MEEKS & SHEPPARD

ATTORNEYS AT LAW

FILE

JEFFREY A. MEEKS*
RALPH H. SHEPPARD
ROBERT J. LEO*
TAYLOR PILLSBURY*
DIANE L. WEINBERG*
BARBARA DAWLEY
ANDREA ABRAHAM
MICHAEL JACKSON*
*ADMITTED TO A BAR OTHER THAN CONNECTICUT

1735 POST ROAD
SUITE 4
FAIRFIELD, CONNECTICUT 06824
TEL: (203) 256-1401
FAX: (203) 256-1478

www.mscustoms.com

330 MADISON AVENUE, 39TH FL.
NEW YORK, NY 10017
TEL: (212) 949-7120, FAX: (212) 949-7271

MEEKS, SHEPPARD & PILLSBURY
100 NEWPORT CENTER DRIVE, SUITE 220
NEWPORT BEACH, CA 92660
TEL: (949) 719-2712, FAX: (949) 719-2715

AFFILIATED WITH
WENDT & TEMPLES, LLC
ATLANTA, GA

December 16, 2005

By Federal Express

Mr. James C. Leonard, III
Chairman
Committee for the Implementation of Textile Agreements
Room H3100
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Washington, DC 20230

Re: Johnson & Johnson Consumer Products Company
NAFTA Commercial Availability Request
Feminine Hygiene Products of HTS 5601.10.2000
Made with Straight Rayon Staple Fibers of HTS 5504.10

Dear Mr. Leonard:

On behalf of our client, Johnson & Johnson Consumer Products Company (JJCP), we request that the Committee for the Implementation of Textile Agreements (CITA) recommend to the President a change to the NAFTA rule of origin for feminine hygiene products, and that after consultations with Mexico and Canada, the President proclaim the change in accordance with 19 U.S.C. § 3332(q) (3) (a) and Section 7.2 of Annex 300-B of the NAFTA. In addition, we ask that the requested rule change be effective retroactively to entries filed in the U.S. on and after October 1, 2005, which is the date that the sole U.S. producer of fibers ceased production in the U.S.

The specific fiber at issue is straight rayon staple fibers, classified under 5504.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The finished goods at issue are feminine hygiene products classified under 5601.10.2000 HTSUS.

Johnson & Johnson Consumer Products Company is a division of Johnson & Johnson International and produces and markets a large number of consumer products, including feminine hygiene products. These feminine hygiene products are constructed with absorptive cores which are made from the straight rayon staple fibers described above. These fibers are the critical material ingredient in fluid absorption, the key function of these products.

Until October 1, 2005, JJCP had purchased its fiber from Liberty Fibers Corporation (Liberty), of Lowland, Tennessee, the sole U.S. producer of these fibers, and for some years has exported these fibers to its manufacturing facility in Montreal, Quebec which produced hygiene products. Due to the U.S. origin of the fibers obtained from Liberty, these products qualified for NAFTA treatment when the finished products were reimported into the U.S. The straight rayon staple fibers are used in the production of tampons in order to conform to JJCP's stringent quality control specifications which requires the use of such fibers due to the properties and functionality they impart to the finished product.

The rule change we request is critically needed because on October 1, 2005, Liberty ceased production and is currently in bankruptcy proceedings with no plans to resume manufacturing operations. Thus, there is no U.S. source for straight rayon staple fiber and JJCP is now precluded from claiming the NAFTA preference for its Canadian-produced products using straight rayon staple fibers. The specific change requested would allow the finished feminine hygiene products classified under HTS subheading 5601.10.2000 to be considered originating goods under NAFTA without regard to the origin of the straight rayon staple fibers used in the manufacture of the finished goods.

Expedited Action Critically Needed

While we are aware of the layover process and statutory requirements in 19 U.S.C. § 3313, which the President must follow before proclaiming a change in the NAFTA rule of origin for textile products, we believe that the recent closure of Liberty creates an immediate threat to our client's ability to be competitive within the NAFTA territory. Consequently, we respectfully request expedited action on our request.

We understand that the review process requires that advice be obtained from certain advisory committees and the International Trade Commission (ITC). As a result of the critical nature of this request, we request that CITA ask the United States Trade Representative ("USTR") to seek the advice of the ITC immediately so that CITA and ITC reviews can be performed concurrently, and the consultation and 60 day layover period before the designated congressional committees can begin sooner.

