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October 28, 2005

*VIA COURIER*

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

Re: Polymer Group, Inc. ("PGI") and its subsidiary Chicopee, Inc.

Commercial Availability Request Under the North American Free Trade Agreement (NAFTA)

Nonwoven Wipes of HTS 5603 Made with Viscose Rayon Staple Fibers of HTS 5504.10

Dear Mr. Leonard:

On behalf of our client, Polymer Group, Inc. (PGI)<sup>1</sup> and its subsidiary Chicopee, Inc., maker of the market leading Chix® food service wipes, we respectfully request that the Committee for the Implementation of Textile Agreements (CITA) recommend a change to the NAFTA rule of origin for nonwoven wipes, and that, after consultations with Mexico and Canada, the President proclaim such change in accordance with 19 U.S.C. § 3332(q)(3)(a) and Section 7(2) of Annex 300-B of the NAFTA. For the reasons described below, the change should be declared effective for entries on and after October 1, 2005, the date on which all rayon production ceased in the United States, assuming Canada makes the same change with the same effective date.

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<sup>1</sup> PGI is a global, technology-driven developer, manufacturer and marketer of engineered materials. With sales of over \$844 million in 2004, PGI is one of the world's leading nonwoven producers.

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Chicopee manufactures nonwoven wipes in the United States and is principally interested in effecting a change with respect to goods exported to Canada from the United States. We note that agreement need only be reached with Canada to accomplish such a change. Section 7(2)(c) of Annex 300-B of the NAFTA.

The specific changes requested would allow nonwoven wipes classifiable in HTS subheadings 5603.91, 5603.92, 5603.93 and 5603.94 to be considered originating goods under NAFTA without regard to the origin of any viscose rayon staple fibers contained in the product. The requested change is urgently necessary because on or about September 30, 2005, Liberty Fibers Corporation, the only producer of rayon in the United States, ceased all production and is currently in bankruptcy proceedings with no plans to restart manufacturing operations.

It is the further understanding of PGI and Chicopee, based on their knowledge and experience in the marketplace and on specific inquiries made in the trade in the NAFTA territory, that there are no producers in Canada or Mexico supplying commercial quantities of viscose rayon fibers in a timely manner. We believe this understanding is supported by the experience of U.S. negotiators in recently concluded consultations with Canada concerning filament yarns of viscose rayon and tri-lobal rayon staple fibers.

## **I. Requested Procedural Actions**

### **A. Expedited Action By All Means Available.**

Our clients are mindful of the statutory requirement that the consultation and layover process of 19 U.S.C. § 3313 be followed prior to the President's proclamation of a change in the NAFTA rule of origin for a textile product such as the subject nonwoven wipes. *See* 19 U.S.C. § 3332(q)(3). However, the sudden closure of Liberty Fibers Corp., and the resulting nonavailability of U.S. origin rayon fibers, poses an immediate threat to our client's competitiveness in the NAFTA territory. Accordingly, we request expedited action by all means available.

The consultation and layover process requires, *inter alia*, that the advice of certain advisory committees and the International Trade Commission (ITC) be obtained. Based on the urgency of this request, for example, CITA could ask the United States Trade Representative ("USTR") to immediately solicit the advice of the ITC so that CITA's and the ITC's reviews are performed concurrently, and the consultation and layover period of 60 days before the appropriate congressional committees could commence more promptly.

There are no statutory restrictions on initiating the ITC report immediately, or on, for example, CITA or USTR staff initiating preliminary discussions with Canada while the public processes in the United States are carried out. Indeed, based on the ITC's numerous previous findings that Liberty was the only U.S. producer of rayon fibers, discussed further below, and the recently concluded consultations with Canada concerning rayon fibers and yarns, the Executive Branch should move as expeditiously as

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possible, now that Liberty's closure is a matter of public record, to initiate consultations with Canada to change the rule of origin and preserve the capacity of U.S. non-woven producers to benefit from NAFTA.

Moreover, we note that the ITC initiates its investigation concurrent with CITA's review of petitions under the Caribbean Basin Trade Partnership Act (CBTPA) and the African Growth and Opportunity Act (AGOA). *See e.g.*, COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL OF CERTAIN YARN OF MICRO MODAL® FIBERS FROM ELIGIBLE CARRIBEAN BASIN, ANDEAN, AND SUB-SAHARAN AFRICAN COUNTRIES, Investigation No. 332-458-025 (February 2005) (Attached and hereinafter referred to as Exhibit A). Therefore, concurrent CITA and ITC review is not without precedent.

We ask that this petition be advanced in the ordinary course through the notice and comment process while any necessary and extraordinary review of the requested procedural steps is undertaken.

**B. Proclamation with Retroactive Effect.**

A proclamation changing the applicable NAFTA rule of origin effective October 1, 2005 is not only appropriate under the circumstances it is lawful in the United States.<sup>2</sup> Notably, 19 U.S.C. § 1313 specifies requirements for the effective date of actions proclaimed that were not the subject of the consultation and layover procedure, but is silent on the effective date of actions taken following consultation and layover. Congress having been silent on the effective date of such proclamations has left the President's independent constitutional power unrestricted.<sup>3</sup>

Courts have routinely upheld retroactive Executive Orders. The most explicit declaration of the permissibility of a retroactive Executive Order was made in *Sea-Land Service, Inc. v. I.C.C.*, 738 F.2d 1311 (D.C. Cir. 1984). In *Sea-Land*, the Court of Appeals for the District of Columbia upheld an explicitly retroactive Executive Order, stating:

The plain language of the Executive Order makes clear that the President intended it to have retroactive impact. We therefore find no reason to entertain the ordinary presumption in *Greene* that laws be interpreted wherever possible as having solely prospective effect. *Id.* at 1314.

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<sup>2</sup> We are currently exploring the permissibility of a retroactive change in Canada and would only expect U.S. negotiators to agree on such a change to the U.S. rule of origin if Canada also agreed.

<sup>3</sup> The Supreme Court has recognized both the legality of congressional delegation of discretionary power to the President and the legality of Presidential legislation based upon independent constitutional grants of authority. *Hirabayashi v United States*, 320 U.S. 81 (1943); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

The court went on to note that Congress may restrict the President's authority to issue Executive Orders, but that absent such restriction, retroactivity was a permissible component of a Presidential directive. *See also, Friedlander v. U.S.*, 1951 WL 5367 (Ct. Cl. 1951) (holding that a retroactive Executive Order is valid); *North American Foreign Trading Corp. v. U.S.*, 600 F. Supp. 226, 230 (Ct. Int'l Trade 1984) (stating that retroactivity does not automatically invalidate an Executive Order).

Executive Order No. 11030, 27 Fed. Reg. 5847 (June 19, 1962) defines Presidential Proclamations and Executive Orders identically and leaves the determination of which title to attach to an action to the President. The Supreme Court has held that there is no material difference between a Presidential "proclamation" and "order." *Wolsey v. Chapman*, 101 U.S. 755, 770 (1880). Therefore, the President generally may use either directive to accomplish a legally permissible goal and the clear precedents authorizing retroactive Executive Orders apply equally to Presidential Proclamations.

The retroactive effect of the proposed rule change should be the subject of the advice solicited from the ITC and the advisory committees and would be part of the proposed action that is subject to the consultation and layover requirement, so there will be adequate public consideration of such an action.

## **II. Requested Rule of Origin Change**

The NAFTA rule of origin currently applicable to the subject nonwoven staple fiber wipes classifiable in HTS 5603 is set forth in HTSUS GN12(t)/56.3. It states:

3. A change to headings 5601 through 5609 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or Chapters 54 through 55.

We are requesting a change to the rule of origin applicable to nonwoven staple fiber products classifiable in HTS 5603, which could be effected by revision of the above rule and the addition of a new paragraph within HTSUS GN12(t)/56. We suggest language similar to the following:

Heading rule: TCR 4 applies to goods entered on or after October 1, 2005.

3. A change to headings 5601, 5602, and 5604 through 5609 and subheadings 5603.11, 5603.12, 5603.13, 5603.14 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or Chapters 54 through 55.
4. A change to subheadings 5603.91, 5603.92, 5603.93, or 5603.94 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308, 5310 through 5311, 5501 through 5503, 5505 through 5516, or Chapter 54.

The change should not be difficult to effect with Canada and Mexico because only six digit HS code tariff provisions need be referenced in the new rule. This is another reason we urge the most expedited consultations possible.

### **III. Proof of Commercial Unavailability of Viscose Rayon Fibers**

#### **A. Liberty Fibers Corporation Has Been Recognized as the Only U.S. Producer of Rayon Fiber.**

It is a matter of public record that for at least the last four years Liberty Fibers Corporation of Lowland, Tennessee has been the only U.S. producer of rayon staple fibers. The ITC has specifically found this to be the case in at least seven different investigations of commercial availability, including most recently in February 2005 when it described Liberty Fibers as "the sole U.S. producer of viscose" and as manufacturing "rayon primarily for nonwovens." *See Exhibit A at p. 3.*

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

- CERTAIN SANITARY ARTICLES OF TRI-LOBAL RAYON STAPLE FIBERS: EFFECT OF MODIFICATIONS OF NAFTA RULES OF ORIGIN FOR GOODS OF CANADA AND MEXICO, Investigation No. NAFTA-103-9, at p. 4 (December 2004) (Exhibit B).
- COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL FROM SUB-SAHARAN AFRICAN, CARIBBEAN BASIN, AND ANDEAN COUNTRIES, Investigation No. 332-450-009, at p. 2 (January 2004) (Exhibit C).
- 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) (Exhibit D).
- COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2003): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL FROM SUB-SAHARAN AFRICAN, CARIBBEAN BASIN, AND ANDEAN COUNTRIES, Investigation No. 332-450-007, at p. 3 (December 2003) (Exhibit E).
- 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) (Exhibit F).
- APPAREL INPUTS IN "SHORT SUPPLY": EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL IMPORTED FROM SUB-SAHARAN AFRICAN AND

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CARIBBEAN BASIN COUNTRIES, Investigation No. 332-428-008, at p. 2 (July 2001) (Exhibit G).

In addition, the online fiber guide published by the American Fiber Manufacturers' Association (AFMA) specifically identifies Liberty Fibers Corporation as the only U.S. rayon fiber producer. See <http://www.fibersource.com/f-tutor/rayon.htm>. (Exhibit H).

PGI and Chicopee have relied on Liberty Fibers Corporation for their supply of U.S.-produced rayon fibers for many years and are unaware of any other U.S. or North American producers.

**B. Liberty Fibers Corporation Has Ceased Production.**

As has been widely reported, as of September 30, 2005, Liberty Fibers Corporation idled their plant, ceased all activity related to rayon fiber production. In statements by the company and its executives it has been made clear that only a small staff of employees has been retained and solely for the purpose of winding down operations and properly securing assets. See e.g., David Keim, *Majority of Workers Laid Off at Once-Giant Rayon Fiber Facility*, KNOXVILLE NEWS SENTINEL, October 1, 2005 (Exhibit I).

We are attaching copies of various news reports and press releases, including a release by the AFMA, confirming Liberty's cessation of production. (Exhibit J). All of these reports give no meaningful indication that Liberty will ever again produce rayon fibers. Notably, the recent bankruptcy filing is Liberty's second in less than two years as it previously filed for bankruptcy protection in December 2003.

**IV. Conclusion**

Considering the established record that Liberty is the only U.S. producer of rayon fibers and the incontrovertible fact that it has ceased production, it is in interest of United States industry for consultations to commence immediately on a change to the NAFTA rule of origin for nonwovens.

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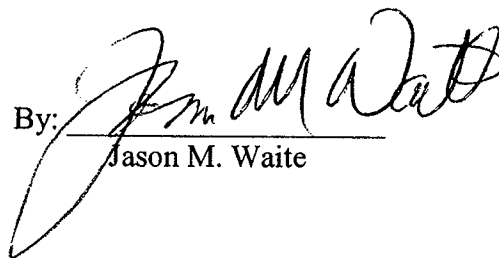
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Please contact the undersigned if CITA or other concerned agencies, committees, or offices have questions or requires additional information. Thank you for your attention and consideration.

Respectfully submitted,

ALSTON & BIRD LLP

By:

A handwritten signature in black ink, appearing to read "Jason M. Waite", written over a horizontal line.

Jason M. Waite

Cc: Dan Rikard, Esq.

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004):  
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO  
APPAREL OF CERTAIN YARN OF MICRO MODAL® FIBERS  
FROM ELIGIBLE CARIBBEAN BASIN, ANDEAN, AND  
SUB-SAHARAN AFRICAN COUNTRIES**

Investigation No. 332-458-025

February 2005



# 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. 332-458-025

<b>Products</b>	Apparel of Certain Yarn of Micro Modal® Fiber
<b>Requesting Parties</b>	Texollini, Inc., Long Beach, CA
<b>Date of Commission Report</b> USTR Public	February 7, 2005 February 2005
<b>Commission Contact</b>	Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)

### NOTICE

**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON FEBRUARY 7, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**

### Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of certain women's and girls' apparel made in eligible Caribbean Basin, Andean, and Sub-Saharan African countries from certain ring-spun yarns made of micro modal® fibers, regardless of the source of the yarns, would likely have no adverse effect on U.S. fiber, yarn, fabric, or apparel producers and their workers.<sup>1</sup> There is no known domestic production of the subject yarns or of fabric knitted from these yarns. The sole producer of micro modal® fibers, a firm located in Austria, allocates most of its fibers to its larger, European market. Several U.S. yarn spinners claim that they could produce the subject yarn if the fibers were available. The petitioner asserts that no yarns can be considered substitutable for the subject yarns. Although a U.S. yarn spinner of open-end spun yarns of micro modal® fibers contends that its yarns are substitutable for the subject yarns, it appears that the open-end spun yarns are not substitutable because ring-spun yarns are more expensive, take longer to produce, are stronger, have a softer, smoother hand, and can be spun in much finer yarn counts. The petitioner is the only known U.S. knitter that plans to produce fabric from the subject yarn. The proposed action would likely benefit U.S. firms making women's apparel in eligible countries from knit fabric made from the subject yarn, and their U.S.-based workers, as well as U.S. consumers.

### Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): 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

<sup>1</sup> In connection with a petition filed in June 2003 on behalf of Ge-Ray Fabrics, Inc., CITA determined that certain ring-spun single yarns, made of micro modal fiber and U.S. pima cotton, cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA's decision appeared in the *Federal Register* of October 30, 2003 (68 F.R. 61792). The U.S. International Trade Commission conducted its review of the fabrics in its report, "Apparel of Certain Yarn of Micro Modal Fiber/Cotton," investigation No. 332-450-006, July 2003.

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 2004 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>2</sup>

The Commission's advice in this report relates to a petition received by CITA on December 27, 2004, alleging that certain ring-spun single yarns, made of micro modal® fibers, 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, AGOA, and ATPDEA beneficiary countries from such yarns, regardless of the source of the yarns.<sup>3</sup>

### Discussion of the product

The petition filed by Texollini, Inc. (Texollini), Long Beach, CA, a vertically integrated knitting mill that provides fabric development, knitting, dyeing, finishing, fabric print design and printing capabilities to its customers,<sup>4</sup> describes the subject yarns as ring-spun single yarns of "yarn counts" of 30<sup>5</sup> and higher which are made of micro modal® fibers.<sup>6</sup> According to Texollini, and as stated in a petition filed with CITA by another firm in June 2003,<sup>7</sup> modal® is a "variant of rayon fiber" in which the cellulose used to make the modal fiber undergoes a higher degree of polymerization than that for viscose rayon. Micro modal® fiber is modal fiber of extreme fineness -- the individual fibers are of 0.9 denier or finer.<sup>8</sup> The petitioner asserts that micro modal® fiber has markedly different characteristics from other types of viscose rayon. Particularly important is the micro modal® fiber's strength when wet. Unlike ordinary rayon, micro modal® fiber can be subjected to a variety of dyeing and processes requiring water and can be laundered frequently without fading. Consequently, micro modal® fabric is more versatile than fabric made from ordinary rayon.

The petition states that the subject yarns are classified in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for single yarn (other than sewing thread), of artificial

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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 Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at [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).

<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> TextileWeb, "Product Showcase - Knitting - Texollini, Inc.," found at <http://www.textileweb.com>, retrieved Jan. 7, 2005.

<sup>5</sup> The yarn count indicates the number of 840 yarn lengths in a pound of yarn. The higher the number, the finer the yarn.

<sup>6</sup> The yarns named in the current petition are identical to the yarns designated by CITA in a previous determination except that the yarns in the current petition contain no cotton fiber and are made in a range of higher yarn counts.

<sup>7</sup> The yarns named in the June 2003 petition filed with CITA on behalf of Ge-Ray Fabrics, Inc., were certain ring-spun single yarn of English yarn counts 30 and 50, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in HTS subheading 5510.30.00. The yarns named in the petition filed by Texollini are classified in HTS subheading 5510.11.00. The key difference between the two yarns is that the yarns named in the Texollini petition do not contain any cotton.

<sup>8</sup> The petitioner supplied two sets of product samples: 1) yarn of yarn counts 30, 40, and 50; and 2) fabrics knitted from yarn of yarn counts 30, 40, and 50.

fibers, containing 85 percent or more by weight of artificial staple fibers, not put up for retail sale.<sup>9</sup> The yarns will be used by the petitioner to knit fabric for use in women's and girls' knitted blouses, shirts, lingerie, and underwear, which are classified in HTS chapter 61 (apparel, knitted or crocheted) and subject to general rates of duty ranging from 6 percent to 32 percent ad valorem.<sup>10</sup>

The petitioner and various industry sources (discussed in the industry section) state that fabrics made of micro modal® yarn have a soft, luxurious hand,<sup>11</sup> and a graceful drape that make them especially suited for lingerie, underwear, and other light knit fabric apparel products. Other key features of fabrics made from the subject yarns include their ability to retain strength when wet, to exhibit little shrinkage, and to remain soft, silky, bright, and colorful after numerous washings. Trade sources report that the subject yarns tend to be in a high price range, averaging roughly \$4.00 per pound. The petition states that there currently is no satisfactory substitute for micro modal® fibers in Texollini's intended apparel applications.

