information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency: United States Patent and Trademark Office (USPTO).*

*Title:* Electronic Response to Office Action and Preliminary Amendment Forms.

*Form Number(s):* PTO Forms 1930, 1957, 1966.

*Agency Approval Number:* 0651–0050.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 25,653 hours annually.

*Number of Respondents:* 150,900 responses per year.

*Avg. Hours per Response:* The time needed to respond to the request for reconsideration form is estimated to be 10 minutes (0.17 hours). This includes time to gather the necessary information, create the documents, and submit the completed request.

*Needs and Uses:* This collection is being submitted as a proposed addition in support of a notice of proposed rulemaking, ''Changes in the Requirements for Filing Requests for Reconsideration of Final Office Action in Trademark Cases'' (RIN 0651–AC05). The USPTO proposes to amend 37 CFR 2.64 to require a request for reconsideration of an examining attorney's final refusal or requirement to be filed through the Trademark Electronic Application System (TEAS) within three months of the mailing date of the final action.

This rulemaking would add an additional requirement to this collection, a Request for Reconsideration after Final Action (Form 1930). The amendment to 37 CFR 2.64 would streamline and promote efficiency in the process once a final action has issued in an application for Trademark registration. By setting a three-month period in which to file a request for reconsideration of the final action, and by requiring that the request be filed through TEAS, the proposed amendment would facilitate the likely disposition of an applicant's request for reconsideration prior to the six-month deadline for filing an appeal to the Trademark Trial and Appeal Board (TTAB) or petition to the Director on the same final action. This practice may eliminate the need for some appeals or petitions, and reduces the need for remands and transfers of applications on appeal.

The proposed earlier deadline and mandatory TEAS filing facilitate the likely disposition of the request for reconsideration prior to the deadline to petition or appeal. A grant of reconsideration within this timeframe will obviate the need for an applicant to file an appeal or petition, thus also saving the applicant the filing fee for an appeal or petition. A denial of reconsideration within this timeframe will obviate the need for a case on appeal to be remanded and transferred between the TTAB and the examining attorney. Under either scenario, the timeframe in the proposed rule promotes more efficient and prompt handling of the case, and achieves benefits both for the applicant and the USPTO.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following methods:

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0050 copy request'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan Brown.
- *Mail:* Susan K. Brown, Records Officer, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before April 20, 2007 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: March 15, 2007.

**Susan K. Brown,**

*Records Officer, USPTO, Office of the Chief Information Officer, Architecture, Engineering and Technical Services, Data Architecture and Services Division.*

[FR Doc. E7–5137 Filed 3–20–07; 8:45 am]

**BILLING CODE 3510–16–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Final Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement

March 15, 2007.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Summary and response to comments concerning the CAFTA-DR commercial availability interim procedures; notice of final procedures.

**SUMMARY:** This notice summarizes the comments received concerning the Interim Procedures and provides responses to those comments. **See Interim Procedures for Considering Requests Under the Commercial Availability Provision to the Dominican Republic-Central America-United States Free Trade Agreement**, 71 FR 9315 (February 23, 2006).

**EFFECTIVE DATE:** The date of entry into force of the Dominican-Central America-United States Free Trade Agreement.

**FOR FURTHER INFORMATION CONTACT:** Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA-DR''); the Statement of Administrative Action (''SAA''), accompanying the CAFTA-DR, at 16-20.

**Comments and Responses Concerning the Interim Procedures**

On February 21, 2006, the Committee for the Implementation of Textile Agreements (''CITA'') issued a **Federal Register** notice advising interested parties of Interim Procedures that CITA would follow in implementing certain provisions of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA-DR Implementation Act''), namely the procedures for modification of the list of fabrics, yarns or fibers not available in commercial quantities in a timely manner in the countries that are Parties to the CAFTA-DR Agreement (''CAFTA-DR'' or ''Agreement''), as set out in Annex 3.25 of the CAFTA-DR. CITA has reviewed and considered all submitted comments, and below is a summary of and response to those comments.

**Standards For Submissions:** One commentator noted that the interim procedures did not provide a factual standard for determining the substitutability of other products for the product subject to the commercial availability request. **See, e.g.**, sections 4(b)(4) and 6(b)(2)(iv) of the Interim Procedures. CITA has not adopted this suggestion. A wide range of products may be the subject of a commercial availability request. As each commercial availability request is evaluated on the basis of the facts contained therein, it would be impracticable to set forth a uniform standard for substitutability;

rather, CITA will examine each request and any subsequent responses on a case-by-case basis.