In addition, there is no statutory bar to initiating the ITC report, or other U.S. agency preliminary discussions with Canada, concurrently with the process in the U.S. We believe that the fact that the ITC has previously found that Liberty was the only U.S. producer of rayon staple fiber, as well as the recent consultations with Canada in regard to tri-lobal rayon staple fibers and the closure of Liberty, should enable the Executive Branch to expedite consultations with Canada on the requested NAFTA origin rule change.

Retroactive Effect of NAFTA Origin Rule Change

While 19 U.S.C. § 1313 provides specific requirements for the effective dates of actions proclaimed that were not subject to consultation and layover processes, the statute is silent with respect to actions that are taken after consultation and layover. Consequently, we believe there is no bar to allowing the NAFTA origin rule change requested here to be retroactively effective to entries filed in the U.S. on and after October 1, 2005, and we request that retroactivity be specifically authorized.

Proof of Commercial Unavailability of Straight Rayon Staple Fiber

We request that the NAFTA parties find that straight rayon staple fibers are not available in commercial quantities within a NAFTA country and therefore modify the NAFTA rule of origin for finished goods classified under 5601.10.2000 HTSUS. Notable is the fact that the NAFTA parties recently agreed to modify the preference criteria for 5601.10.2000 by permitting use of non-NAFTA trilobal rayon fiber for production of finished sanitary articles. In that matter, the petitioner, Proctor and Gamble, noted that Liberty was the only known North American supplier of rayon staple fiber and that it could not supply their demand for suitable fiber. If anything, that situation has become more severe with Liberty's cessation of all production operations, as is underscored by the petition recently filed by Polymer Group, Inc and its subsidiary Chicopee, Inc. 70 Fed. Reg. 72993 (Dec. 8, 2005).

Additional ITC Reports of Investigation in which Liberty is referred to as the sole producer of rayon staple fibers or rayon yarn, or in some cases as the "only known" producer of such items, include the following:

- CERTAIN SANITARY ARTICLES OF TRI-LOBAL RAYON STAPLE FIBERS: EFFEXCT OF MODIFICATIONS OF NAFTA RULES OF ORIGIN FOR GOODS OF CANADA AND MEXICO, Investigation No. NAFTA-103-9, at p. 4 (December 2004).

- COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL FROM SUB-SARARAN AFRICAN, CARIBBEAN BASIN, AND ANDEAN COUNTRIES, Investigation No. 332-450-009, at p, 2 (January 2004).

- COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL FROM SUB-SAHARAN AFRICAN, CARIBBEAN BASIN, AND ANDEAN COUNTRIES, Investigation No. 332-450-008, at p. 2 (December 2003).

- COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL FROM SUB-

SAHARAN AFRICAN, CARIBBENA BASIN, AND ANDEAN COUNTRIES, Investigation No, 332-450-007, at p. 3 (December 2003).

- APPAREL INPUTS IN "SHORT SUPPLY": EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL IMPORTED FROM SUB-SAHARAN AFRICAN AND CARIBBEAN BASIN COUNTRIES, Investigation No. 332-428-010, at p. 3 (January 2002).

- APPAREL INPUTS IN "SHORT SUPPLY": EFFECT OF PROVIDING PREFENENTIAL TREATMENT TO APPAREL IMPORTED FROM SUB-SAHARAN AFRICAN AND CARIBBEAN COUNTRIES, Investigation No. 332-428-008, p. 2 (July 2001).

In addition, the online fiber guide published by the American Fiber Manufacturer's Association (AFMA) specifically identifies Liberty as the only U.S. rayon fiber producer. (Exhibit A).

JJCP has relied on Liberty for their supply of U.S.-produced straight rayon staple fiber for many years and is unaware of any other U.S. or North American producers. We attach copies of a number of news reports and press releases that confirm the closure of Liberty. (Exhibit B).