## Discussion of affected U.S. industries, workers, and consumers<sup>12</sup>

### *Fiber producers*

The only known producer of micro modal® fibers is a European firm, Lenzing AG (Austria), which reportedly sells most of its production to its larger, European market and allocates a smaller amount to buyers in the United States.<sup>13</sup> Commission staff contacted the American Fiber Manufacturers Association and two U.S. fiber producers to confirm the absence of production of micro modal® fibers in the United States. An association official stated that the organization is neutral on the petition because "micro modal® fibers are not produced in the United States."<sup>14</sup> The sole U.S. producer of viscose, Liberty Fibers, confirmed that it does not produce modal fibers, but manufactures rayon primarily for nonwoven<sup>15</sup> applications.<sup>16</sup> Information about Lenzing production capacity for micro modal® fibers is not readily available.<sup>17</sup> An official for Lenzing in the Americas, a subsidiary of the Austrian company, stated that "no one is ring spinning the subject yarn in the United States."<sup>18</sup>

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<sup>9</sup> Data on U.S. imports of the subject yarns are not available because the yarns are grouped with other related artificial staple fiber yarns in HTS subheading 5510.11.00.

<sup>10</sup> Separate data on U.S. imports of apparel made from the subject yarns are not available because, for tariff and statistical reporting purposes, the apparel articles are grouped with other related apparel articles.

<sup>11</sup> "Hand" refers to the tactile qualities of a fabric, e.g., softness, firmness, elasticity, fineness, resilience, and other qualities perceived by touch.

<sup>12</sup> In general, the manufacturing progress for women's and girls' apparel made from the subject yarn is (1) the micro modal fibers are ring spun into yarns, (2) the yarns are knitted into fabrics, (3) the fabrics are printed, dyed, and cut into components, and (4) the components are sewn into finished garments.

<sup>13</sup> According to Lenzing, the market for micro modal® fibers is much larger in Europe than in the United States; the U.S. market for these fibers was considered limited. See U.S. International Trade Commission, "Apparel of Certain Yarn of Micro Modal Fiber/Cotton," investigation No. 332-450-006, July 17, 2003.

<sup>14</sup> Paul O'Day, President, American Fiber Manufacturers Association, telephone interview with Commission staff, Jan. 12, 2005.

<sup>15</sup> Nonwoven applications refers to an assembly of textile fibers held together by mechanical interlocking in a random web or mat, by fusing of the fibers, or by bonding with a cementing medium such as starch, glue, casein, rubber, latex, etc.

<sup>16</sup> Craig Barker, President, Liberty Fibers, telephone interview with Commission staff, Jan. 13, 2005.

<sup>17</sup> \*\*\*, Jan. 12, 2005.

<sup>18</sup> \*\*\*, Jan. 12, 2005.

## Yarn producers

Commission staff contacted the National Council of Textile Organizations (NCTO),<sup>19</sup> several U.S. yarn spinners identified by industry representatives as possible sources of the subject yarns, the yarn spinners contacted by the petitioner about the subject yarns, and a U.S. yarn spinner that produces open-end spun yarn of micro modal® fiber. Currently, there are no known U.S. firms that produce ring-spun yarn of micro modal® fibers.

Commission staff contacted officials at Carolina Mills, a spinner of a full range of yarns of artificial, synthetic, and cotton fibers. One of the officials stated that although the firm does not manufacture ring-spun yarn of micro modal® fibers, it is currently producing open-end spun yarn of micro modal® fibers for use in apparel fabrics that are being sold to \*\*\*.<sup>20</sup> \*\*\* Carolina Mills has the capacity to produce \*\*\* and has a \*\*\* turnaround time for orders. \*\*\*

A representative of \*\*\* contends that ring-spun yarn is stronger than open-end spun yarn, but asserted that the washability of fabrics from both yarns is the same. In comparing open-end spun and ring-spun yarns of micro modal® fiber, a representative of \*\*\* stated that open-end spun yarns of micro modal® fibers cost 30-35 cents less per pound, have a maximum yarn count of 30, are weaker, raspier, and have a harsher hand.<sup>21</sup>

An official of Buhler Quality Yarns, a U.S. spinner of cotton yarns and an importer of artificial yarns, stated that the company \*\*\*.<sup>22</sup> The U.S. Buhler official noted that sourcing the micro modal® fibers is a challenge because Lenzing allocates most of its production of micro modal® fibers to European and Asian customers.<sup>23</sup> He also noted that spinning the subject yarns is difficult, requiring expertise and experience. The U.S. Buhler official stated that the subject yarns are priced at about \$4.00 per pound, including freight and duties.<sup>24</sup> \*\*\*<sup>25</sup> \*\*\*<sup>26</sup>

Officials of R.L. Stowe Mills, Inc., a domestic producer of ring-spun and other yarns, stated that the firm has the equipment, expertise, willingness, and interest to spin the subject yarn, but cannot because Lenzing allocates most of its production of micro modal® fibers to European and Asian customers.<sup>27</sup> The R.L. Stowe representatives stated that the firm \*\*\*.

Commission staff contacted Avondale Mills whose representative stated that \*\*\*.<sup>28</sup> \*\*\*.

An official of National Spinning Co. stated \*\*\*.<sup>29</sup> \*\*\*.

An official of Swift Spinning stated that the firm currently produces \*\*\*.<sup>30</sup> \*\*\*.

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<sup>19</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>20</sup> \*\*\*

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

<sup>22</sup> \*\*\*, telephone interview with Commission staff, Jan. 12, 2005.

<sup>23</sup> \*\*\*, telephone interview with Commission staff, Jan. 12, 2005.

<sup>24</sup> The price of the yarns fluctuates daily based on the value of the Euro. \*\*\*, telephone interview with Commission staff, Jan. 12, 2005.

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

<sup>26</sup> \*\*\*, telephone interview with Commission staff, Jan. 12, 2005.

<sup>27</sup> \*\*\*, telephone interview with Commission staff, Jan. 13, 2005.

<sup>28</sup> \*\*\*, telephone interview with Commission staff, Jan. 14, 2005.

<sup>29</sup> \*\*\*, telephone interview with Commission staff, Jan. 14, 2005.

<sup>30</sup> \*\*\*, telephone interview with Commission staff, Jan. 12, 2005.

Texollini indicated that it \*\*\*.<sup>31</sup> \*\*\*.

Texollini asserts in its petition that other yarns that are supplied by U.S. industry in commercial quantities in a timely manner are not substitutable for the subject yarns. In addition to the qualities previously discussed in the product description section of this report, Texollini states that ring-spun yarns of micro modal® fibers are more versatile than other micro-denier rayon fibers. It furthermore notes that other yarns, such as those made of micro polynosic<sup>32</sup> fibers or lyocell,<sup>33</sup> are inferior because they are subject to fibrillation which occurs when minute elements of a fiber become separated and cause discoloration, especially on creases and folded seams. In addition, Texollini asserts that yarns of these other fibers do not take dyes as readily or evenly as those made of micro modal® fibers. Texollini also expressed its position that \*\*\*.<sup>34</sup> \*\*\*.<sup>35</sup>

Texollini acknowledged that \*\*\*.

### ***Fabric and Apparel Producers***<sup>36</sup>

The petitioner was the only U.S. firm identified as producing or planning to produce knitted fabric from the subject yarns for use in certain women's apparel.<sup>37</sup> In its petition, Texollini asserts that it will use the yarn to produce circular-knit fabric in the United States and will perform all dyeing, printing, and finishing of the fabric in the United States. It does not plan to produce knit-to-shape apparel or knit-to-shape components of apparel or produce any fabric outside the United States. A Texollini representative stated that the firm plans to sell fabric of the subject yarn to \*\*\*.<sup>38</sup> Texollini's customers will use the fabric to produce women's apparel articles eligible for CBTPA, AGOA, and ATPDEA treatment. A Texollini official said he believes that \*\*\*. In its petition, Texollini states that the apparel made from the subject yarn will range from moderately-priced products to better, high-fashion women's wear. Texollini believes that the garments its customers will market will be part of new product lines.

### **Views of interested parties**

NCTO filed a written submission with the Commission and noted that Carolina Mills is the only U.S. yarn spinner with a position on the subject fiber. NCTO also stated that Carolina Mills claims that it has sold open-end micro-modal® yarn of yarn count 30 to Texollini in the past, and that it is willing and able to provide this yarn in the future. NCTO further stated that given the intended use for the subject yarn, it believes that open-end micro-modal® yarn of yarn count 30 is, in fact, a substitutable product for ring spun yarn of the same fiber. The submission also stated that given the lack of availability of micro-modal® fiber, NCTO is not aware of any U.S. companies able to produce the subject yarn of yarn counts 40 and 50.

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

<sup>32</sup> Polynosic fiber is a high-wet-modulus rayon staple having a microfibrillar structure of rayon.

<sup>33</sup> Lyocell is a solvent spun cellulosic fiber.

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

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

<sup>36</sup> Except for the apparel companies identified by the petitioner in a confidential email, information on apparel producers planning to make garments out of the knit fabric to be produced by Texollini was not readily available.

<sup>37</sup> Commission staff contacted NCTO whose representative stated that it had no knowledge of other knitters that are currently producing or planning to produce knit fabric from the subject yarn.

<sup>38</sup> \*\*\*

### Probable economic effect advice<sup>39</sup>

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of certain women's and girls' apparel made in eligible CBTPA, ATPDEA, or AGOA beneficiary countries from the subject yarns, regardless of the source of such yarns, would likely have no adverse effect on a U.S. domestic industry or its workers, because there currently is no known domestic production of micro modal® fibers or yarns and knitted fabrics from such fibers. Whereas U.S. yarn spinners appear to have the capability, expertise, and willingness to produce the subject yarns, imminent domestic production of the subject yarns is unlikely because of limited access to micro modal® fibers.

Central to determining the impact that granting the current petition might have on a U.S. domestic industry is the issue of substitutability of open-end spun yarns of micro modal® fibers for ring-spun yarns of same. Although Carolina Mills produces \*\*\* of open-end spun yarn per month and states that it believes that open-end micro-modal® yarn of yarn count 30 "is, in fact, a substitutable product for ring spun yarn of the same fiber," information available to Commission staff suggests that open-end yarn spinning and ring spinning are distinctive production processes that differ in terms of cost, time, product features and, often, in product applications. Ring-spun yarns are sold for at least 30-35 cents more per pound, take longer to produce, are stronger, have a softer, smoother hand, and can be spun in much finer grades, thus making them especially suited for higher end lingerie, underwear, and lightweight women's garments. However, even if ring-spun and open-end spun yarns of micro modal® fibers were substitutable, \*\*\*. Given the highly limited access that U.S. buyers have to micro modal® fibers, Carolina Mills could have difficulty in increasing its purchases of these fibers to meet Texollini's demand.

The proposed preferential treatment would also likely have no adverse impact on the U.S. apparel industry because imports already supply a significant share of the domestic market for women's and girls' knitted blouses, shirts, lingerie, and underwear. Furthermore, the production of the garments from the subject yarns will likely target a higher-end segment of the U.S. apparel market, and the expected increase in imports of garments made in eligible CBTPA, AGOA, and ATPDEA countries from fabric made from the subject yarns would, at most, possibly displace a small level of other imported garments or simply slightly increase the overall level of U.S. apparel imports. The proposed preferential treatment would also likely benefit U.S. consumers of women's and girls' knitted blouses and shirts, lingerie, and underwear made from the subject yarns to the extent that importers pass on some of the duty savings to retail consumers and also to the extent that they take advantage of a new product line made available to them.

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<sup>39</sup> The Commission's advice is based on information currently available to the Commission.

B



United States International Trade Commission

**Certain Sanitary Articles of  
Tri-Lobal Rayon Staple Fibers:  
Effect of Modifications of NAFTA  
Rules of Origin for Goods of  
Canada and Mexico  
(Inv. No. NAFTA-103-9)**

Final Report on Investigation No. NAFTA-103-9

Investigation No. NAFTA-103-9  
USITC Publication 3746  
December 2004



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

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**Address all communications to  
Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436**

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

Washington, DC 20436  
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## **Certain Sanitary Articles of Tri-Lobal Rayon Staple Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico (Inv. No. NAFTA-103-9)**

**Investigation No. NAFTA-103-9**

**December 2004**



**NOTICE**  
**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO THE UNITED STATES  
TRADE REPRESENTATIVE ON DECEMBER 16, 2004. ALL CONFIDENTIAL BUSINESS  
INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**

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# INTRODUCTION

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Following receipt of a request on October 20, 2004, from the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313),<sup>1</sup> the U.S. International Trade Commission (Commission) instituted investigation No. NAFTA-103-9, *Certain Sanitary Articles of Tri-Lobal Rayon Staple Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico*. As noted in the USTR's request letter, U.S. negotiators reached agreement in principle with representatives of the Governments of Canada and of Mexico concerning proposed modifications to the NAFTA rules of origin for sanitary towels or tampons of tri-lobal rayon staple fibers. The proposed changes to these rules of origin, if implemented, would apply to U.S. imports from and exports to Canada and Mexico to determine if they qualify for duty-free entry under the agreement.

As requested by the USTR, the Commission is providing advice on the probable effect of the proposed modification to the NAFTA rules of origin for the subject sanitary articles on U.S. trade under the NAFTA, on total U.S. trade, and on affected domestic producers. The Commission did not hold a public hearing in connection with this investigation but invited written submissions from the public. Because the Commission did not receive any written submissions from the public, the data and analysis presented herein draw on information collected by the Commission from publicly available sources and telephone interviews with industry representatives. In preparing its advice, the Commission first determined whether the rule modification would liberalize or restrict NAFTA eligibility for the affected articles as compared with the current rules. The Commission then conducted qualitative analysis to assess the effects the change to the rules of origin might have, if implemented, on trade and production for the subject product. The Commission's qualitative assessment is based on the best available information, including available data and information on trade and production, information pertaining to the market conditions for the subject products (e.g., industry structure, production, product uses, and trade flows), information obtained from interested parties, including producers of the affected articles, and the Commission's own expertise.

A summary of the Commission's advice is presented in table 1. The remainder of the report contains the advice and related information for the proposed rule change on certain sanitary articles of tri-lobal rayon staple fibers. Appendix A contains the request letter from the USTR, and appendix B contains the Commission's notice of institution of the investigation and request for public comments.

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<sup>1</sup> Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission.

**Table 1**  
**Certain sanitary articles of tri-lobal rayon staple fibers: Summary of advice concerning modification to the NAFTA rules of origin for goods of the United States, Canada, and Mexico**

HTS No.	Existing rule <sup>1</sup>	Proposed rule	Probable effect advice	Nature of modification and effect explanation
5601	A change to headings 5601 through 5609 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapters 54 through 55.	A change to sanitary towels or tampons of subheading 5601.10 from tri-lobal rayon staple fiber (38 mm, 3.3 decitex) of subheading 5604.10 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; or  A change to any other good of heading 5601 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapter 54 through 55.	U.S. total trade: Imports: Increase Exports: Increase  U.S. trade under NAFTA: Imports: Increase Exports: Increase  U.S. production: Increase	<b>Modification:</b> The proposed rule change is liberalizing because it would allow sanitary tampons and towels to be made from tri-lobal rayon staple fibers formed outside North America and still be an originating good for NAFTA purposes.  <b>Effect:</b> The proposed rule change would likely have a positive effect on U.S. industry and its workers. It would enable the U.S. industry making the subject sanitary articles to use non-North American inputs and have the articles still considered to be originating goods for NAFTA purposes. There would be no effect on U.S. fiber producers, because there is no known domestic production of tri-lobal rayon staple fibers.

<sup>1</sup> The current NAFTA rules of origin applicable to U.S. imports of goods of Canada and Mexico were taken from general note 12 of the 2004 HTS. General note 12 reflects the rules of origin as specified in Annex 401 of the NAFTA. The proposed rule would, if incorporated in general note 12, have slight, non-substantive modifications and formatting.





## Certain Sanitary Articles of Tri-lobal Rayon Staple Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico

### U.S. International Trade Commission Inv. No. NAFTA-103-9

<b>Product</b>	Certain sanitary articles of tri-lobal rayon staple fibers
<b>Requesting Party</b>	Procter & Gamble Company, Cincinnati, OH
<b>Commission Contact</b>	Kimberlie Freund (202-708-5402; kimberlie.freund@usitc.gov)

#### Introduction

The Commission's advice in this report relates to a proposed modification of the NAFTA rule of origin for sanitary towels or tampons classified in subheading 5601.10.20 of the Harmonized Tariff Schedule of the United States (HTS) to allow them to be made from certain non-originating tri-lobal rayon staple fibers of HTS subheading 5504.10.<sup>1</sup> In his request letter, the USTR states that the proposed modification is the result of a determination that producers in North America are not able to produce the fibers in commercial quantities in a timely manner.<sup>2</sup> Under the current rules in the NAFTA, the sanitary articles must be made from fibers formed in North America to be "originating" and qualify for NAFTA preferences. The proposed change in the NAFTA rule of origin would apply to goods of all three NAFTA parties and would permit the sanitary articles to be made from fibers formed outside North America ("non-originating" fibers) and still be considered an originating good and qualify for NAFTA preferences.

The proposed modification to the NAFTA rules of origin for the subject sanitary articles is in response to a petition received by the Committee for the Implementation of Textile Agreements (CITA) from Procter & Gamble Company (P&G) on May 18, 2004.<sup>3</sup> P&G alleged that the tri-lobal rayon staple fibers cannot be supplied by the North American industry in commercial quantities in a timely manner and requested that the NAFTA rule of origin for the subject sanitary articles classified in HTS subheading 5601.10.20 be modified to allow the use of non-originating fibers.

#### Description of the subject product

The subject sanitary articles are classified in HTS subheading 5601.10.20, which provides for sanitary towels and tampons, diapers and diaper liners for babies and similar sanitary articles, of wadding, of textile fibers other than cotton. The 2004 U.S. normal trade relations (NTR) rate of duty on U.S. imports of the sanitary articles is 6.3 percent ad valorem. Canada and Mexico maintain most-favored-nation (MFN) duty rates of 12 percent ad valorem and 13 percent ad valorem, respectively. The tri-lobal rayon staple fibers used to make the sanitary articles are a subset of the fibers classified in HTS subheading 5504.10, which covers viscose rayon staple fibers, not carded, combed or otherwise processed for spinning. The 2004 NTR

<sup>1</sup> The current NAFTA rule of origin for the subject sanitary articles requires that all non-originating inputs be classified in chapters other than chapters 54 through 55 (except for yarns and fabrics classified under headings 5106 through 5113, 5204 through 5212, 5307 through 5308, or 5310 through 5311). As such, sanitary articles of tri-lobal rayon staple fibers made with non-originating fibers cannot meet the rule of origin, as the staple fibers are provided for in HTS chapter 55 and are not produced in North America. See table 1 for the current and proposed language of the rule of origin for the subject product.

<sup>2</sup> See the USTR letter of request to the Commission in appendix A of this report.

<sup>3</sup> See CITA notice published in the *Federal Register* of May 28, 2004 (69 F.R. 30633).

rate of duty on U.S. imports of the fibers is 4.3 percent ad valorem. The 2004 MFN rates for these rayon staple fibers are free for imports into Canada, and from free to 10 percent ad valorem for imports into Mexico. Viscose rayon is an artificial manmade fiber produced from cellulose materials such as wood pulp.

P&G indicated that it uses the tri-lobal rayon staple fibers in the production of tampons, \*\*\*.<sup>4</sup> Specifically, the fibers are patented tri-lobal rayon staple fibers that measure 38 mm and 3.3 decitex<sup>5</sup> and are made in Germany by Acordis<sup>6</sup> under the "Galaxy" brand-name.<sup>7</sup> P&G indicated that Acordis had produced these fibers at its plant in Alabama, but that it closed the plant a few years ago and now produces them in Germany.<sup>8</sup> According to P&G, the patented tri-lobal rayon staple fiber "was engineered specifically for absorption performance."<sup>9</sup>

### **Discussion of U.S. trade and industry and market conditions for the subject product**

The only known North American producer of rayon staple fibers is Liberty Fibers Corporation, Lowland, TN.<sup>10</sup> Liberty Fibers stated that it does not produce the tri-lobal rayon staple fibers used in the subject sanitary articles. \*\*\*<sup>11</sup> P&G stated that Liberty Fibers may not produce the tri-lobal rayon staple fibers because the fibers are patented by Acordis.<sup>12</sup> \*\*\*<sup>13</sup> In its petition, P&G stated that "the tri-lobal fiber absorbs 20% more on a unit basis than the rayon produced by Liberty."<sup>14</sup> In addition, changing the composition of fibers used in tampons is a major decision, requiring clinical trials and FDA approval.<sup>15</sup>

P&G indicated that it produces sanitary tampons from tri-lobal rayon staple fibers at its plant in Auburn, ME, and that about 700 employees are involved in the production of such tampons.<sup>16</sup> \*\*\*<sup>17</sup> In its petition, P&G

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<sup>4</sup> Michael Gartner, Associate Director, Finance, North American Feminine Care Business, P&G, telephone interview by Commission staff, Oct. 27, 2004, and R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004, available on the website of the U.S. Department of Commerce, Office of Textiles and Apparel, at <http://www.otexa.ita.doc.gov/>.

<sup>5</sup> The term "tri-lobal" refers to the shape of the fiber at the cross-section of the fiber. The staple length is 38 mm and the decitex of the fiber refers to the size of the fiber measured in grams per 1,000 meter lengths.

<sup>6</sup> Acordis is a multinational company based in the Netherlands and manufactures manmade fibers and specialty materials for textile, industrial, medical, and hygiene applications. Information on Acordis is from its website at [www.acordis.ch](http://www.acordis.ch) and "Hoover's Online" at <http://www.hoovers.com>.

<sup>7</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004.

<sup>8</sup> Michael Gartner, Associate Director, Finance, North American Feminine Care Business, P&G, telephone interview by Commission staff, Oct. 27, 2004. According to an Acordis news release, Acordis shut its Alabama plant in April 2001 (found at <http://www.acordis.com/> retrieved Oct. 28, 2004).

<sup>9</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004, available at <http://www.otexa.ita.doc.gov/>, retrieved Oct. 18, 2004.

<sup>10</sup> Frank Horn, President, Fiber Economics Bureau, Atlanta, GA, telephone interview by Commission staff, Oct. 27, 2004.

<sup>11</sup> Tom Montgomery, Liberty Fibers Corporation, telephone interview by Commission staff, Nov. 5, 2004.

<sup>12</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004.

<sup>13</sup> \*\*\*

<sup>14</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004.

<sup>15</sup> Tom Montgomery, Liberty Fibers Corporation, telephone interview by Commission staff, Nov. 5, 2004, and Michael Gartner, Associate Director, Finance, North American Feminine Care Business, P&G, telephone interview by Commission staff, Nov. 10, 2004. The U.S. Food and Drug Administration (FDA) regulates the safety and effectiveness of tampons, including the materials and design. See FDA, "Tampons and Toxic Shock Syndrome," and "Tampons and Asbestos, Dioxin, & Toxic Shock Syndrome," both found at <http://www.fda.gov>, retrieved Nov. 5, 2004.

<sup>16</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004.

<sup>17</sup> Michael Gartner, Associate Director, Finance, North American Feminine Care Business, P&G, telephone interview by Commission staff, Oct. 27, 2004.

stated that if the proposed rule change is adopted, it would "be in a position to expand production in the United States and potentially add production in Canada of these products."<sup>18</sup> \*\*\*<sup>19</sup>

Commission staff contacted other manufacturers of the subject sanitary articles, including Playtex Products, Inc., Kimberly-Clark Corp., and Johnson & Johnson, Inc. \*\*\*<sup>20</sup> \*\*\*<sup>21</sup> \*\*\*<sup>22</sup> \*\*\*<sup>23</sup>

A trade source reported that the U.S. market for tampons (both domestic and imported) is growing and currently totals an estimated \$586 million a year.<sup>24</sup> Data on the share of the U.S. tampon market accounted for by the subject articles are not available. Based on U.S. market and trade data, the Commission estimates that U.S. production accounts for most U.S. consumption of tampons. Imports and exports of sanitary towels and tampons made with the tri-lobal rayon staple fibers are not available because the articles are grouped with other sanitary articles (such as diapers) as well as with all sanitary articles made of other fibers. Total U.S. imports of all sanitary articles classified in HTS subheading 5601.10.20 were \$44 million in 2003 and they were down 19 percent in January-September 2004, compared with the corresponding period of 2003. Canada accounted for 99 percent of the total in 2003, but 77 percent in 2004, when its shipments declined by 37 percent from the corresponding 2003 period. In 2004, the United States began to import articles under HTS subheading 5601.10.20 from Hungary and the United Kingdom, which together accounted for 21 percent of total U.S. imports. U.S. imports from Israel also increased; Israel accounted for 2 percent of the U.S. import market in 2004. U.S. exports of all types of sanitary articles classified in Schedule B No. 5601.10.0000 totaled \$26 million in 2003, of which about 75 percent went to Canada. In January-September 2004, U.S. exports to Canada increased by 28 percent from the corresponding period in 2003.

#### **Views of interested parties**

The Commission did not receive any written submissions.

#### **Probable effect of the proposed action on U.S. trade under the NAFTA, total U.S. trade, and on domestic producers of the affected product<sup>25</sup>**

The Commission's analysis indicates that the proposed modification to the NAFTA rules of origin for the subject sanitary articles of tri-lobal rayon staple fibers would have no adverse effect on U.S. fiber producers, because there is no known North American production of the tri-lobal rayon staple fibers. In addition, \*\*\*. The proposed rule change would benefit the domestic industry making the subject sanitary articles by enabling it to use non-NAFTA fibers and have the finished sanitary articles still be considered originating goods for NAFTA purposes.<sup>26</sup> As such, the proposed rule of origin change would likely spur U.S. trade in the finished sanitary articles under the NAFTA as well as total U.S. trade in such goods, because Canada (a NAFTA signatory) is the largest U.S. trading partner for the subject sanitary articles and the domestic market for the subject articles is growing. The extent to which U.S. imports and exports of the finished sanitary articles increase would depend on the extent to which the rule change spurs new production of the subject

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<sup>18</sup> R. Scott Miller, Director, Government Relations, P&G, written submission to CITA, May 18, 2004.

<sup>19</sup> \*\*\*, telephone interview by Commission staff, Oct. 27, 2004.

<sup>20</sup> \*\*\*, telephone interview by Commission staff, Nov. 4, 2004.

<sup>21</sup> \*\*\*, telephone interview by Commission staff, Nov. 10, 2004.

<sup>22</sup> \*\*\*, telephone interviews by Commission staff, Nov. 16 and 22, 2004.

<sup>23</sup> \*\*\*, telephone interviews by Commission staff Dec. 2 and 3, 2004.

<sup>24</sup> Ellen Wuagneux, "Scent-sational San Pro Strategies," *Nonwovens Industry*, Nov. 2004, p. 44. Similar data for sanitary towels are not available.

<sup>25</sup> The Commission's advice is based on information currently available to the Commission.

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

articles in Canada and/or the United States. It is expected that part of the increase in U.S. imports of the subject sanitary articles from Canada would displace some U.S. imports of the subject sanitary articles from non-NAFTA countries. U.S. consumers would likely benefit from any additional duty savings on U.S. imports of the subject sanitary articles from Canada.

**APPENDIX A**

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

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

SE  
OINV  
OE  
OP  
ER

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

DOCKET NUMBER  
OCT 20 2004  
2399  
Office of the Secretary  
Int'l Trade Commission

received from ER  
10/22/04  
W

Dear Chairman Koplan:

Annex 300-B, Chapter Four and Annex 401 of the North American Free Trade Agreement (NAFTA) set out rules of origin for textiles and apparel for applying the tariff provisions of the NAFTA. These rules are reflected in General Note 12 of the Harmonized Tariff Schedule of the United States (HTS).

Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 is that the President obtain advice regarding the proposed action from the U.S. International Trade Commission.

Our negotiators have recently reached agreement in principle with representatives of the governments of Canada and Mexico on modifications to the NAFTA rules of origin, which are reflected in the attached document. These changes are the result of determinations that North American producers are not able to produce trilobal rayon staple fiber in commercial quantities in a timely manner.

Under authority delegated by the President, and pursuant to section 103 of the Act, I request that the Commission provide advice on the probable effect of the modifications reflected in the enclosed proposal on U.S. trade under the NAFTA, total U.S. trade, and on domestic producers of the affected articles. I request that the Commission provide this advice at the earliest possible date, but not later than December 20, 2004. The Commission should issue, as soon as possible thereafter, a public version of its report with any business confidential information deleted.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,

Robert B. Zoellick

Enclosure

2004 OCT 25 PM 4:29  
OFFICE OF THE SECRETARY  
U.S. INTERNATIONAL TRADE COMMISSION

**Enclosure for ITC Letter (October 2004)**

Proposal of the United States, as amended by Canada and as accepted by the United States, Canada and Mexico, under Section 7, paragraph 2 of Annex 300-B of the North American Free Trade Agreement (NAFTA):

To amend the rule of origin for Annex 401, Chapter 56, as follows:

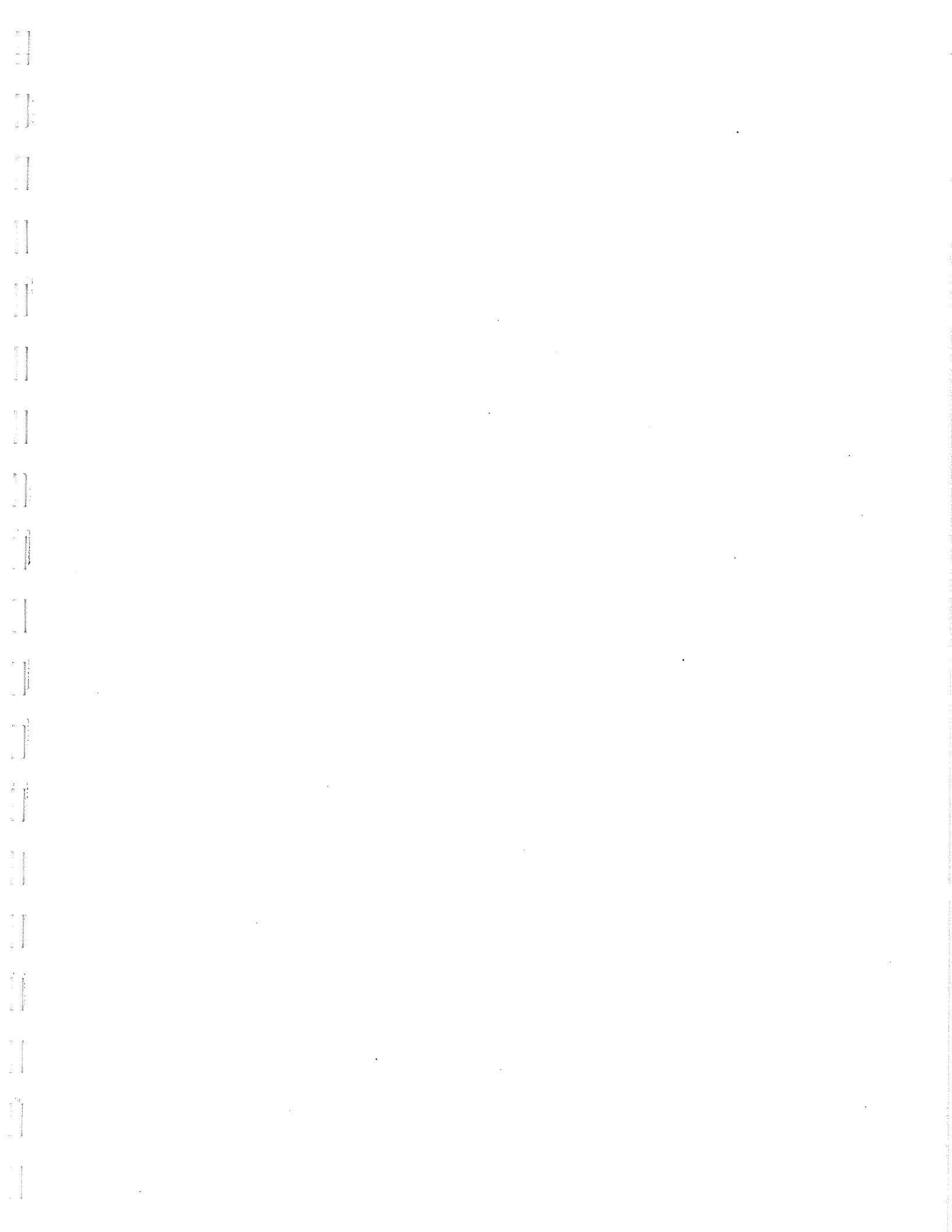
**56.01** A change to sanitary towels or tampons of subheading 5601.10 from tri-lobal rayon staple fiber (38 mm, 3.3 decitex) of subheading 5504.10 or any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11 or Chapter 54 through 55; or

A change to any other good of heading 56.01 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11 or Chapter 54 through 55.

**56.02-56.09** A change to heading 56.02 through 56.09 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11 or Chapter 54 through 55.

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





- (a) "Spills," as used in Article II(3)(c) herein, means water released from Lake Powell which cannot be utilized for project purposes, including, but not limited to, the generation of power and energy.
- (b) "Surplus," as used in Article III(3)(b) herein, is water which can be used to meet consumptive use demands in the three Lower Division States in excess of 7,500,000 acre-feet annually. The term "surplus" as used in these Operating Criteria is not to be construed as applied to, being interpretive of, or in any manner having reference to the term "surplus" in ~~the~~ the Colorado River Compact ~~or the 1944 Mexican Treaty~~.
- (c) "Net inflow to Lake Mead," as used in Article III(3)(b)(iv) and (c)(iii) herein, represents the annual inflow to Lake Mead in excess of losses from Lake Mead.
- (d) "Available capability," used in Article II(4) herein, means that portion of the total capacity of the powerplant that is physically available for generation.

## BILLING CODE 4310-MN-C

**Proposed Decision:** The Department of the Interior has considered the comments received during this review of the Operating Criteria. After a careful review of the comments received, solicitation of public review to Reclamation's responses, and consultation with the Governor's representatives of the seven Basin States, Reclamation is proposing that the Secretary of the Interior make a number of identified modifications to the text of the Operating Criteria. The bases for the proposed changes are (1) specific changes in Federal law applicable to the Operating Criteria, (2) language in the current text of the Operating Criteria that is outdated, and (3) specific modifications to Article IV(b) of the Operating Criteria that reflect actual operating experience.

Dated: September 28, 2004.

William E. Rinne,

Deputy Commissioner, Bureau of Reclamation.

[FR Doc. 04-24552 Filed 11-2-04; 8:45 am]

BILLING CODE 4310-MN-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. NAFTA-103-009]

### Certain Sanitary Articles of Tri-Lobal Rayon Staple Fibers: Effect of Modification of NAFTA Rules of Origin for Goods of Canada and Mexico

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

**ACTION:** Institution of investigation and request for written submissions.

**EFFECTIVE DATE:** October 27, 2004.

**SUMMARY:** Following receipt of a request on October 20, 2004, from the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313), the Commission instituted investigation No. NAFTA-103-009, Certain Sanitary Articles of Tri-Lobal Rayon Staple Fibers: Effect of Modification of NAFTA Rules of Origin for Goods of Canada and Mexico.

**FOR FURTHER INFORMATION CONTACT:**

Information may be obtained from Kimberlie Freund, Office of Industries (202-708-5402,

[kimberlie.freund@usitc.gov](mailto:kimberlie.freund@usitc.gov)); for

information on legal aspects, contact

William Gearhart of the Office of the

General Counsel (202-205-3091,

[wgearhart@usitc.gov](mailto:wgearhart@usitc.gov)). The media should

contact Margaret O'Laughlin, Office of

Public Affairs (202-205-1819,

[margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)).

**Background:** Annex 300-B, Chapter 4,

and Annex 401 of the NAFTA contain

the rules of origin for textiles and

apparel for application of the tariff

provisions of the NAFTA. These rules

are set forth for the United States in

general note 12 to the Harmonized Tariff

Schedule (HTS). According to the USTR

request letter, U.S. negotiators have

recently reached agreement in principle

with representatives of the Governments

of Canada and Mexico to modify the

NAFTA rule of origin for certain

sanitary towels or tampons classified in

HTS subheading 5601.10 and made

from tri-lobal rayon staple fibers (38

mm, 3.3 decitex) of HTS subheading

5504.10. If implemented, the proposed

rule of origin would apply to U.S.

imports from and exports to the NAFTA

parties. Section 202(q) of the North

American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission.

In his letter, the USTR requested that the Commission provide advice on the probable effect of the proposed modification of the NAFTA rule of origin for certain sanitary articles (as described above) on U.S. trade under the NAFTA, on total U.S. trade, and on domestic producers of the affected articles. As requested, the Commission will submit its advice to the USTR by December 20, 2004, and soon thereafter, issue a public version of the report with any confidential business information deleted. Additional information concerning the articles and the proposed modifications can be obtained by accessing the electronic version of this notice at the Commission Internet site (<http://www.usitc.gov>). The current NAFTA rules of origin applicable to U.S. imports can be found in general note 12 of the 2004 HTS (see "General Notes" link at [http://hotdocs.usitc.gov/tariff\\_chapters\\_current/toc.html](http://hotdocs.usitc.gov/tariff_chapters_current/toc.html)).