Requested Rule of Origin Change

Under Annex 401: Specific Rules of Origin in NAFTA, tampons fall under the rule for Chapter 56 (5601 – 5609), which, for goods of Canada, states that a good would qualify for the NAFTA preference if there is a change to sanitary towels or tampons of subheading 5601.10 from tri-lobal rayon staple fiber (38 mm, 3.3 decitex) of subheading 5504.10 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapters 54 through 55. Since the straight rayon staple fiber that is the subject of this petition falls under Chapter 55 and is not tri-lobal rayon staple fiber, due to the Liberty closure, the feminine hygiene products JJCP produces in Canada are no longer considered NAFTA eligible under the current preference rule.

In consequence of the above, Johnson & Johnson Consumer Products Company respectfully requests that CITA approve and pursue a change in the NAFTA rule of origin for sanitary products classified under HTSUS 5601.10.20 to allow for the use of straight rayon staple fiber, as well as trilobal rayon staple fiber, classified under HTSUS 5504.10.0000, produced outside the United States, Mexico and Canada. Specifically, we request that at least the United States and Canada allow for a tariff transformation to heading 5601.10.20 in Canada, from straight rayon staple fiber classified under 5504.10.0000. We would also have an interest in Mexico participating, provided that this does not result in a delay in the process.

As a result of this proposed change the new specific rules of origin for Chapter 56 would read as follows:

"1. A change to sanitary towels or tampons of subheading 5601.10 from rayon staple fiber of subheading 5504.10 or from any other chapter, except from heading 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54 and any subheading in Chapter 55, other than subheading 5601.10."

The preference qualification for tri-lobal fiber would be unaffected by the elimination of the reference to "trilobal" rayon staple fiber, with the only change being the addition of straight rayon staple fiber to the preference rule. Both "trilobal" and "straight" fiber would be included in the proposed language for the new rule. We believe the markets for these two fibers are different and that the change is in the interests of the domestic sanitary product manufacturing industry.

Conclusion

We would greatly appreciate an expedited review of our JJCP's petition and consultation with our NAFTA partners, as envisioned in Section 7.2. We can provide samples of the subject straight rayon staple fiber, or any additional information you may need. Should you have any questions, or if we can be of any assistance in your review of this request, please call Ralph Sheppard at (203) 256-1401, ext. 15.

Sincerely,

MEEKS & SHEPPARD

Ralph H. Sheppard

RHS/bls

Attachment

A

Rayon Fiber
(Viscose)

fibersource HOME

Rayon Staple Fiber
Rayon Textile Filament Fiber
Rayon Industrial Filament Fiber

First U.S. Commercial Rayon Fiber Production: 1910, Avtex Fibers Inc. *(Formerly FMC Corporation and American Viscose)*

Current U.S Rayon Fiber Producers: Liberty Fibers Corporation

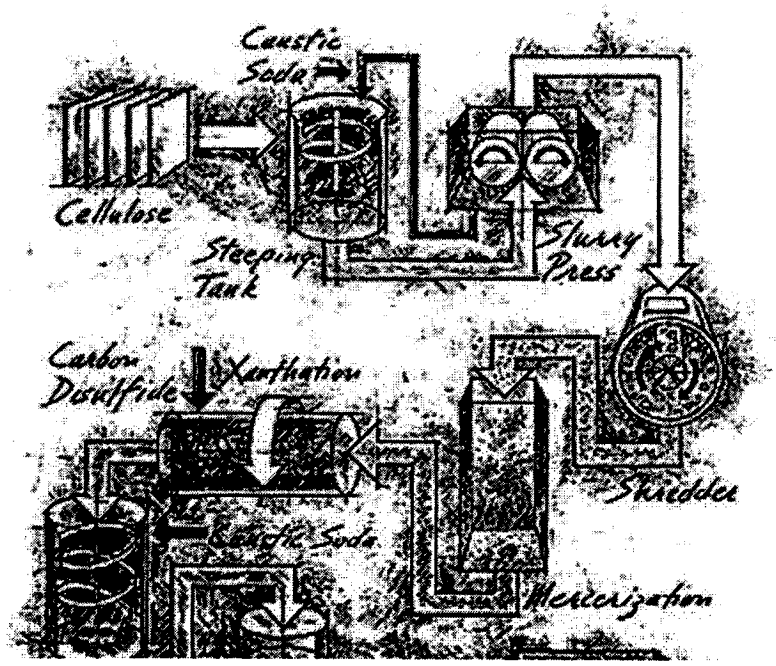
Federal Trade Commission Definition for Rayon Fiber: A manufactured fiber composed of regenerated cellulose, in which substituents have replaced not more than 15% of the hydrogens of the hydroxyl groups. (Complete FTC Fiber Rules here.)