**Written Submissions:** No public hearing is planned. However, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in this investigation. Submissions should be addressed to the Secretary, United States International Trade Commission,

500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements related to the Commission's reports should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on November 15, 2004. 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). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, [ftp://ftp.usitc.gov/pub/reports/electronic\\_filing\\_handbook.pdf](ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf)).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the CBI be clearly identified by means of brackets. All written submissions, except for CBI, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the CBI it receives in the report it sends to the President. However, the Commission will not publish CBI in the public version of the report in a manner that would reveal the operations of the firm supplying the information. The public version will be made available to the public on the Commission's Internet site (<http://www.usitc.gov>).

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) <http://edis.usitc.gov>. Hearing impaired individuals may obtain information on this matter by contacting the Commission's 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

NAFTA, rules of origin, textiles, fibers.

By order of the Commission.

Issued: October 28, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-24478 Filed 11-2-04; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—3-A Sanitary Standards, Inc.

Notice is hereby given that, on September 14, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), 3-A Sanitary Standards, Inc. ("3-A SSI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: 3-A Sanitary Standards, Inc., McLean, VA. The nature and scope of 3-A SSI's standards development activities are: The development, maintenance and publishing of standards for the sanitary design, fabrication, installation and operation of equipment and machinery in the following areas: Vessels; fillers; valves and fittings; pumps and mixers; heat exchangers; conveyors and feeders; instruments; concentrating equipment; farm/raw milk; cheese and butter equipment; process and cleaning systems; plant support systems; materials and materials testing; and Active Pharmaceutical Ingredients.

Additional information may be obtained from Timothy R. Rugh, CAE,

Executive Director of 3-A Sanitary Standards, Inc., at (703) 790-0295.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04-24567 Filed 11-2-04; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Air Conditioning Contractors of America Educational Institute, Inc.

Notice is hereby given that, on September 16, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Air Conditioning Contractors of America Educational Institute, Inc. ("ACCA-EI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Air Conditioning Contractors of America Educational Institute, Inc., Arlington, VA. The nature and scope of ACCA-EI's standards development activities are: The development of standards that promote proper design, correct equipment selection and installation, energy efficient operation, proper maintenance and repair of heating, ventilating, air and system balance for optimal performance or operation of the HVACR systems. The goals of standards may include requirements for comfort and well being, design, equipment installation, and maintenance and repair and may include standards that promote optimum comfort, safe and efficient operation at minimal energy utilization, performance or operation or qualification of personnel.

Additional information concerning ACCA-EI can be obtained from Hilary P.

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## Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

### U.S. International Trade Commission Investigation No. 332-450-009

Products	Apparel of viscose rayon filament yarn
Requesting Parties	Encajes S.A., Bogota, Colombia
Date of Commission Report: USTR Public	January 5, 2004 January 2004
Commission Contact	Jackie W. Jones (202-205-3466; jones@usitc.gov)

#### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON JANUARY 5, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED  
WITH ASTERISKS (\*\*\*).

#### Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible Andean countries from certain viscose rayon filament yarn, regardless of the source of the yarn, would likely have no adverse effect on most of the U.S. yarn industry, because the subject yarn is not produced domestically. However, the preferential treatment could have a small adverse effect on U.S. producers of acetate filament yarn that might compete with the subject yarn and U.S. producers of fabrics made from the subject yarn and from acetate filament yarn. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible Andean countries, but would likely have a negligible adverse effect on U.S. producers of similar apparel and their workers. U.S. consumers would likely benefit from some of the duty savings resulting from the proposed preferential treatment.

#### Background

On January 28, 2003, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-450, *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2003 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 concerns a petition received by CITA on November 24, 2003, alleging that certain rayon yarns 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 February 4, 2003 (68 F.R. 5651) and the Commission's website at [www.usitc.gov/332s/shortsup/shortsupintro.htm](http://www.usitc.gov/332s/shortsup/shortsupintro.htm)

timely manner and requesting that the President proclaim preferential treatment for apparel articles containing such yarns assembled in one or more ATPDEA beneficiary countries, regardless of the source of yarns. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>2</sup>

### **Brief discussion of the product**

The rayon yarns named in the petition are classified in subheading 5403.41.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for multiple (folded) or cabled viscose rayon filament yarn (other than sewing thread), not put up for retail sale. According to the petition filed by Encajes S.A. of Bogota, Colombia, a producer of lace, curtain panels, lace tablecloths, and curtain fabric, the firm uses the subject yarn primarily in the production of lace.<sup>3</sup> The petitioner stated that there are no substitutes for the viscose rayon filament yarn. His customers—mostly lingerie producers—require lace made with “special color combinations” that can only be achieved through cross dyeing, which allows for dyeing the lace in two-color combinations.<sup>4</sup> The petitioner added that many of their customers are U.S. companies, such as Target and Sara Lee.<sup>5</sup> The petitioner explained that, in general, rayon fibers accept dyes more readily than acetate fibers,<sup>6</sup> and that, acetate must be dyed at higher temperatures than rayon. The lace is used mainly in women’s lingerie, and to a lesser extent, other apparel, classified in HTS chapters 61 (knitted or crocheted apparel) and 62 (apparel, not knitted or crocheted). The 2003 rates of duty on lingerie range from 0.9 percent to 16.1 percent ad valorem.

The subject yarns are either multiple (folded) yarns, which are plied yarns made of two or more single yarns twisted together, or cabled yarns, which consist of two or more plied yarns twisted together.<sup>7</sup> The yarns are filament yarns made of viscose rayon, an artificial manmade fiber (as opposed to a synthetic manmade fiber such as polyester). In general, the manufacture of the subject yarns involves (1) processing cellulosic materials such as wood pulp into a viscose liquid and (2) extruding the liquid through a spinneret (a “showerhead-like” metal disc having many tiny holes) in an acid bath into long fiber filaments.

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

The United States does not produce the subject rayon filament yarn or any other type of rayon filament yarn. Rayon staple yarn is made domestically by one firm (Liberty Fibers Corp. (formerly Lenzing Fibers Corp.), Lowland, TN), but the staple yarn does not compete with the subject filament yarn because of significant differences between them in terms of physical properties and end-use characteristics, such as fabric sheen, silkiness, texture, and durability.<sup>8</sup> For example, rayon staple yarn cannot be used to produce

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<sup>2</sup> 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> Juan Carlos Atehortua, General Manager, Encajes S.A., Bogota, Colombia, petition submitted to CITA, Nov. 24, 2003. Information on products made by the petitioner is from the firm’s website at <http://www.encajes.com>, Dec. 15, 2003.

<sup>4</sup> E-mails from Juan Carlos Atehortua, General Manager, Encajes, S.A., Bogota, Colombia, to Commission staff, Dec. 16 and 19, 2003.

<sup>5</sup> Ibid.

<sup>6</sup> Like rayon, acetate is an artificial manmade fiber made with cellulosic materials, as opposed to polyester, for example, which is made entirely of manmade materials.

<sup>7</sup> In November 2001, CITA determined that rayon filament yarns classified in HTS subheadings 5403.31 and 5403.32 cannot be supplied by the domestic industry in commercial quantities in a timely manner. These rayon filament yarns are “single” yarns, while the rayon filament yarns named in the petition under current review are “multiple” or “cabled” yarns. CITA’s decision in the 2001 review was published in the *Federal Register* of November 19, 2001 (66 F.R. 57942), p. 57942.

<sup>8</sup> Yarns are usually made of staple fibers or filaments. A filament is a long (e.g., as much as miles in length), thin strand of extruded material, and consists mainly of manmade fibers (artificial and synthetic). Staple fibers usually measure 1 inch to 4 inches in length and include natural fibers (e.g., cotton) and cut lengths of filament. To form yarn from staple fibers, the fibers

a shiny satin or velvet fabric, while rayon filament yarn cannot be used to make fabrics normally made of rayon staple yarns, such as a lightweight challis fabric. In addition, the production methods and equipment used to make rayon staple yarn differ from those used in the production of rayon filament yarn.

The two remaining U.S. producers of acetate filament yarns, Celanese Ltd. and Eastman Chemical Co., stated that acetate filament yarns are substitutable for rayon filament yarns in the production of fabrics with various end-uses.<sup>9</sup> A representative of Eastman<sup>10</sup> stated that if the subject rayon yarns were found to be not available domestically in commercial quantities in a timely manner, the yarns could be used in the production of all types of fabrics in eligible Andean countries, not just in the production of lace. Therefore, the subject yarns could be used in the production of fabrics used to manufacture such products as apparel linings, dresses, women's blouses, and bridal clothing, all of which are commonly among the end uses for fabrics made with acetate filament yarns. Eastman indicated that the fabrics made of acetate filament yarns are interchangeable with fabrics made of rayon filament yarns in these and other end uses. In addition, Eastman stated that some lower cost countries such as India and Brazil are producing rayon filament yarn at prices competitive with acetate filament yarn.

According to Dr. Peter D. Kilduff, Textile Product Design and Marketing, University of North Carolina at Greensboro, who conducted a study, funded by Celanese Ltd., on the substitutability of rayon filament yarn for acetate filament yarn (discussed below in the "Views of interested parties"), fabrics made of the subject rayon filament yarn have characteristics that are superior to those of fabrics made of acetate filament yarn.<sup>11</sup> Dr. Kilduff stated that if the price of rayon filament yarn fell to that of acetate filament yarn, some apparel producers may switch to using fabrics of rayon filament yarn, depending on the end use.<sup>12</sup> \*\*\*.

According to ICF Industries, Inc., a U.S. importer and distributor of rayon filament yarns,<sup>13</sup> rayon filament yarns and acetate filament yarns undergo different manufacturing processes and have different physical properties (e.g., anti-static properties, breaking strength, stretch capacity, and moisture retention) that affect dyeing, finishing, and processing; wearing comfort; product life span; and ease of handling in garment manufacturing.<sup>14</sup> As such, in many instances fabrics made from rayon filament yarn and acetate filament yarn have different characteristics such as durability and comfort absorbency. \*\*\*. He also stated that the cost of the rayon filament yarn ICF Industries imports from Germany is \*\*\* per pound, compared with \*\*\* per pound for comparable U.S.-made acetate filament yarn.<sup>15</sup> The viscose rayon filament yarn the petitioner, Encajes, S.A., imports from the Ukraine costs approximately \*\*\* per pound.<sup>16</sup>

### Views of interested parties

The Commission received a statement from Voridian Co., a Division of Eastman Chemical Co., a U.S. producer of cellulose acetate yarn that opposes the petition.<sup>17</sup> Voridian stated that granting the proposed

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are cleaned, aligned in a parallel manner, and then wound together (spun) so that the fibers adhere to each other.

<sup>9</sup> Telephone interviews with V.A. Robbins Jr., Business Director, Voridian Co., a Division of Eastman Chemical Co., Kingsport, TN, and Keith Nagy, Celanese, Ltd, by Commission staff, Dec. 10 and 16, 2003, respectively. For more information on their views, see Commission review, *Apparel of Rayon Filament Yarn*, (Inv. No. 332-428-008), July 9, 2001, p. 3, found on the Commission's website at [http://www.usitc.gov/332s/shortsup/332\\_428\\_008.pdf](http://www.usitc.gov/332s/shortsup/332_428_008.pdf).

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

<sup>11</sup> Information in this paragraph is from Dr. Peter D. Kilduff, Textile Product Design and Marketing, University of North Carolina at Greensboro, telephone interview by Commission staff, Dec. 16, 2003.

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

<sup>13</sup> Representative for David G. Trachtenberg, Vice President, ICF Industries, Inc., New York, NY, telephone interview by Commission staff, Dec. 16, 2003.

<sup>14</sup> Commission review, *Apparel of Rayon Filament Yarn*, (Inv. No. 332-428-008), July 9, 2001, p. 3, found on the Commission's website at [http://www.usitc.gov/332s/shortsup/332\\_428\\_008.pdf](http://www.usitc.gov/332s/shortsup/332_428_008.pdf).

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

<sup>16</sup> E-mail from Juan Carlos Atehortua, General Manager, Encajes, S.A., Bogota, Colombia, to Commission staff, Dec. 18, 2003.

<sup>17</sup> V.A. Robbins, Jr., Business Director, Acetate Yarn Fibers Business Group, Voridian, a Division of Eastman Chemical Co., written submission to the Commission, Dec. 2003.

preferential treatment will injure the domestic acetate yarn industry and threaten the more than 500 high-tech, above-average-wage jobs at its plant in Kingsport, TN, associated with the production and sale of cellulose acetate yarn.

Voridian stated that rayon filament yarns and acetate filament yarns are interchangeable, especially in the case of woven lining fabrics used to line such garments as suits, jackets, coats, and dresses. The firm cited the \*\*\* study of Dr. Peter Kilduff,<sup>18</sup> who at the time was with the College of Textiles at North Carolina State University,<sup>19</sup> stating that "rayon poses a credible threat of taking significant market share away from acetate if its price were to converge with that of acetate. There appears to be a reasonable threat that as low cost rayon imports from developing countries, such as Brazil and India, expand in the U.S. market they will negatively impact demand for acetate filament products. . . ."<sup>20</sup> The Kilduff study found that rayon and acetate filament yarns are substitutable because "they have a number of significant common characteristics; share many of the same end-uses; and are used in blends." In the study, Dr. Kilduff stated that "some fabric companies told him that apparel companies often switch between rayon and acetate in order to meet certain retail price points or changing fashions."

Voridian stated that the U.S. cellulose acetate yarn industry has declined in size since the early 1970s, largely reflecting the substitution of nylon and polyester for acetate yarn and increasing apparel imports from Asia, Latin America, and Europe. According to Voridian, annual U.S. production capacity for cellulose acetate yarn fell from more than 500 million pounds in 1970 to 108 million pounds in 2001. For 2003, the Voridian statement stated that Voridian and Celanese together will likely supply approximately 60 million pounds to the U.S. textile industry.

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

According to industry sources, it appears that, generally, rayon filament yarn has superior qualities compared to acetate filament yarn and may be used in some of the same end uses as that of acetate filament yarn, such as apparel linings.<sup>22</sup> Substitution of rayon for acetate in linings has not occurred thus far, in part because the price of quality rayon has been considerably higher than that of acetate. Currently, some industry sources are indicating that if the prices of rayon filament yarns were to fall to prices similar to that of acetate filament yarns, some end users would switch to the use of rayon filament yarn from acetate filament yarn.<sup>23</sup> Industry sources have also indicated that such developing countries as India and Brazil are selling rayon filament yarn at prices competitive with the domestic prices of acetate filament yarn. An analysis of U.S. imports of the subject rayon filament yarn indicate that Germany and China are, by far, the largest suppliers, accounting for 29 percent and 25 percent of the total quantity, respectively, in 2002. India was the 6<sup>th</sup> largest supplier that year, accounting for 4 percent of the total quantity. Information on the quality and selling prices of the rayon filament yarn from the lower cost supplying countries, such as China and India, cannot be determined. The extent that apparel producers have switched or would switch from using acetate filament yarns to rayon filament yarns also cannot be determined, but is believed to be small. In conclusion, the Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible Andean countries from certain viscose rayon filament yarn, regardless of the source of the yarn, would likely have no adverse effect on most of the U.S. yarn industry, because the

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<sup>18</sup> This is the same study which was discussed in the "Brief discussion of affected U.S. industries, workers, and consumers" section of this review.

<sup>19</sup> The April 2002 study was entitled "An Analysis of the Substitutability of Viscose and Cupramonium (sic) Rayon Filament Yarn for Acetate Filament Yarn."

<sup>20</sup> V.A. Robbins, Jr., Business Manager, Voridian Co., a Division of Eastman Chemical Co., Kingsport, TN, written submission to the Commission, Dec. 12, 2003.

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

<sup>22</sup> However, fabrics made of acetate filament yarns may be preferred over fabrics of rayon filament yarns to obtain a certain look in fashion fabrics used in the production of women's fashion apparel, for example.

<sup>23</sup> Dr. Peter D. Kilduff, Textile Product Design and Marketing, University of North Carolina at Greensboro, telephone interview by Commission staff, Dec. 16, 2003.



subject yarn is not produced domestically. However, the preferential treatment could have a small adverse effect on U.S. producers of acetate filament yarn that might compete with the subject yarn and U.S. producers of fabrics made from the subject yarn and from acetate filament yarn.

The proposed preferential treatment would likely benefit U.S. firms making apparel articles containing such yarns in eligible Andean countries. The expected increase in imports of such apparel from eligible Andean countries would displace some imports of similar apparel from other countries. Although imports are believed to account for the majority of the U.S. market for apparel made of the subject yarn, there could be a negligible adverse effect on any U.S. firms making similar or competing apparel domestically.

U.S. consumers of apparel made of the subject yarns would benefit from the proposed preferential treatment because importers are likely to pass on some of the duty savings to retail consumers in today's highly competitive retail apparel market. In addition, consumers may benefit from having access to a wider range of apparel articles made from the subject yarns.

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# Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-450-008

<b>Products</b>	Apparel of certain printed, 100-percent rayon fabric
<b>Requesting Parties</b>	Alarmex Holdings Group, Inc., New York, NY
<b>Date of Commission Report: USTR Public</b>	December 26, 2003 December 2003
<b>Commission Contact</b>	Laura V. Rodriguez (202-205-3499; lrodriguez@usitc.gov)

### NOTICE

**THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON DECEMBER 26, 2003. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)**

### Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible Caribbean Basin countries from the subject fabrics, regardless of the source of the fabrics, likely would have a negligible effect on the U.S. textile industry because there is no known domestic production of the fabrics, although at least one U.S. producer stated that it has the capability to make the fabrics. The proposed preferential treatment likely would have a negligible adverse effect on U.S. producers of apparel of the subject fabrics and their workers, but likely would benefit U.S. firms making similar apparel in eligible Caribbean Basin countries and their U.S.-based workers. U.S. consumers likely would benefit from any duty savings resulting from the proposed preferential treatment.