Basic Principles of Rayon Fiber Production— In the production of rayon, purifiedcellulose is chemically converted into a soluble compound. A solution of this compound is passed through the spinneret to form soft filaments that are then converted or "regenerated" into almost pure cellulose. Because of the reconversion of the soluble compound to cellulose, rayon is referred to as a regenerated cellulose fiber.

There are several types of rayon fibers in commercial use today, named according to the process by which the cellulose is converted to the soluble form and then regenerated. Rayon fibers arewet spun, which means that the filaments emerging from the spinneret pass directly into chemical baths for solidifying or regeneration.

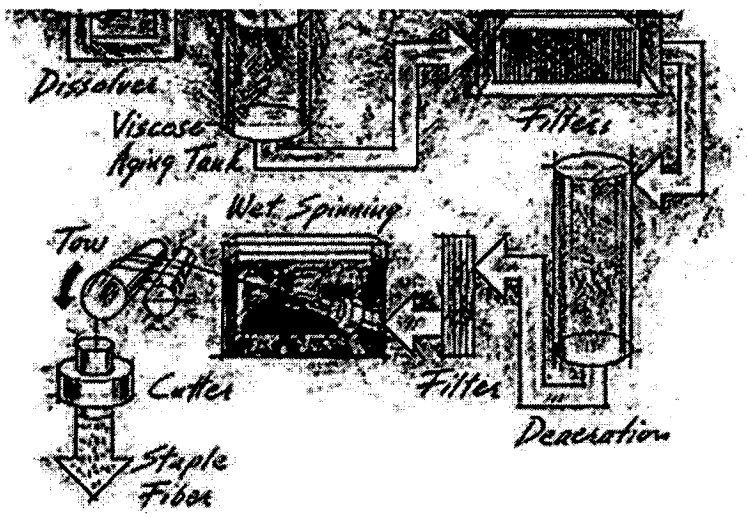
Viscose rayon is made by converting purified cellulose to xanthate, dissolving the xanthate in dilute caustic soda and then regenerating the cellulose from the product as it emerges from the spinneret. Most rayon is made by the viscose process.

Viscose Process
Most commercial rayon manufacturing today utilizes the viscose process. This process dates to the early 1900s, with most of the growth in production occurring between 1925 and 1955. In the early period, production was mainly textile filament, although the first staple was produced in 1916. High performance rayons, such as tire cord, did not appear until the late 1930s, with the advent of hot-stretching and addition of larger amounts of zinc to the spin bath. Invention of modifiers in 1947 brought on super tire cords and marked



the beginning of the high-performance rayon fibers.

All of the early viscose production involved batch processing. In more recent times, processes have been modified to allow some semi-continuous production. For easier understanding, the viscose process is a batch operation. Click on each process step for a brief explanation.



Viscose Process

Cellulose
Purified cellulose for rayon production usually comes from specially processed wood pulp. It is sometimes referred to as "dissolving cellulose" or "dissolving pulp" to distinguish it from lower grade pulps used for papermaking and other purposes. Dissolving cellulose is characterized by a high α-cellulose content, *i.e.*, it is composed of long-chain molecules, relatively free from lignin and hemicelluloses, or other short-chain carbohydrates.

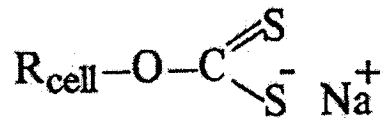
Steeping
The cellulose sheets are saturated with a solution of caustic soda (or sodium hydroxide) and allowed to steep for enough time for the caustic solution to penetrate the cellulose and convert some of it into "soda cellulose", the sodium salt of cellulose. This is necessary to facilitate controlled oxidation of the cellulose chains and the ensuing reaction to form cellulose xanthate.

Pressing
The soda cellulose is squeezed mechanically to remove excess caustic soda solution.

Shredding
The soda cellulose is mechanically shredded to increase surface area and make the cellulose easier to process. This shredded cellulose is often referred to as "white crumb".

Aging
The white crumb is allowed to stand in contact with the oxygen of the ambient air. Because of the high alkalinity of white crumb, the cellulose is partially oxidized and degraded to lower molecular weights. This degradation must be carefully controlled to produce chain lengths short enough to give manageable viscosities in the spinning solution, but still long enough to impart good physical properties to the fiber product.

Xanthation
The properly aged white crumb is placed into a churn, or other mixing vessel, and treated with gaseous carbon disulfide. The soda cellulose reacts with the CS_2 to form xanthate ester groups. The carbon disulfide also reacts with the alkaline medium to form inorganic impurities which give the cellulose mixture a characteristic yellow color – and this material is referred to as "yellow crumb". Because accessibility to the CS_2 is greatly restricted in the crystalline regions of the soda cellulose, the yellow crumb is essentially a block copolymer of cellulose and cellulose xanthate.



Dissolving
The yellow crumb is dissolved in aqueous caustic solution. The large xanthate substituents on the cellulose force the chains apart, reducing the interchain hydrogen bonds and allowing water molecules to solvate and separate the chains, leading to solution of the otherwise insoluble cellulose. Because of the blocks of un-xanthated cellulose in the crystalline regions, the yellow crumb is not completely soluble at this stage. Because the cellulose xanthate solution (or more accurately, suspension) has a very high viscosity, it has been termed "viscose".

Ripening
The viscose is allowed to stand for a period of time to "ripen". Two important process occur during ripening: Redistribution and loss of xanthate groups. The reversible xanthation reaction allows some of the xanthate groups to revert to cellulosic hydroxyls and free CS_2. This free CS_2 can then escape or react with other hydroxyl on other portions of the cellulose chain. In this way, the ordered, or crystalline, regions are gradually broken down and more complete solution is achieved. The CS_2 that is lost reduces the solubility of the cellulose and facilitates regeneration of the cellulose after it is formed into a filament.

Filtering
The viscose is filtered to remove undissolved materials that might disrupt the spinning process or cause defects in the rayon filament.

Degassing
Bubbles of air entrapped in the viscose must be removed prior to extrusion or they would cause voids, or weak spots, in the fine rayon filaments.

Spinning - (Wet Spinning)
The viscose is forced through a spinneret, a device resembling a shower head with many small holes. Each hole produces a fine filament of viscose. As the viscose exits the spinneret, it comes in contact with a solution of sulfuric acid, sodium sulfate and, usually, Zn^{++} ions. Several processes occur at this point which cause the cellulose to be regenerated and precipitate from solution. Water diffuses out from the extruded viscose to increase the concentration in the filament beyond the limit of solubility. The xanthate groups form complexes with the Zn^{++} which draw the cellulose chains together. The acidic spin bath converts the xanthate functions into unstable xantheic acid groups, which spontaneously lose CS_2 and regenerate the free hydroxyls of cellulose. (This is similar to the well-known reaction of carbonate salts with acid to form unstable carbonic acid, which loses CO_2). The result is the formation of fine filaments of cellulose, or rayon.

Drawing
The rayon filaments are stretched while the cellulose chains are still relatively mobile. This causes the chains to stretch out and orient along the fiber axis. As the chains become more parallel, interchain hydrogen bonds form, giving the filaments the properties necessary for use as textile fibers.

Washing
The freshly regenerated rayon contains many salts and other water soluble impurities which need to be removed. Several different washing techniques may be used.

Cutting
If the rayon is to be used as staple (*i.e.*, discreet lengths of fiber), the group of filaments (termed "tow") is passed through a rotary cutter to provide a fiber which can be processed in much the same way as cotton.

Other forms of regenerated cellulose fibers that are classified by the Commission as rayon without separate, distinctive names include high wet modulus rayon, cuprammonium rayon and saponified rayon.

High wet modulus rayon is highly modified viscose rayon that has greater dimensional stability in washing.

Cuprammonium rayon is made by converting the cellulose into a soluble compound by combining it with copper and ammonia. The solution of this material in caustic soda is passed through the spinneret and the cellulose is regenerated in the hardening baths that remove the copper and ammonia and neutralize the caustic soda. Cuprammonium rayon is usually made in fine filaments that are used in lightweight summer dresses and blouses, sometimes in Combination with cotton to make textured fabrics with clubbed, uneven surfaces.