### Background

On January 28, 2003, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-450, *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2003 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 concerns a petition received by CITA on November 13, 2003, alleging that certain rayon fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action,

<sup>1</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 4, 2003 (68 F.R. 5651) and the Commission's website at <http://www.usitc.gov/332s/shortsup/shortsupstat.htm>.

and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>2</sup>

### **Brief discussion of the product**

The rayon fabrics named in the petition are classified in subheading 5516.14.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for printed woven fabrics containing 85 percent or more by weight of artificial staple fibers. The subject fabrics are printed woven herringbone fabrics made wholly of open-end spun yarns of rayon staple fibers, an artificial fiber generally made of wood pulp. According to the petition, garments made of the fabrics have the look and feel of silk apparel, but are machine washable and more affordable to buy and maintain. The fabrics are used in fashion apparel, such as women's shirts, pants, and skirts, and men's shirts. The 2003 rates of duty on these garments, classified in HTS chapter 62 (apparel, not knitted or crocheted), range from 16.1 percent to 28.8 percent ad valorem.

The subject fabrics are made of 20 singles rayon yarn made on the open-end spinning system.<sup>3</sup> The fabrics are made in a herringbone weave and have a 100 x 64 construction.<sup>4</sup> According to the petition, the herringbone weave<sup>5</sup> gives dimension to the fabric that, when printed, allows for deep, dark, and bold colors and provides more depth to the pattern than can be found in other printed woven fabrics.

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

The segments of the U.S. textile and apparel sector that may be affected by the proposed preferential treatment include producers of rayon fibers, yarns, fabrics, and apparel, and dyeing and finishing mills that print fabrics.<sup>6</sup>

The only U.S. producer of rayon staple fibers is Liberty Fibers Corp. (formerly Lenzing Fibers Corp.), Lowland, TN.<sup>7</sup> A representative of the firm stated that \*\*\*.<sup>8</sup>

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<sup>2</sup> 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 term "20 singles yarn" is a measure of yarn fineness and represents the number of 840-yard lengths in a pound of yarn (20) and the number of plies (single ply). Yarns are usually made of staple fibers or filaments. A filament is a long (e.g., as much as miles in length), thin strand of extruded material, and consists mainly of manmade fibers (artificial and synthetic). Staple fibers usually measure 1 inch to 4 inches in length and include natural fibers (e.g., cotton) and cut lengths of filament. To form yarn from staple fibers, the fibers are cleaned, aligned in a parallel manner, and then wound together (spun) so that the fibers adhere to each other.

<sup>4</sup> The fabric construction represents the number of warp ends (100) and filling picks (64) per inch. Warp yarns run lengthwise on the loom and in the fabric, while filling yarns run across the width of the loom and fabric.

<sup>5</sup> A herringbone fabric is made with a broken twill weave that creates a balanced, zigzag effect and that resembles the skeletal structure of a herring. See Marjory L. Joseph, *Introductory Textile Science*, 2d ed. (Holt, Rinehart and Winston, Inc., 1972), p. 386.

<sup>6</sup> In general, the manufacturing progression in the textile sector is: (1) fibers are made into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) cut components are sewn into apparel and other finished articles.

<sup>7</sup> Effective on November 21, 2003, the Austrian-based Lenzing Group sold its residual share in Lenzing Fibers Corp. to the majority shareholder of the firm, a private equity group. See "The Lenzing Group Withdraws from US Minority Holding Lenzing Fibers Corporation," press release, Nov. 24, 2003, found at <http://www.lenzing.com> on Dec. 4, 2003.

<sup>8</sup> Except as noted, information in the paragraph is from Douglas Noble, Vice President, Sales and Marketing, Liberty Fibers Corp., telephone interview by Commission staff, Dec. 12, 2003.

The only known U.S. producer of open-end spun yarn wholly of rayon staple fibers is Carolina Mills, Inc., Maiden, NC, \*\*\*.<sup>9</sup> The firm stated that most U.S. fabric producers ceased production of woven rayon fabrics long ago because of intense competition from low-cost imports.<sup>10</sup>

There are three known U.S. producers of rayon fabrics, but none of them make the subject fabrics (printed woven fabrics wholly of open-end spun yarns of rayon staple fibers, in a herringbone weave). The producers are Milliken & Co., Spartanburg, SC; Schneider Mills, Inc., Taylorsville, NC; and New River Industries, Radford, VA. Milliken said it likely was the largest U.S. rayon spinner and weaver during 1987-94,<sup>11</sup> \*\*\*.<sup>12</sup> According to Milliken, spun rayon imports from Turkey rose significantly during 1993-95 and "overwhelmed the U.S. market and destroyed our cost competitiveness."<sup>13</sup> \*\*\*<sup>14</sup> Milliken said it has the capability to make the subject fabrics in a greige or unfinished form (e.g., not printed), but it does not have the in-house capability to print the fabrics.<sup>15</sup> Schneider Mills said it makes woven greige fabrics \*\*\* at its facilities in Taylorsville and Forest City, NC; the firm said it does not make the rayon fabrics in a herringbone weave.<sup>16</sup> New River Industries stated that it makes woven greige fabrics of open-end spun rayon yarns \*\*\*.<sup>17</sup>

Commission staff contacted three U.S. firms whose officials stated that the firms currently print or have the technical capability to print fabrics of a kind named in the petition: Cranston Print Works, Cranston, RI; Symphony Fabrics, NY, NY; and Duro Industries, Fall River, MA. Cranston Print Works stated that it has the technical capacity to print the fabrics but it currently does not do so because much of this business moved offshore.<sup>18</sup> Symphony Fabrics stated that it prints very little rayon fabric; however, it stated that if U.S. fabric mills can produce the subject fabrics, that there are likely to be firms in the United States that can print the fabrics.<sup>19</sup> Duro Industries stated that it currently does not print the fabrics, but has the technical capability to print the fabric.<sup>20</sup>

Alarmex (the petitioner) stated that it can buy the subject fabrics from sources in Korea and China that offer fabrics in finished (e.g., printed) form. According to Alarmex, \*\*\*, the fabric suppliers in Korea and China can provide large quantities of printed herringbone fabric from a single source, thereby expediting the turnaround time from placement of fabric orders to delivery of the finished fabrics.<sup>21</sup> According to Alarmex, however, even if the subject fabrics were made domestically, it would have to contract with

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<sup>9</sup> A number of U.S. yarn spinners produce rayon blend yarns such as polyester-rayon yarns, but Carolina Mills is believed to be the only U.S. spinner of open-end spun yarns wholly of rayon staple fibers.

<sup>10</sup> Information in the paragraph is from Stephen Dobbins, President and Chief Executive Officer, Carolina Mills, Inc., telephone interview by Commission staff, Dec. 5, 2003.

<sup>11</sup> Ben F. Shoaf, President, Finished Apparel & Specialty Fabrics Division, Milliken & Co., written submission to CITA, Nov. 25, 2003.

<sup>12</sup> Wes Matthews, General Director of Manufacturing, Milliken & Co., telephone interview by Commission staff, Dec. 3, 2003.

<sup>13</sup> Ben F. Shoaf, President, Finished Apparel & Specialty Fabrics Division, Milliken & Co., written submission to CITA, Nov. 25, 2003.

<sup>14</sup> Wes Matthews, General Director of Manufacturing, Milliken & Co., telephone interview by Commission staff, Dec. 3, 2003.

<sup>15</sup> The U.S. textile industry includes dyeing and finishing mills that dye, print, and otherwise finish fabrics for other firms.

<sup>16</sup> George Shtohryn, Senior Vice President, Merchandising, Schneider Mills, Inc., telephone interview by Commission staff, Dec. 10, 2003.

<sup>17</sup> Rodney Whitley, Yarn Procurement, Planning, and Quality Control, New River Industries, telephone interview by Commission staff, Dec. 12, 2003.

<sup>18</sup> George W. Schuster, Chairman, President, and Chief Executive Officer, Cranston Print Works, voice-mail message, Dec. 10, 2003.

<sup>19</sup> Howard Ellis, Head of Development and Knits, Symphony Fabrics, telephone interview by Commission staff, Dec. 5, 2003.

<sup>20</sup> William Milowitz, Vice President, Sales and Marketing, Duro Industries, telephone interview by Commission staff, Dec. 8, 2003.

<sup>21</sup> Fran Feldman, Director, Global Sourcing, Alarmex Holdings Group, stated that the firm's typical turnaround time from placement of the fabric order [in China, to shipping the fabric to Guatemala for cutting and sewing, and receiving the finished apparel articles in the United States averages about 12 weeks]. Telephone interview by Commission staff, Dec. 3, 2003.

"commission printers" to print the fabrics, thereby complicating accountability for product quality and slowing down fabric delivery.<sup>22</sup>

Several industry sources indicated that printed herringbone fabrics made of lyocell, which like rayon is an artificial manmade fiber made of wood pulp cellulose, could be considered substitutable for the subject fabrics.<sup>23</sup> Lyocell, marketed under such brand-names as Tencel®, has many of the same desirable properties as rayon, including comfort, absorbency, and abrasion resistance. Like the rayon fabrics, lyocell fabrics have depth, are machine washable and colorfast, and are viewed as an attractive alternative to silk because of their soft drape and luxurious hand, which makes them particularly sought in women's fashion garments and men's shirts.<sup>24</sup> However, Alarmex stated that the cost of lyocell fabrics is much higher than that for fabrics made of open-end spun rayon yarn, making the lyocell fabrics too costly for use in apparel designed for the moderate income market. A representative of Alarmex estimated that the cost of printed lyocell fabrics would be at least \*\*\* per square yard, compared with \*\*\* per square yard for the subject fabrics from Korea and China.<sup>25</sup>

### Views of interested parties

No written statements were filed with the Commission.

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

The Commission's analysis shows that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA countries from the subject fabrics, regardless of the source of the fabrics, is likely to have a negligible effect on U.S. producers of yarns and fabrics and on printers of fabric, and their workers, because there currently is no known domestic production or printing of the subject fabrics.

The proposed preferential treatment likely would have a negligible adverse effect on U.S. producers of apparel of the subject fabrics and their workers, but likely would benefit U.S. firms making similar apparel in eligible CBTPA countries and their U.S.-based workers. The proposed preferential treatment is likely to spur demand for apparel made from the subject fabrics.

U.S. consumers of apparel made from the subject fabrics would likely benefit from the proposed preferential treatment because importers are likely to pass on some of the duty savings to retail consumers in today's highly competitive retail apparel market. In addition, consumers may benefit from having access to a wider range of apparel articles made from the subject fabrics.

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<sup>22</sup> Fran Feldman, Director, Global Sourcing, Alarmex Holdings Group, telephone interview by Commission staff, Dec. 9, 2003.

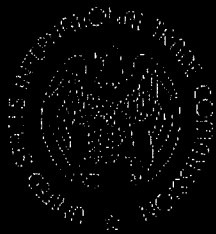
<sup>23</sup> Ellen Flynn, Vice President, Tencel; Gail Strickler, President and Chief Executive Officer, Saxton Textiles, and Vince Trotta, Senior Vice President, Marketing, Dan River, Inc., telephone interviews by Commission staff, Dec. 4, 2003. Vince Trotta stated that lyocell herringbone fabric is not printed in the United States.

<sup>24</sup> Rose Marie Tondl, "Tencel Lyocell, the New Generic Fiber, *NebFacts*, found at <http://www.ianr.unl.edu/pub/textiles/nf350.htm>, and Joyce Ann Smith, "Lyocell-One Fiber, Many Faces," *Ohio State University Extension Fact Sheet - Consumer and Textile Sciences*, found at <http://ohioline.osu.edu/hyg-fact/5000/5572.html>, retrieved Dec. 12, 2003, and telephone interviews by Commission staff on Dec. 4, 2003, with Gail Strickler, Saxton Textiles; Ellen Flynn, Vice President, Marketing, Tencel; and Vince Trotta, Senior Vice President, Marketing, Dan River, Inc.

<sup>25</sup> Fran Feldman, Director, Global Sourcing, Alarmex Holdings Group, telephone interview by Commission staff, Dec. 9, 2003.

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

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## Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

### U.S. International Trade Commission Investigation No. 332-450-007

Products	Apparel of viscose rayon yarns
Requesting Parties	Fabritex, Inc., Lincolnton, NC
Date of Commission Report: USTR Public	December 15, 2003 December 2003
Commission Contact	Laura V. Rodriguez (202-205-3499; lrodriguez@usitc.gov)

#### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON DECEMBER 15, 2003. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*).

#### Summary of Findings

The petition filed by Fabritex with the Committee for the Implementation of Textile Agreements (CITA) on November 3, 2003, is identical to the petition that it filed with CITA in June 2001. 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> In the current petition, Fabritex stated that there have been "changed circumstances in the domestic yarn spinning industry" since 2001, stating that the subject yarns have not been and are not currently made in the United States and that the sole respondent of record opposing its 2001 petition does not oppose the current petition.<sup>2</sup>

The Commission is unaware of any firm that makes the subject yarns in the United States. As such, the Commission in the current review finds that granting duty-free and quota-free treatment to apparel made in eligible Caribbean Basin and sub-Saharan African countries from fabrics made in the United States of the subject yarns, regardless of the source of the yarns, would likely have no adverse effect on U.S. yarn producers.<sup>3</sup> The Commission also finds that, like in the 2001 review, granting the proposed preferential treatment would likely benefit U.S. producers of fabrics made of the subject yarns and U.S. firms making apparel in eligible Caribbean Basin and sub-Saharan African countries from such U.S.-made fabrics, and their U.S.-based workers, but would likely have a negligible adverse effect on U.S. producers of similar apparel and their workers. U.S. consumers would likely benefit from any duty savings resulting from the proposed preferential treatment.

<sup>1</sup> The petition filed by Fabritex in June 2001 was the second of two petitions that it filed on rayon yarns that year. The second petition clarified the product coverage of the first petition, which was also denied by CITA. CITA's decisions on the 2001 petitions appeared in the *Federal Register* of May 3, 2001 (66 F.R. 23237) and Sept. 6, 2001 (66 F.R. 46608).

<sup>2</sup> Edward Moskowitz, Chief Executive Officer, Fabritex, Inc., petition submitted to CITA on Nov. 3, 2003.

<sup>3</sup> Based on information available in its review of the second petition filed by Fabritex in 2001, the Commission found that the proposed preferential treatment "would likely have a negligible adverse effect on U.S. producers having the capacity to make the subject yarns or similar yarns." The Commission's reports on the two Fabritex petitions in 2001, *Knit Apparel of Viscose Rayon Yarns* (Inv. No. 332-428-004), Apr. 27, 2001, and *Knit Apparel of Open-End-Spun Yarn* (Inv. No. 332-428-009), Aug. 15, 2001, are available on the Commission website at [http://www.usitc.gov/332s/shortsup/332\\_428\\_004.pdf](http://www.usitc.gov/332s/shortsup/332_428_004.pdf) and [http://www.usitc.gov/332s/shortsup/332\\_428\\_009.pdf](http://www.usitc.gov/332s/shortsup/332_428_009.pdf), respectively.



## Background

On January 28, 2003, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-450, *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2003 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>4</sup>

The Commission's advice in this report concerns a petition received by CITA alleging that certain rayon yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel produced in eligible CBTPA and AGOA beneficiary countries from fabrics made in the United States of such yarns, regardless of the source of yarns. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>5</sup>

## Brief discussion of the product

The rayon yarns named in the petition are classified in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for singles yarn (other than sewing thread), not put up for retail sale, containing 85 percent or more by weight of artificial staple fibers. According to Fabrictex, the subject yarns are very fine, high-quality yarns used to make fabrics having exceptional "hand," drape, and silkiness, and for which there are no viable substitutes.<sup>6</sup> The fabrics are used in fashion apparel, particularly women's tops, pants, skirts, and intimate apparel, and men's underwear. The 2003 rates of duty on these garments, classified in HTS chapter 61 (knitted or crocheted apparel) and chapter 62 (apparel, not knitted or crocheted), range from 8.9 percent to 32.3 percent ad valorem.

The subject yarns are 30 singles and 36 singles yarns made of very fine (micro-denier), solution-dyed, viscose rayon staple fibers that are spun into yarns on the open-end spinning system.<sup>7</sup> In general, the manufacture of these yarns involves (1) processing cellulosic materials such as wood pulp into a viscose liquid, (2) extruding the liquid through a spinneret (a "showerhead-like" metal disc having many tiny holes) into fiber filaments and cutting them into short, staple fibers, and (3) spinning the fibers into yarn.<sup>8</sup> The

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<sup>4</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 4, 2003 (68 F.R. 5651) and the Commission's website at <http://www.usitc.gov/332s/shortsup/shortsupintro.htm>

<sup>5</sup> 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>6</sup> Edward Moskowitz, Chief Executive Officer, Fabrictex, Inc., telephone interview by Commission staff, Nov. 14, 2003.

<sup>7</sup> The terms 30 singles and 36 singles yarns are a measure of yarn fineness and represent the number of 840-yard lengths in a pound of yarn (30 or 36) and the number of plies (single ply). The higher the yarn number, the finer the yarn. Denier is a measure of fiber size. Micro-denier is 1 denier or less (the number of unit weights of 0.05 grams per 450-meter length). The lower the number, the finer the fiber.

<sup>8</sup> Yarns are usually made of staple fibers or filaments. A filament is a long (e.g., as much as miles in length), thin strand of extruded material, and consists mainly of manmade fibers (artificial and synthetic). Staple fibers usually measure 1 inch to 4 inches in length and include natural fibers (e.g., cotton) and cut lengths of filament. To form yarn from staple fibers, the fibers

subject yarns are solution dyed—that is, the color is added to the viscose liquid before extrusion, making the yarn more colorfast than fiber dyed after it has been made into yarn.<sup>9</sup>

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

The only known U.S. producer of rayon staple fibers, Liberty Fibers Corp. (formerly Lenzing Fibers Corp.), Lowland, TN, does not perform solution dyeing.<sup>10</sup> A company official said the expertise and equipment needed for solution dyeing does not exist in the United States and it is not economically feasible to import the needed expertise and equipment.<sup>11</sup>

There are no known U.S. producers of the subject yarns, according to representatives of the American Yarn Spinners Association (AYSA), the sole respondent of record opposing the petition filed by Fabrictex in June 2001, and the American Textile Manufacturers Institute (ATMI).<sup>12</sup> Commission staff contacted all U.S. yarn producers cited in the previous two reviews, and confirmed that none of them currently make the subject yarns.<sup>13</sup> \*\*\*<sup>14</sup>\*\*\*<sup>15</sup>\*\*\* Fabrictex said it believes that there are a few other small U.S. producers of fabrics similar to its fabrics.<sup>16</sup>

According to Fabrictex, which produces knitted fabrics from the subject yarns imported mainly from Spain and also Germany, the unavailability of the yarns from domestic sources has caused the firm to lose fabric orders from customers that require AGOA- and CBTPA-compliant fabrics—that is, fabrics made in the United States of U.S. yarns. Fabrictex stated that since the denial of its petitions by CITA in 2001, the firm \*\*\*<sup>17</sup> and, according to the petition, reduced the size of the workforce in its North Carolina mill from more than 300 workers in March 2001 to 200 in 2003. In a letter to CITA concerning the second petition filed by Fabrictex in 2001, Liz Claiborne Inc. said it "has recently been compelled to discontinue sourcing fabrics from Fabrictex for use in Caribbean apparel production. With Fabrictex's inability to supply a CBTPA-compliant fabric, it is more cost effective for our company to use non-U.S. fabrics and pay the duty [on the finished garment] than to use Fabrictex fabrics."<sup>18</sup>

Information on U.S. firms making apparel from the subject yarns is not readily available, partly because of the wide range of apparel articles involved and partly because imports likely account for most of the domestic market for such garments. Fabrictex stated that if the proposed preferential treatment is granted,

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are cleaned, aligned in a parallel manner, and then wound together (spun) so that the fibers adhere to each other.

<sup>9</sup> Marjory L. Joseph, *Essentials of Textiles*, 4th ed. (Holt, Rinehart and Winston, Inc., 1988), p. 83.

<sup>10</sup> Effective on November 21, 2003, the Austrian-based Lenzing Group sold its residual share in Lenzing Fibers Corp. to the majority shareholder of the firm, a private equity group. See "The Lenzing Group Withdraws from US Minority Holding Lenzing Fibers Corporation," press release, Nov. 24, 2003, found at <http://www.lenzing.com> on Dec. 4, 2003.

<sup>11</sup> Dan Blair, Director of Production, Lenzing Fibers, Lowland, TN, telephone interview by Commission staff, Nov. 13, 2003.

<sup>12</sup> Telephone interviews by Commission staff with Michael Hubbard, Executive Vice President, AYSA, Nov. 10, 2003, and Charles Bremer, Director, International Trade, ATMI, Nov. 19, 2003.

<sup>13</sup> The information was obtained by Commission staff in November 2003 from Kenneth Goodman, Richmond Yarns, Inc.; Conrad Rhyne, Production Manager, Colored Yarns, Carolina Mills, Inc.; David Miller, Vice President, Marketing, Four Leaf Textiles, LLC; Roger Muckenfuss, Vice President, Manufacturing, Belding Hausman, Inc.; and Charles L. Little, President, Yarn Division, Mount Vernon Mills, Inc.

<sup>14</sup> Lise Charron, Vice President, Marketing and Sales, Cavalier Specialty Yarn Co., USA, telephone interview by Commission staff, Nov. 17, 2003.

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

<sup>16</sup> Edward Moskowitz, Chief Executive Officer, Fabrictex, Inc., telephone interview by Commission staff, Nov. 19, 2003.

<sup>17</sup> Edward Moskowitz, Chief Executive Officer, Fabrictex, Inc., telephone interview by Commission staff, Nov. 14, 2003.

<sup>18</sup> Don Baum, Vice President, Group Manufacturing Director, Liz Claiborne Brands, North Bergen, NJ, letter to CITA, available on the website of the U.S. Department of Commerce, Office of Textiles and Apparel, at <http://otexa.ita.doc.gov>.

the firm could recapture some of its lost business and substantially increase its existing business. \*\*\*<sup>19</sup>  
Fabrictex said it currently sells its Savannah line of knitted fabrics \*\*\*. It is believed that many of the garments made for these firms are assembled abroad.<sup>20</sup>

### Views of interested parties

No written statements were filed with the Commission.

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

The current petition filed by Fabrictex covers the same rayon yarns as its June 2001 petition. The sole respondent of record opposing the June 2001 petition (American Yarn Spinners Association) does not oppose the current petition.<sup>22</sup> In addition, the Commission is unaware of any firm that makes the subject yarns in the United States. As such, the Commission in the current review finds that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA and AGOA beneficiary countries from fabrics made in the United States of the subject yarns, regardless of the source of the yarns, would likely have no adverse effect on U.S. yarn producers and their workers because there currently is no known U.S. production of the yarns.<sup>23</sup>

The proposed preferential treatment is likely to benefit U.S. producers of fabrics made from the subject yarns, and their workers, as a result of increased demand for these specialty fabrics that are used in fashion apparel. The apparel is extremely price competitive, and lowering the price on such apparel would likely result in increased sales and corresponding higher demand for the fabrics. The proposed preferential treatment is also likely to benefit U.S. and other firms making apparel in eligible CBTPA and AGOA beneficiary countries from non-U.S. yarns. The expected increase in imports of such apparel from eligible countries is likely to displace dutiable imports of similar apparel from Asian countries. However, the proposed preferential treatment still is likely to have a negligible adverse effect on any U.S. firms making the apparel domestically and on their workers.

U.S. consumers of apparel made from the subject yarns would likely benefit from the proposed preferential treatment because importers are likely to pass on some of the duty savings to retail consumers in today's highly competitive retail apparel market. In addition, consumers may benefit from having access to a wider range of apparel articles made from the subject yarns.

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<sup>19</sup> \*\*\*

<sup>20</sup> Ed Moskowitz, Chief Executive Officer, Fabrictex, telephone interview by Commission staff, Nov. 14, 2003.

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

<sup>22</sup> Michael Hubbard, Executive Vice President, AYSA, telephone interview by Commission staff, Nov. 10, 2003.

<sup>23</sup> Based on information available in its review of the second petition filed by Fabrictex in June 2001, the Commission found that the proposed preferential treatment "would likely have a negligible adverse effect on U.S. producers having the capacity to make the subject yarns or similar yarns." The Commission's report on the petition, *Knit Apparel of Open-End-Spun Yarn* (Inv. No. 332-428-009), Aug. 15, 2001, is available on its website at [http://www.usitc.gov/332s/shortsup/332\\_428\\_009.pdf](http://www.usitc.gov/332s/shortsup/332_428_009.pdf).

F



# Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel Imported from Sub-Saharan African and Caribbean Basin Countries

## U.S. International Trade Commission Investigation No. 332-428-010

Products	Apparel of cuprammonium rayon filament yarn
Requesting Party	Itochu International Inc., New York, NY <sup>1</sup>
Date of Commission Report: USTR Public	January 7, 2002 January 2002
Commission Contact	Jackie W. Jones (202-205-3466); <a href="mailto:jones@usitc.gov">jones@usitc.gov</a>

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR  
ON JANUARY 7, 2002. ALL CONFIDENTIAL INFORMATION HAS BEEN  
REMOVED AND REPLACED WITH ASTERISKS (\*\*\*)

### Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible Caribbean Basin or sub-Saharan African countries from fabrics produced in the United States of cuprammonium rayon filament yarn (which is not made domestically), regardless of the source of the yarn, would likely have a negligible adverse effect on U.S. producers of yarns that are made from other artificial fibers (e.g., acetate) and that may compete with the subject yarn. It also would likely have a negligible adverse effect on U.S. producers of apparel fabrics made from these other yarns, but would benefit U.S. firms producing apparel fabrics made from the subject yarn. The proposed preferential treatment would likely benefit U.S. apparel firms assembling the apparel in eligible beneficiary countries, and their U.S.-based workers, but could have a slight adverse effect on U.S. firms making the apparel domestically, and their workers. U.S. consumers would likely benefit from some duty savings.

### Background

On March 14, 2001, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-428, *Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel Imported from Sub-Saharan African and Caribbean Basin Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice during 2001 in connection with petitions filed by interested parties under the "short supply" provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA).<sup>2</sup>

<sup>1</sup> Itochu International, an importer of the subject yarn, filed the petition on behalf of Unifi, Inc., a yarn producer based in Greensboro, NC, and Symphony Fabrics, a fabric designer and converter in New York, NY. The reasons why Unifi and Symphony are requesting the preferential treatment are discussed in the "fiber and yarn producers" section of this report.

<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of March 21, 2001 (66 F.R. 15886) and its website at [www.usitc.gov/332s/shortsup/shortsupintro.htm](http://www.usitc.gov/332s/shortsup/shortsupintro.htm).

The Commission's advice in this report concerns a petition received by the Committee for the Implementation of Textile Agreements (CITA) on November 20, 2001, alleging that cuprammonium rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible CBTPA or AGOA beneficiary countries from fabrics made in the United States of such yarn, regardless of the source of such yarn. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be proclaimed, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>3</sup>

### **Brief discussion of the product**

The cuprammonium rayon filament yarn named in the petition is classified in subheading 5403.39.00 of the Harmonized Tariff Schedule of the United States (HTS), a residual or "basket" provision covering miscellaneous single filament yarn, (other than sewing thread), not put up for retail sale, of artificial fibers other than viscose rayon or cellulose acetate. This tariff provision covers both monofilament yarn, including monofilament of less than 67 decitex,<sup>4</sup> and multifilament yarn, with or without twist. The general rate of duty on this yarn is 8.4 percent ad valorem in 2002. The subject rayon yarn is processed into fabrics for use as a lining material, such as in high-quality clothing, and for making apparel classified in HTS chapters 61 (apparel, knitted or crocheted) and 62 (apparel, not knitted or crocheted). U.S. general rates of duty on imports of knitted and woven apparel made of the subject yarn range from 1.8 percent to 28.6 percent ad valorem in 2002.

The subject yarn is made of cuprammonium rayon, which is manufactured by chemical transformation of natural organic polymers in the form of cellulose derived exclusively from cotton linters (the short cotton fibers growing near the seeds of the cotton boll).<sup>5</sup> In general, in the cuprammonium process, the cellulosic raw materials are first brought to a liquid state by dissolving them in an alkaline solution of ammonia and copper hydroxide. The solution is then extruded through the holes of a spinneret (a "showerhead-like" metal disc having many tiny holes) into newly formed filaments. As the filaments are "pulled" or drawn off the spinneret, they undergo a "stretch spinning process" to make them both narrower (or finer) and longer. The filaments are drawn into an acid bath, which causes the material to solidify ("regenerate") into continuous filament. After extrusion, washing, and finishing, filaments are generally wound onto spools and may later be put up on warp beams to be used in weaving.<sup>6</sup>

The United States does not produce cuprammonium rayon, but imports the subject yarn mostly from Japan.<sup>7</sup> The petitioner stated that the imported subject yarn is a multifilament yarn made of many fine filaments. For example, the subject yarn having a yarn denier of 75 consists of 54 filaments and one having a yarn denier of 100 consists of 70 filaments. The yarn has zero twist; a special finish or spinning oil is applied to each filament so that the filaments are held together and the yarn is lubricated for further

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<sup>3</sup> 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. He authorized CITA and USTR to submit the required report to the Congress.

<sup>4</sup> Decitex is the linear density, or weight per unit length, of filament yarn (it indicates the weight in grams of 10,000 meters of yarn). The higher the decitex, the heavier is the yarn.

<sup>5</sup> Treated wood pulp may also be used to make cuprammonium rayon filament yarn; however, according to the petitioner, cotton linters are the only cellulosic raw materials now used in world production of such yarn. Reportedly, the use of cotton linters instead of wood pulp allows for the extrusion of a finer filament and the production of a yarn having much higher strength. Ryoma Omuro, Assistant Manager, Fiber and Yarn Department, and Jeff Vercellone, Itochu International Inc., New York, NY, telephone interviews by Commission staff, Nov. 30 and Dec. 18, 2001, respectively.

<sup>6</sup> U.S. Customs Service, "Fibers and Yarns: Construction and Classification Under the HTSUS," *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, pp. 142 and 143.

<sup>7</sup> U.S. production of cuprammonium rayon reportedly ceased in 1975 due to the significant cost of meeting clean-water standards (i.e., the cost of removing chemical pollutants from waste water of the manufacturing process). See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Upper Saddle River, NJ: Simon & Schuster, 1997), p. 143.

processing. The imported yarn is in an unfinished state (i.e., in its natural color). The dyeing and finishing operations occur only after the yarn is processed into fabrics (known as piece dyeing).

The subject yarn is manufactured only in Japan and Italy and is often referred to in the trade as "cupro" or as Bemberg yarn after the European firm (J.P. Bemberg Co.) that first made the yarn for commercial use in the early 1900s. According to the petitioner, the Asahi Kasei Corp., of Osaka, Japan, accounts for approximately 90 percent of world production of the yarn (marketed under the AsahiBemberg label), while Bemberg S.p.a. of Italy accounts for the remainder.<sup>8</sup> The cross section of most AsahiBemberg yarn is almost circular, which allows for the bright colors and silky luster of the yarn; the brightness of the yarn may be altered by adding delustering agents to the solution before extrusion.<sup>9</sup> The filament fiber is highly porous, which results in easy dyeability, high moisture and water absorption, and compatibility with finishing resins.

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

The segments of the U.S. textile and apparel industries that might be affected by the proposed preferential treatment include producers of certain fibers, yarns, and fabrics for which the subject rayon filament yarn, or fabrics made from such yarn, may be substitutable, as well as dyers and finishers of these fabrics. The following section examines these industry segments and certain fabric purchasers.

#### ***Fiber and yarn producers***

The United States does not produce cuprammonium rayon filament yarn, but does make other yarn from artificial or cellulosic fibers, specifically rayon and lyocell staple fibers and acetate filament.<sup>10</sup> The production of acetate filament fiber, which is made from wood pulp, also involves extruding a cellulose-based solvent through a spinneret. However, the chemical solvents and some of the manufacturing processes used in acetate production differ from those used to make the subject rayon filament yarn. Rayon and lyocell staple fibers are spun into yarns much like cotton and wool fibers are spun into yarns. Filament fibers are produced as one continuous strand and, as part of the fiber manufacturing process, are often wound onto spools, cones, or beams as yarns or are combined with other filament fibers into yarns. Yarns and fabrics produced from staple fibers differ from those made from filament fibers in terms of physical qualities such as sheen, silkiness, texture, and durability. For example, cuprammonium rayon filament yarns are used to produce a shiny satin or velvet, while rayon or lyocell staple fiber yarns are used to make lightweight shirting or challis fabric.

The sole U.S. producer of rayon staple fiber is Lenzing Fibers, Lowland, TN, which stated that the equipment currently used to produce such fiber cannot be converted to produce a rayon filament yarn and that a plant conversion to produce such filament yarn would require a high level of capital investment.<sup>11</sup> The only U.S. producer of lyocell is Acordis Cellulosic Fibers Inc., New York, NY, which markets the product under the Tencel label. The firm currently makes Tencel in the United States only in staple form; \*\*\*<sup>12</sup>

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<sup>8</sup> Ryoma Omuro, Itochu International Inc., New York, NY, telephone interview by Commission staff, Dec. 6, 2001.

<sup>9</sup> Asahi Kasei Corp., "AsahiBemberg," pamphlet provided by Itochu International Inc.

<sup>10</sup> Yarns are generally made of staple fibers or filaments. A filament is a very long (e.g., as much as miles in length), thin strand of extruded material, and consists mostly of manmade fibers (artificial and synthetic). Staple fibers usually measure 1 inch to 4 inches in length and include natural fibers (e.g., cotton and wool) and cut lengths of filament. In general, to form yarn from staple fibers (a term used to distinguish natural or cut-length manufactured fibers from filament), the fibers are first aligned in a parallel manner, and then wound together (spun) so that the fibers adhere to each other.

<sup>11</sup> Doug Noble, Lenzing Fibers, Lowland, TN, telephone interview by Commission staff, June 5 and 6, 2001.

<sup>12</sup> Donald Vidler, Commercial Director, Acordis Cellulosic Fibers Inc., New York, NY, telephone interview by Commission staff, Dec. 4, 2001.

Acetate filament fiber and yarn are made in the United States by Eastman Chemical Co., Kingsport, TN, and Celanese, Ltd., Greensboro, NC. Both firms stated that they consider the subject rayon filament yarn and acetate filament yarn to be interchangeable in the production of fabrics for use as linings in tailored clothing and to make certain women's apparel (for further information on these firms' views, see the "Views of Interested Parties" section of this report).

According to the petition filed by Itochu International, the subject rayon filament yarn and the acetate filament yarn are different in several respects. The subject yarn is much stronger because of the use of cotton linters as its cellulose base and, unlike the acetate yarn, has a smooth circular cross-section that provides a silky luster, softness, and more comfortable touch to the fabrics.<sup>13</sup> The subject yarn also costs much more than the acetate yarn. According to the petition, the average cost per pound is \$4.50 for the subject yarn and about \$2.00 for the acetate yarn. According to industry and academic sources, although the subject yarn and the acetate filament yarn are made by similar extrusion processes and can be processed into fabrics having a similar appearance, there are some significant differences in the physical characteristics of the resulting fabrics.<sup>14</sup> In particular, the moisture absorption rate of the subject yarn is 12.5 percent, compared with 6.5 percent for the acetate filament yarn.<sup>15</sup> The higher the moisture absorption rate, the more comfortable is the garment. The subject yarn also is stronger than the acetate yarn. The tenacity rate for the subject yarn is 1.7 to 2.3 grams per denier (at standard conditions), compared with 1.2 to 1.4 grams for the acetate yarn.<sup>16</sup>

An official of Unifi, Inc.,<sup>17</sup> one of the petitioners and a U.S. producer of polyester fiber, stated that \*\*\*18\*\*\*

#### ***Fabric producers***

An official of Symphony Fabrics, a petitioner and a designer and converter of fabrics, stated that the firm uses the subject yarn in the production of unique and highly specialized fabrics for high-end women's apparel.<sup>19</sup> \*\*\*

\*\*\*20\*\*\*

An official of Hathaway Textiles, which designs and sells fabrics, \*\*\*.<sup>21</sup> The official stated that, in general, both yarns have superior qualities. \*\*\*

#### ***Dyeing and finishing***

An official of Fitness Fabrics Ltd., a fabric converter, \*\*\*22\*\*\*

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<sup>13</sup> Itochu International, Inc., New York, NY, petition for short supply designation for cuprammonium rayon filament yarn addressed to the Chairman of CITA, submitted on behalf of Unifi, Inc., Greensboro, NC, and Symphony Fabrics, New York, NY, Nov. 19, 2001, p. 3.

<sup>14</sup> Lee Gordon, Senior Vice-President for Product Development, Unifi Inc., Greensboro, NC; Dr. David Buchanan, Professor and Assistant Dean, College of Textiles, North Carolina State University; and Dr. Marjorie Norton, Professor of Clothing and Textiles, Virginia Tech University, telephone interviews by Commission staff, Dec. 6, 7, and 18, 2001, respectively.

<sup>15</sup> These absorption rates are at standard conditions of approximately 70 degrees Fahrenheit and 65-percent relative humidity. See Marjory L. Joseph, *Essentials of Textiles*, 4th ed. (Holt, Rinehart and Winston, Inc., 1988), pp. 86 and 92.