When extruded filaments of cellulose acetate are reconverted to cellulose, they are described as saponified rayon, which dyes like rayon instead of acetate.

Rayon Fiber Characteristics

- Highly absorbent
- Soft and comfortable
- Easy to dye
- Drapes well

The drawing process applied in spinning may be adjusted to produce rayon fibers of extra strength and reduced elongation. Such fibers are designated as high tenacity rayons, which have about twice the strength and two-thirds of the stretch of regular rayon. An intermediate grade, known as medium tenacity rayon, is also made. Its strength and stretch characteristics fall midway between those of high tenacity and regular rayon.

Some Major Rayon Fiber Uses

- **Apparel:** Accessories, blouses, dresses, jackets, lingerie, linings, millinery, slacks, sportshirts, sportswear, suits, ties, work clothes
- **Home Furnishings:** Bedspreads, blankets, curtains, draperies, sheets, slipcovers, tablecloths, upholstery
- **Industrial Uses:** Industrial products, medical surgical products, nonwoven products, tire cord
- **Other Uses:** Feminine hygiene products

General Rayon Fiber Care Tips — Most rayon fabrics should be dry-cleaned, but some types of fabric and garment construction are such that they can be hand or machine washed. For washable items, use the following as a guide:

- Fabrics containing rayon can be bleached; some finishes, however, are sensitive to chlorine bleach.
- Use mild lukewarm or cool suds. Gently squeeze suds through fabric and rinse in lukewarm water. Do not wring or twist the article.
- Smooth or shake out article and place on a non-rust hanger to dry. Rayon sweaters should be dried flat.
- Press the article while damp on the wrong side with the iron at a moderate setting. If finishing on the right side is required, a press cloth should be used.
- Between wearings, rayon articles may be pressed with a cool iron. *(For specific instructions, refer to*

garment's sewn-in care label.)

top • home • map • feedback • fiber products • classroom

Attachment

B

Liberty Fibers Corporation Files For Protection Under Chapter 11 Of The U.S. Bankruptcy Code In Greeneville, Tennessee

Friday, September 30, 2005

Lowland, Tennessee – Craig Barker, President of Liberty Fibers Corporation, stated that late yesterday, Liberty filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code the U.S. Bankruptcy Court in Greeneville, Tennessee. He further stated that an interim order was entered today that secured post-petition financing with its senior lender, LaSalle Business Credit, to provide financing for the next 4 weeks. Liberty has since ceased all activities related to the rayon fiber production. The employees have been informed that they have been laid off for an indefinite period, except for a small staff that will be retained to conduct clean up, sell the remaining inventories, secure the fixed assets and monitor the environmental operations on the site.

Barker said that the increased competition over the past six months in the global rayon fiber market, resulted in a sharp increase in imports of rayon fiber from Asia and Europe into the North American market. The resulting loss of sales to its largest customers, in addition to the decline in sales margins, made it impossible for Liberty to cover its operating costs. In the weeks ahead, Liberty will be evaluating different strategic options for the business based on the forecasted future of the rayon fiber market in North America.

Breaking News

October 3, 2005

Liberty Fibers Files For Bankruptcy

Rayon staple fiber producer Liberty Fibers Corporation, Lowland, TN, has closed its Lowland plant and filed for Chapter 11 protection with the U.S. Bankruptcy Court. The operation was previously known as the Lenzing Fibers plant of former parent company Lenzing AG of Austria.

According to a statement from the company, Liberty has ceased all activities related to rayon fiber production and employees have been laid off for an indefinite period, except for a small staff that will be retained to conduct clean-up, sell the remaining inventories, secure the fixed assets and monitor environmental operations on the site.

The company attributed the closure to increased competition over the past six months in the global rayon fiber market, resulting in a sharp increase in imports of rayon fiber from Asia and Europe into the North American market. The resulting loss of sales to its largest customers, in addition to the decline of sales margins, reportedly made it impossible for Liberty to cover its operating costs. In the weeks ahead, Liberty plans to evaluate strategic options for the business based on the forecasted future of the rayon fiber market in North America.

End products using rayon include medical disposable, personal care, and feminine hygiene items, baby wipes, industrial and home furnishings and apparel.

Other news this month