<sup>16</sup> Tenacity is the amount of force (e.g., in grams) needed to break a yarn, divided by the (unstrained) denier per unit length. See U.S. Customs Service, "Fibers and Yarns," *Customs Bulletin and Decisions*, Dec. 27, 2000, p. 115.

<sup>17</sup> Lee Gordon, Senior Vice-President for Product Development, Unifi Inc., telephone interviews by Commission staff, Dec. 6 and 20, 2001.

<sup>18</sup> \*\*\* Telephone interview by Commission staff, Dec. 20, 2001.

<sup>19</sup> Howard Ellis, Converter, Symphony Fabrics, telephone interview by Commission staff, Nov. 30, 2001.

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<sup>21</sup> Elizabeth Amoroso, President, Hathaway Textiles, telephone interview by Commission staff, Dec. 10, 2001.

<sup>22</sup> Amy Caplin, Principal, Fitness Fabrics Ltd., New York, NY, telephone interview by Commission staff, Dec. 7, 2001.



An official of Duro Industries, Inc., Fall River, MA, a large fabric dyeing and finishing firm employing approximately 650 people, stated that dyeing and finishing fabric made of cuprammonium rayon filament yarn is a major part of its business and crucial to its survival in the United States.<sup>23</sup> The official stated that the proposed preferential treatment would enable the firm to sell its fabric to companies that produce apparel in the CBTPA and AGOA countries. This official stated that the subject yarn and viscose rayon filament yarn, as well as the fabrics (particularly linings) made from these yarns, are very similar.<sup>24</sup> \*\*\*

Balson Hercules, New York, NY, a group of several fabric converters, and a division of Duro Industries, stated that it is the largest supplier of U.S.-made woven linings for menswear and that it supports the proposed preferential treatment.<sup>25</sup> The firm stated that because the CBTPA and the AGOA currently do not grant preferential treatment to apparel made of linings containing foreign yarn, the firm has significantly reduced sales of these linings to producers that have moved their apparel production to the beneficiary countries.

### **Purchasers**

The Marine Corps and the Air Force have used linings made of cuprammonium rayon filament yarn in their dress uniforms for many years.<sup>26</sup> \*\*\*<sup>27</sup>\*\*\* Officials of the Defense Supply Center of Philadelphia (DSCP), the agency which procures fabrics for the military, stated that the lining fabric for the military must be durable as military personnel take their jackets on and off often and keep their uniforms for a long period of time.<sup>28</sup> \*\*\*

### **Capacity comparisons**

World production capacity for cuprammonium rayon filament yarn currently is approximately 49 million pounds, of which 44 million pounds is in Japan and the remainder in Italy.<sup>29</sup> The current world capacity utilization rate is approximately 75 percent, or almost 37 million pounds. Japan's total production is estimated to be 33 million pounds in 2001. Approximately 60 percent of this amount (almost 20 million pounds in 2001) is for domestic use and the remaining 40 percent is exported to Asia, the European Union (EU), and the United States. According to Itochu International, Japan's exports of the subject yarn to the United States declined from about 3 million pounds in 1999 to 1 million pounds in 2000 and are expected to decline to 500,000 pounds for the full year 2001.

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<sup>23</sup> William J. Milowitz, Vice President, Duro Industries, Inc., Fall River, MA, written submission to CITA, Dec. 6, 2001.

<sup>24</sup> William J. Milowitz, Vice President, Duro Industries, Inc., telephone interview by Commission staff, Dec. 10, 2001.

<sup>25</sup> John Iason, Vice President, Balson Hercules, New York, NY, written submission to CITA, Dec. 6, 2001.

<sup>26</sup> The "Berry Amendment," enacted as Title IX of Public Law 102-396, as amended, requires U.S. military procurement of uniforms, among other products, to be manufactured in the United States from U.S.-produced components. A "domestic unavailability determination" was made for the rayon linings because the subject yarn is not produced in the United States. According to an official of the Defense Supply Center of Philadelphia (DSCP), the Berry Amendment also requires the DSCP to evaluate U.S.-made substitutes. John McAndrews, Product Manager, Dress Clothing, DSCP, telephone interview by Commission staff, Sept. 17, 2001. \*\*\*

<sup>27</sup> \*\*\* telephone interviews by Commission staff, Dec. 10, 2001.

<sup>28</sup> Gail Vander Voort, Quality Assurance Specialist, and John McAndrews, Product Manager, Dress Clothing, DSCP, telephone interview by Commission staff, Dec. 7, 2001.

<sup>29</sup> Information in this paragraph is from Ryoma Omuro, Itochu International Inc., New York, NY, telephone interview by Commission staff, Dec. 6, 2001.

Total U.S. capacity to produce cellulose acetate filament yarn reportedly is expected to be 108 million pounds by the end of 2001.<sup>30</sup> Eastman Chemical Co. and Celanese Ltd. are expected to supply approximately 70 million pounds to the U.S. textile industry in 2001, representing a capacity utilization rate of almost 65 percent.

### **Views of interested parties**

The Commission received written statements from Eastman Chemical Co. and Celanese Ltd., U.S. producers of acetate, and Markbilt, Inc., a U.S. producer of knit fabrics of the subject rayon filament yarn. The two acetate producers indicated their opposition to the proposed preferential treatment, while Markbilt stated its support.<sup>31</sup> The Eastman Chemical submission stated that the U.S. cellulose acetate yarn industry has been declining since the early 1970s due to substitution of other fibers, such as nylon and polyester. U.S. production capacity for acetate yarn declined from 500 million pounds in 1970 to approximately 108 million pounds by the end of 2001. The submission noted that, during this period, DuPont and Avtex closed their cellulose acetate yarn plants and no longer produce the yarn; Celanese closed a plant in Cumberland, MD; and Eastman Chemical reduced its capacity. The submission stated that Celanese and Eastman Chemical will ship only 70 million pounds of acetate yarn to the U.S. textile industry in 2001. The Eastman Chemical submission stated that cuprammonium rayon filament yarns and acetate filament yarns are interchangeable, and that the acetate yarns compete well with the cuprammonium rayon yarns, especially in lining fabrics for men's tailored clothing. The submission indicated that acetate filament yarn is readily available in commercial quantities from two domestic producers and that granting the proposed preferential treatment for the subject rayon yarn would cause harm to the domestic acetate filament yarn industry by reducing demand for acetate yarn.

The Celanese submission stated that the subject rayon filament yarn is a direct substitute in major end uses for acetate filament yarn, and that granting the proposed preferential treatment could directly jeopardize the jobs of 350 of their employees. The submission stated that the company's most recent reduction in employees was due to the shutdown of acetate filament yarn production in its Rock Hill, SC plant. The submission indicated that end users' preference to use the subject rayon yarn and/or fabric instead of acetate filament yarn and/or fabric does not mean that the subject rayon and acetate filament yarns are not substitutable. The submission also stated that many fiber and yarn customers may not be commenting on the petition because of "economic and marketing considerations" and suggested that the Commission and CITA contact neutral parties (e.g., members of academia) for information.

The Markbilt submission stated that it is critical that the fabrics made from the subject yarn be allowed to compete fairly in the market. According to the submission, "recognizing that this yarn product is unavailable from a domestic U.S. producer, it seems appropriate that the customers of such a yarn and resulting fabrics be able to enjoy the benefits of the AGOA and CBTPA programs."

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

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible AGOA or CBTPA beneficiary countries from fabrics made in the United States of the subject yarn, regardless of the source of the yarn, would likely have a negligible adverse effect on U.S. producers of yarns that are made from other artificial fibers (e.g., acetate) and that may compete with the subject yarn. The proposed preferential treatment also would likely have a negligible adverse effect on U.S. firms that make apparel fabrics from these other yarns, but would benefit U.S. firms that make

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<sup>30</sup> V.A. Robbins, Jr., Acetate Yarn Business Unit Manager, Fibers Business Organization, Eastman Chemical Co., Kingsport, TN, written submission to the Commission, Dec. 4, 2001.

<sup>31</sup> Written submissions received by the Commission from V.A. Robbins, Jr., Acetate Yarn Business Unit Manager, Fibers Business Organization, Eastman Chemical Co., Dec. 4, 2001; H. Newton Williams, Vice President, Government Relations, Celanese Ltd., Dec. 7, 2001; and Mark L. Woltin, President, Markbilt, Inc., Dec. 18, 2001.

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

apparel fabrics from the subject yarns. With the enactment of the AGOA and CBTPA in May 2000, imports of apparel made in eligible beneficiary countries from fabrics made in the United States from U.S. acetate filament yarns became eligible to enter free of duty and quota. However, imports of apparel made from the subject rayon filament yarns, which are made only in Japan and Italy, are ineligible for such preferential treatment because the yarns do not meet the requirement that they be made in the United States. The petition, if granted, would re-establish the conditions of parity for the different types of filament yarn prior to enactment of the CBTPA and AGOA in 2000. Imports of apparel made in the beneficiary countries from U.S. fabrics of the subject yarn likely would not capture any market share from acetate apparel, because the two types of apparel, for the most part, do not compete in the same quality or price segments of the apparel market. The price of the subject yarn is more than twice that of the acetate filament yarn. If the proposed preferential treatment were granted, the expected increase in demand for the subject yarn would help maintain this price difference.

The proposed preferential treatment would benefit U.S. producers of fabrics made from the subject rayon filament yarns, and their workers, by spurring demand for U.S. fabrics for use in the production of apparel in eligible AGOA and CBTPA beneficiary countries. The proposed preferential treatment would also benefit U.S. and other apparel firms making apparel in these beneficiary countries from fabrics made of the subject yarns. The expected increase in imports of such apparel from these countries, although likely to be small, would likely displace some imports of similar apparel from other countries. Although imports are believed to account for the majority of the U.S. market for apparel made from the subject rayon filament yarns, there could be a slight adverse effect on any U.S. firms producing similar apparel domestically.

U.S. consumers of apparel articles made from the subject yarn would likely benefit from the proposed preferential treatment because importers and retailers are likely to pass through some of the duty savings to consumers in today's highly competitive retail apparel market.

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## Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel Imported from Sub-Saharan African and Caribbean Basin Countries

### U.S. International Trade Commission Investigation No. 332-428-008

Products	Apparel of rayon filament yarn
Requesting Party	ICF Industries, Inc., New York, NY <sup>1</sup>
Date of Commission Report: USTR Public	July 9, 2001 July 2001
Commission Contact	David G. Michels (202-205-3352); <a href="mailto:dmichels@usitc.gov">dmichels@usitc.gov</a>

#### Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to certain apparel articles made in eligible Caribbean Basin or sub-Saharan African countries from rayon filament yarn, regardless of the source of the yarn, would likely have no effect on any U.S. producers of the yarns or thread made from the subject yarn and would likely benefit U.S. producers of fabrics made from the yarn. The proposed preferential treatment is expected to have little adverse effect on any U.S. producers of similar yarns that may compete with the subject yarn or U.S. producers of fabrics made from such similar yarns. The proposed preferential treatment could have a slight adverse effect on any U.S. apparel producers producing domestically and their workers, but would likely benefit U.S. apparel firms assembling the apparel in eligible beneficiary countries, as well as their U.S.-based workers. U.S. consumers would likely benefit from some duty savings resulting from the proposed preferential treatment.

#### Background

On March 14, 2001, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-428, *Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel Imported from Sub-Saharan African and Caribbean Basin Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice during 2001 in connection with petitions filed by interested parties under the "short supply" provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA).<sup>2</sup>

The Commission's advice in this report concerns a petition received by the Committee for the Implementation of Textile Agreements (CITA) on May 23, 2001, alleging that rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible CBTPA or AGOA beneficiary countries from fabrics produced in the United States of such yarn, regardless of the source of such yarn.

<sup>1</sup> ICF Industries is an importer and distributor of rayon filament yarn. The domestic yarn users mentioned in the request are: Darlington Fabrics, Westerly, RI; J.B. Martin Company, Inc., Leesville, SC; JPS Apparel Fabrics Corp., Greenville, SC; Keystone Weaving Mills, Inc., Lebanon and York, PA; Kronfli Spundale Mills, Inc., Vernon, CA; Liberty Fabrics Inc., Gordonsville, VA; McGinley Mills, Inc., Easton, PA; NRB Industries, Inc., Radford, VA; Lawrence Schiff Silk Mills, Inc., Quakertown, PA; Robison Anton Textile Company, Fairview, NJ; Schneider Mills, Inc., Taylorsville, NC; Shara-Tex Inc., Vernon, CA; and A. Wimpfheimer & Brothers, Inc., Blackstone, VA.

<sup>2</sup> For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of March 21, 2001 (66 F.R. 15886), as well as the special area on its Internet site for the investigation ([www.usitc.gov/332s/shortsup/shortsupintro.htm](http://www.usitc.gov/332s/shortsup/shortsupintro.htm)).

The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be proclaimed, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.<sup>3</sup>

### Brief discussion of products

The yarn named in the petition is classified in subheadings 5403.31.00 and 5403.32.00 of the Harmonized Tariff Schedule of the United States (HTS), which provide for single filament yarn of viscose rayon (other than sewing thread and high-tenacity and textured yarn), not put up for retail sale, including artificial monofilament of less than 67 decitex.<sup>4</sup> The subject yarn is processed primarily into woven satin and velvet fabrics. The rayon satin fabric is often used in the manufacture of shirts, blouses, skirts, and dresses and is often used as a lining material in higher quality suits, coats, jackets, dresses, and skirts. The rayon velvet fabric is used in women's and girls' skirts, dresses, and gowns, and also as trim on some menswear (e.g., tuxedo collars, cuffs, and cummerbunds). The short supply petition, if granted, would apply to any type of apparel of HTS chapters 61 (apparel, knitted or crocheted) and 62 (apparel, not knitted or crocheted), and duty rates range from 6 to 28.7 percent ad valorem.

The subject yarn is a fine-stranded filament yarn with a very low or zero-twist. According to the petitioner, the yarn is considered of high quality and is available in a variety of colors, sizes, and bright, semi-dull, or dull finishes. Rayon filament yarn is generally considered a finished yarn because it is typically used from its packaged form directly on machinery, whether on cones, spindles, or weaving beams.

All rayon is produced by the viscose process. In the viscose process, cellulosic materials such as wood chips, pulp, or cotton linters are dissolved in an alkaline solution. The solution is treated with carbon disulfide to produce a solution of cellulose xanthate. This solution is then forced through tiny spinnerets in an acid bath to produce the essential rayon fiber. Rayon filament is carefully drawn through washing baths and wound on spools, cones or beams as a number of continuous filaments. Most of the filaments are very fine and are given no twist or a simple weaving twist of one or two turns per inch, with no further finishing required to produce the yarn. The yarn may be solution-dyed (i.e., dyed during the formation of the rayon filaments) or finish-dyed (i.e., dyed to the proper color after the yarn has been formed).

According to industry sources, there is no known domestic production of rayon filament yarn. Although there is production of a related product, rayon staple fiber, the production methods and equipment used differ from those for rayon filament yarn. The subject yarn is continuously wound onto spools or beams as a finished yarn, whereas rayon staple fiber consists of cut (short) lengths of filaments for spinning into yarn. According to Lenzing Fibers, Lowland, TN, the only known U.S. producer of rayon staple fiber, the equipment that is currently used to produce such fiber cannot be converted to produce rayon filament yarn.<sup>5</sup> The Lenzing official also stated that plant conversion to produce rayon filament yarn would require a high level of capital investment. A representative of the petitioner (ICF Industries) stated that the firm obtains most of the subject yarn from Enka Viscose in Germany.<sup>6</sup>

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<sup>3</sup> 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. He authorized CITA and USTR to submit the required report to the Congress.

<sup>4</sup> Decitex is a unit of fiber weight equal to one-tenth of a tex. Tex is the weight in grams of a length equal to one kilometer of yarn, filament, fiber, or other textile strand. Hoechst Celanese Corporation, *Dictionary of Fiber & Textile Technology* (Hoechst Celanese Corporation, Charlotte, NC, 1990) pp. 41, 157.

<sup>5</sup> Doug Noble, Lenzing Fibers, Lowland TN, telephone interview by Commission staff, June 5-6, 2001.

<sup>6</sup> David Trachtenberg, ICF Industries, New York, NY, telephone interview by Commission staff, June 4, 2001.

Based on information currently available to the Commission, rayon filament yarn has no real substitutes; however, two man-made cellulosic materials, rayon staple fiber and acetate, may appear similar. Although produced by a similar process, rayon staple fiber does not compete with rayon filament. The two types of rayon fibers have different physical qualities such as sheen, silkiness, texture, and durability that prevent substitution of each fiber for the other. Thus, rayon staple fiber cannot be used to produce a shiny satin or velvet, and rayon filament yarn cannot be used to produce fabrics normally made from rayon staple fiber, such as a lightweight challis fabric. U.S. industry sources differ as to whether rayon and acetate filament yarns are substitutable for one another. According to the petitioner, the two yarns are not substitutable because they undergo different manufacturing processes and have different physical properties (e.g., anti-static properties, breaking strength, stretch capacity, and moisture retention) that affect dyeing, finishing, and processing; wearing comfort; product life span; and ease of handling in garment manufacturing.<sup>7</sup> As such, fabrics made from rayon filament yarn and acetate filament yarn have different characteristics, such as in appearance and durability. For example, acetate filament yarns, while used in fabrics with a satin weave, do not possess the durability or smoothness of rayon satin. Industry representatives have indicated that there are no substitutes for the quality and richness of the feel of finished rayon satin or velvet fabric demanded by fashion-conscious consumers.<sup>8</sup> U.S. producers of acetate filament, Celanese Ltd. and Eastman Chemical Co., stated that rayon filament and acetate filament yarns are interchangeable in many fabrics, including crepe woven fabrics.<sup>9</sup> Eastman Chemical noted that the important physical properties of the two filament yarns are very similar and, as such, the yarns are interchangeable.<sup>10</sup> According to the petitioner, because the average price of rayon filament sold in the United States is approximately double the price of acetate, the end uses for the rayon filament yarn are ones in which the yarn is required because of its unique, non-substitutable properties.<sup>11</sup>

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

The affected segments of the U.S. textile and apparel industries include producers of yarns, fabrics, and apparel. According to representatives of the American Yarn Spinners Association (AYSA), Gastonia, NC, and the American Textiles Manufacturers Institute (ATMI), Washington, DC,<sup>12</sup> there are no U.S. producers of rayon filament yarn.

ICF Industries represents the 13 firms listed in the petition that produce fabrics from the subject yarn in the United States. Two of the firms have manufacturing facilities in Vernon, CA, while the rest have mills in the eastern United States from Stonington, CT, to Gaffney, SC. All but one produce rayon velvet or satin fabric using the subject yarn. Robison Anton Textile Company manufactures thread and embroidery yarn from rayon filaments, and ships the finished thread and embroidery yarn to apparel producers in the Caribbean Basin, where they are used to sew or decorate lingerie and other garments.<sup>13</sup> A representative of Robison Anton stated that to its knowledge, Robison Anton is the only U.S. manufacturer of rayon thread and rayon embroidery yarn.<sup>14</sup> According to ICF Industries, the

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<sup>7</sup> David G. Trachtenberg, Vice President, ICF Industries, Inc., New York, NY, written submission to CITA, June 15, 2001.

<sup>8</sup> Jim Conner, Executive Vice-President, AYSA, and Charles Bremer, Director of International Trade, ATMI, telephone interviews by Commission staff, May 31, 2001.

<sup>9</sup> H. Newton Williams, Vice President, Government Relations, Celanese Ltd., Arlington, VA, and Richard L. Johnson, Vice President & General Manager, Fibers Business Organization, Eastman Chemical Co., Kingsport, TN, written submissions to CITA, June 4 and 11, 2001, respectively.

<sup>10</sup> Richard L. Johnson, Vice President & General Manager, Fibers Business Organization, Eastman Chemical Co., Kingsport, TN, written submission to CITA, June 11, 2001.

<sup>11</sup> David G. Trachtenberg, Vice President, ICF Industries, Inc., New York, NY, written submission to CITA, June 15, 2001.

<sup>12</sup> Telephone interviews with Jim Conner, Executive Vice-President, AYSA, May 31, 2001; and Charles Bremer, Director of International Trade, ATMI, May 31, 2001.

<sup>13</sup> Bruce Anton, Robison Anton Textile Company, Fairview, NJ, telephone interview by Commission staff, June 5, 2001.

<sup>14</sup> Bruce Anton, Robison Anton Textile Company, Fairview, NJ, telephone interview by Commission staff, June 5, 2001.

manufacturers listed in the petition employ a total of about 6,000 workers. The manufacturers represent some of the larger domestic users of rayon filament yarn.<sup>15</sup>

According to the petitioner, the segments of the U.S. textile industry using the subject yarn face intense competition from Asian and other foreign suppliers of fabrics made from rayon filament yarn, and from imports of low-priced apparel made from fabrics of rayon filament yarn. The petitioner also stated that two textile weavers that had used rayon filament yarn in the recent past have been "forced out of business," representing a loss of approximately 1,450 workers.<sup>16</sup>

#### **Views of interested parties**

No written statements were filed with the Commission.

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

The Commission's analysis shows that granting duty-free and quota-free treatment to certain apparel articles made in eligible AGOA or CBTPA beneficiary countries from the subject yarn would have no adverse effect on U.S. yarn producers because industry sources report that there currently is no known domestic production of the subject yarn. The proposed preferential treatment would likely benefit U.S. producers of satin and velvet fabrics made from the subject yarn, and their workers, by spurring demand for the U.S. fabrics for use in the production of garments in eligible beneficiary countries. The elimination of U.S. tariffs on imports of the finished apparel from these beneficiary countries would likely result in an increase in sales of such garments and a corresponding increase in demand for the fabrics. The proposed preferential treatment is expected to have little adverse effect on any domestic producers of similar yarns (e.g., acetate) that may compete with the subject yarn and domestic producers of similar fabrics that are made from such similar yarns.

The proposed preferential treatment is also expected to benefit U.S. and other apparel firms making garments in eligible AGOA and CBTPA beneficiary countries from fabrics made of the subject yarn. The expected increase in imports of such apparel from the CBTPA and AGOA beneficiary countries, although likely to be small, would likely displace some imports of similar apparel from other countries. Although imports are believed to account for the majority of the U.S. market for apparel made from the subject yarn, there could be a slight adverse effect on any U.S. firms producing similar or competing apparel domestically. Several industry sources indicated that many larger apparel manufacturers maintain small manufacturing facilities in the United States to quickly sew and deliver initial orders of apparel representing the latest fashions, while doing the production of larger orders or less trendy apparel offshore.<sup>18</sup>

U.S. consumers of apparel articles made from the subject yarn would likely benefit from the proposed preferential treatment because importers and retailers are likely to pass through some of the duty savings to consumers in today's highly competitive retail apparel market.

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<sup>15</sup> David Trachtenberg, ICF Industries, petition to CITA, May 22, 2001.

<sup>16</sup> David Trachtenberg, ICF Industries, submission to CITA, May 22, 2001.

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

<sup>18</sup> Telephone interviews by Commission staff with David Trachtenberg, ICF Industries, New York, NY, June 4, 2001; Loic de Kertanguy, J.B. Martin, New York, NY, June 7, 2001; Fred Lidsky, A. Wimpfheimer, Fairview, NJ, June 5, 2001; and Bruce Anton, Robison Anton Textile Co., Stonington, CT, June 5, 2001.



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# Rayon Fiber

(Viscose)



**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, purified cellulose 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.

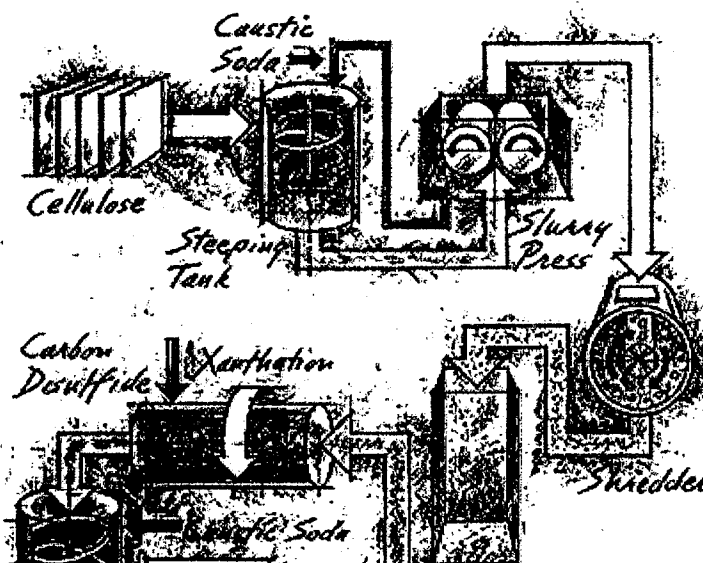
There are several types of rayon fibers in commercial use today, named according to the process by which the cellulose is converted to the soluble form and then regenerated. Rayon fibers are wet spun, which means that the filaments emerging from the spinneret pass directly into chemical baths for solidifying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

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## 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.

### 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  $\alpha$ -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

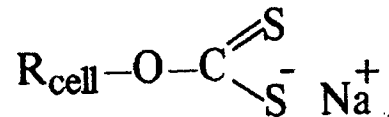
The soda cellulose is mechanically shredded to increase surface area and make the cellulose easier to process. This shredded cellulose is often referred to as “white crumb”.

### 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  $\text{CS}_2$ .

This free  $\text{CS}_2$  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  $\text{CS}_2$  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,  $\text{Zn}^{++}$  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  $\text{Zn}^{++}$  which draw the cellulose chains together. The acidic spin bath converts the xanthate functions into unstable xanthic acid groups, which spontaneously lose  $\text{CS}_2$  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  $\text{CO}_2$ ). 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.

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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.*)

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**Waite, Jason**

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From Knoxville News Sentinel

**Liberty Fibers idles Hamblen plant**

Majority of workers laid off at once-giant rayon fiber facility

By **DAVID KEIM**, keim@knews.com  
October 1, 2005

North America's last rayon fiber plant distributed final paychecks Friday and almost certainly will be shut down within a month.

**Liberty Fibers**, once a giant employer in Lowland, near Morristown, filed for Chapter 11 bankruptcy protection Thursday, and the federal bankruptcy court in Greeneville approved payments to workers Friday.

"My major activity going forward is going to be looking to find other groups to either participate, buy or in some way work to revitalize the plant," President Craig Barker said.

"At the moment we've idled the plant until we can find out what we're going to do going forward. We laid off the majority of the workers. We're only maintaining a small staff in order to wind down the operations and properly secure the assets."

He expects operations to wind down completely in four weeks or so.

The plant employed about 350 and earlier this year reported sales close to \$100 million in a trade publication. It made material used in consumer products such as baby wipes, medical applications such as surgical gowns and feminine hygiene products such as tampons.

It was opened in 1948 as American Enka on a 600-acre site, according to the Morristown Citizen Tribune. More recently, it was owned by Austria-based Lenzing AG and currently is owned by a holding company in which the Texas private equity fund Lewis Hollingsworth is majority shareholder, Barker said.

Ronnie Wardroup, 61, worked at the plant for 40 years and recalled that thousands worked there when he started - he recalled 6,000, and local newspapers put the number at 4,000 or so.

"Just like a town," Wardroup said, "24 hours a day."

He said workers had been sent home earlier in the week, and they picked up their last checks and cleaned out their lockers Friday. "We have a meeting with the state unemployment office on Tuesday," he said.

Foreign competition was blamed.

"Basically it was a lot of imports (that) came in this year from overseas," Barker said. "There was a slowdown in the global rayon market and we were faced with huge amounts of imports from Asia and Europe, so we lost the majority of our major customers."



The decimation of the American textile industry hurt, too. Barker said 70 percent of customers used to be textile-based, a number that has fallen to 10 percent.

A previous ownership entity filed bankruptcy, too, and Barker said this week's bankruptcy was triggered somewhat unexpectedly.

"We had our major creditor, which is LaSalle Business Credit out of Chicago, basically requiring us, if we wanted to have any money going forward, to work with them and file this Chapter 11," Barker said.

"They agreed to provide the post-petition financing to help us finance the wind-down that we're doing now."

The financing provides up to \$1.65 million in credit "secured by virtually all of the assets of" the company, according to a court filing. Another filing lists the company's debts and estimated assets between \$10 million and \$50 million, with 200 to 999 creditors.

Tennessee companies with at least 50 workers are legally required to give 60-days' notice of mass layoffs, although some exceptions apply.

"Sixty days ago we didn't know we were going to be doing this," Barker said

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## **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.

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Liberty Fibers Corp. Closes Plant, Files For  
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Sun File Photo

The Lowland plant of Liberty Fibers Corporation is shown in a photo taken early this year. The plant, which closed this week, began as American Enka Corporation in the late 1940s and has since provided employment to thousands of workers from Greene, Cocke, Hamblen and surrounding counties.

By: *By DOUGLAS WATSON/Managing Editor*  
Source: *The Greeneville Sun*  
10-01-2005

Liberty Fibers Corporation has closed its plant in the Lowland area of Hamblen County and has filed for Chapter 11 protection with the U.S. Bankruptcy Court here.

Most of the plant's 340 workers have been laid off, according to Randy Alexander, president of Local 815T of the United Food and Commercial Workers Union, which represents the plant's more than 200 production employees.

He said the company's workers mainly come from Greene, Cocke and Hamblen counties, and estimated that more are from Greene and Cocke counties together than from Hamblen County.

The plant is located at 4901 Enka Highway in Hamblen County, close to Greene and Cocke counties and Interstate 81.



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Most Liberty Fibers personnel are longtime employees. Their average age is 57, the union president said in an interview late Friday.

The local union leader said that he met with the company's executives for about a half-hour Friday morning and was informed that the plant had ceased operations "due to lack of work."

Asked whether the Liberty Fibers plant will reopen, Alexander said it is his understanding that the plant's reopening is only "a slight possibility."

Liberty Fibers is the sole manufacturer of rayon staple fibers in North America. End products using rayon include medical disposable, personal care, and feminine hygiene items, baby wipes, industrial and home furnishings, and apparel.

The Liberty Fibers plant has been facing stiff foreign price competition, according to Alexander and Tom Robinson, president of the chamber of commerce in Morristown, who were interviewed separately.

"Their profit margins have been very tight, and they have been for some time," Robinson said.

Alexander said that, unfortunately, it is his understanding that the Lowland plant produces "the highest-priced rayon fiber" of any plant in the world.

**Company's Statement**

Liberty Fibers executives could not be reached for comment Friday, although they were known to be in the plant.

The plant's main telephone was not receiving calls. However, the company late Friday issued this written statement from Craig E. Barker, the company's president and CEO, saying that "late yesterday (Thursday), Liberty filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code . . ."

He further stated that an interim order was entered today (Friday) that secured post-petition financing with its (Liberty's) senior lender, LaSalle Business Credit (a Chicago company), to provide financing for the next four weeks.

"Liberty has since ceased all activities related to the rayon fiber production," the statement said.

"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 environmental operations on the site."

Explaining why the plant has been closed, Barker's statement said, "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 of sales margins, made it impossible for Liberty to cover its operating costs."

The company's statement concluded, "In the weeks ahead, Liberty will be evaluating strategic options for the business based on the forecasted future of the rayon fiber market in North America."

#### Legal Papers Filed

More than 200 pages of legal documents were filed late Thursday in Bankruptcy Court here on behalf of Liberty Fibers by Robert M. Bailey, a Knoxville attorney representing the company.

Liberty Fibers' legal papers tell the court, "The debtor (Liberty) does not have sufficient available sources of working capital and financing to carry on the operation of its business without the post-petition financing and the use of the lender's cash collateral.

"The ability of the debtor (Liberty) to maintain business relationships with its vendors and suppliers, to purchase new inventory and otherwise finance its operations, is essential to the debtor's continued viability."

An emergency motion filed by the company also said, "To successfully reorganize, the debtor needs to continue to operate its business and retain employees."

The motion continued that, as of Sept. 29, the estimated amount of total wages, employee benefits and taxes owed by Liberty Fibers is \$490,428.70.

The motion added, "The money necessary to pay said wages will be provided to the debtor (Liberty) by LaSalle Business Credit LLC," the Chicago company.

#### Purchased In March

In March 2005, Lewis Hollingsworth, LP, an investment company in Dallas, bought the Liberty Fibers plant from Silva Acquisition Corporation, a Swiss equity group whose parent company was Silva Holdings Inc. The purchase price was not disclosed.

Liberty Fibers was reported at that time to have annual sales of about \$100 million. Previously, in June 2004, the Lowland plant had been sold to Silva Acquisition Corporation.

Barker then said, "The transaction value," including cash and payment of the company's debts, totaled "over \$18 million."

#### Was Lenzing Fibers

For many years until late 2003, the Lowland facility was known as the Lenzing Fibers plant, its parent company then being Lenzing AG, of Austria.

When the plant changed its name in December 2003 to Liberty Fibers, it also filed for Chapter 11 bankruptcy protection with the U.S. Bankruptcy Court here.

The company said then, "This move, combined with the finalization of securing a new \$10 million line of credit, will allow the company to restructure its remaining debt while finalizing the implementation of a series of cost-reduction measures."

With its purchase last spring by Lewis Hollingsworth, the Dallas company, Liberty Fibers was able to get out from under the court's Chapter 11 bankruptcy protection, and its executives were at the time hopeful about the plant's future.

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**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



**TOP STORY**

October 3, 2005

**Liberty Fibers files Chapter 11**

Robert Moore, Tribune Staff Writer

Just months after emerging from Chapter 11 bankruptcy, Liberty Fibers has again filed for financial protection under Chapter 11 bankruptcy laws.

Liberty Fibers, formerly known as Lenzing Fibers, ceased production at its facility in the Lowland community of Hamblen County last week, and all but a handful of the company's 350 employees faces an indefinite layoff.

Liberty defaulted on an \$8.5 million loan to Chicago-based LaSalle Business Credit, but received \$1.65 million in secured post-bankruptcy-petition financing from the same lending institution, according to court documents.

The company intends to use a portion of the \$1.65 million to pay slightly under a half-million it owes for employees' wages, benefits and taxes.

Liberty also is unable to pay approximately \$2.4 million it owes to 20 unsecured creditors, including chemical suppliers, a fuel company and a Morristown transportation firm.

Thursday's Chapter 11 filing apparently creates additional obstacles for the company's creditors seeking to collect from Liberty.

Robert M. Bailey, the company's bankruptcy attorney, declined to comment about the case Saturday.

Repeated attempts to contact Craig M. Barker, Liberty president, prior to the company filing for bankruptcy were unsuccessful.

In a prepared statement issued Friday afternoon, Barker said, "Liberty will be evaluating different strategic options for the business based on the forecasted future of the rayon fiber market in North America."

Barker says Liberty has been hurt over the past six months by rayon fiber imports from Asia and Europe. At the time the company stopped production, it was the lone rayon manufacturer in North America.

Barker and Peter Grant, Liberty chief financial officer, are partners in a company which owns

approximately 40 of Liberty Fibers, according to details of a bankruptcy sales agreement announced last year.

A Lugano, Switzerland-based, whose membership hasn't been made public, owns the remaining 60 percent of Liberty Fibers.

The names of companies owned by Barker, Grant and the Swiss group changed before the sale was finalized, but the 40-60 split of the company's assets remained constant.

This prompted Edward Shultz, an attorney representing Liberty management, so say, "They're buying it from themselves."

The benefit to the new company, Silva Acquisitions Corporation, was Silva was allowed to abandon the pension program for both salaried and hourly workers, impose a wage-and-benefit freeze and shift insurance costs to employees.

At the time, the management team agreed to pay unsecured creditors approximately \$1.5 million of the \$10.5 million they were owed, but last week's bankruptcy filing could halt that fractional debt payment.

Former Liberty Fibers employees no longer draw paychecks, but the bankruptcy filing provides for up to \$100,000 in payments to attorneys and \$90,000 to unnamed "corporate revitalization partners."

Half the money to bankruptcy lawyers is to be paid immediately.

It remains unclear whether the corporate revitalization partners include current members of management.

Barker, the company president, has been drawing a salary of approximately \$170,000 per year, bankruptcy filings indicate. Grant, the chief financial officer, has been earning more than \$117,000 annually.

Another company executive, Timothy K. Cates, was paid approximately \$145,000 annually, the bankruptcy filings show.

Randy Alexander, president of United Textile Workers Local 815 representing some 225 hourly employees at the plant, could not be reached for comment Saturday.

On Thursday, just hours before Liberty Fibers filed for Chapter 11 bankruptcy, Alexander accused company management of "keeping us in the dark

about some of this.”

**Barker says the only remaining Liberty employees will be cleaning up the site, selling what inventory remains, securing the company assets and monitoring environmental operations.**