The same commentator suggested that an offer made in response to a request must contain an explicit commitment by the potential CAFTA-DR supplier to immediately deliver the product in question or one determined to be substitutable. CITA has not adopted this suggestion. Section 203(o)(4)(C) of the CAFTA-DR Implementation Act sets forth the standard that the subject product be delivered ''in a timely manner.'' What is ''timely'' in any given situation can only be determined on a case-by-case basis.

One commentator asked that CITA clarify that in addition to accepting responses that object to a request, CITA will also accept submissions in support of a request. Section 203(o)(4)(C)(iii)(II) of the CAFTA-DR Implementation Act provides for a determination as to whether any ''interested entity has objected to the request.'' Section 6 of the Interim Procedures required that an objection to the request contain an offer to supply, and that both offers to supply and rebuttal submissions provide information to substantiate the claims contained in the respective submissions. This requirement is maintained in section 6 of the Final Procedures. Thus, CITA will not consider submissions in support of a request in making commercial availability determinations.

**Removal From Annex 3.25 List:** One commentator noted that the procedures should contain an explicit statement that all products already approved under Trade Preference Programs (Caribbean Basin Trade partnership Act (''CBTPA''), African Growth and Opportunity Act (''AGOA''), and the Andean Trade Promotion and Drug Eradication Act (''ATPDEA'') and added to the list in Annex 3.25 of CAFTA-DR cannot be removed from Annex 3.25. A different commentator asked that CITA confirm that products added to the list in Annex 3.25 since the date that the CAFTA-DR was signed cannot be removed from that list. Article 3.25.5(a) of the CAFTA-DR and section 203(o)(4)(E)(I) of the CAFTA-DR Implementation Act provide that fabrics, yarns, or fibers added to the list in Annex 3.25 since the date the CAFTA-DR was signed are subject to removal. Section 9 of Final Procedures accurately reflects these statutory requirements.

**Public Notice:** One commentator asserted that the procedures' reliance on Internet notification and electronic mail (''email'') correspondence will result in delays or failures to distribute the information fully, especially for small companies relying on outside consultants. Moreover, the commentator stated that forbearing the use of a **Federal Register** notification results in greater risk for parties to be uninformed of developments in these proceedings. Another commentator alleges that as these procedures are a federal administrative process, publication in the **Federal Register** is required so that all parties may be assured of notification. Given the abbreviated timeline for these proceedings, Internet and email communications provide more timely notification than publication in the **Federal Register** and allow all parties equal opportunity for notification. This is particularly relevant for parties outside of the United States. Further, given the abbreviated timeline for such proceedings, Internet and email communications provide interested entities with more time to allocate to reviewing information and providing submissions than **Federal Register** publication would allow. Moreover, although a notice published in the **Federal Register** does constitute ''public notice,'' it is not the only means by which to notify the public. CITA has widely publicized that any interested party may receive its email notifications and that all public documents will be posted on its website. This system provides broad access and accessibility to interested parties inside and outside of the United States.

Another commentator noted that CITA's requirement to submit hard copies of submissions via express courier is too inflexible, and requests that CITA accept hand-delivered submissions accompanied by an appropriate receipt that allows confirmation of delivery. CITA has not adopted this suggestion. In light of the abbreviated timeline for such proceedings, delivery by express courier permits tracking of submissions and avoids the possibility of documents being lost or misplaced.

One commentator asked that CITA accept submissions of electronic information in PDF format. CITA has adopted this suggestion and clarified this point in the Final Procedures.

Other commentators asked that CITA advise interested parties of all deadlines, extensions, availability of samples for public inspection, and the posting of responses on the website in its email notifications. Additional commentators requested that the procedures clarify that information on determinations, including ''Deemed Approvals'' and removal of restrictions will be provided through email notifications, website postings, and publication in the **Federal Register**. CITA has adopted this suggestion and clarified these points in its Final Procedures.

**Contents of Requests and Responses:** A commentator suggested that requests should include ''offers to buy,'' as responses are required to contain ''offers to supply,'' to prevent speculative and spurious requests by potential buyers. CITA has not adopted this suggestion. CITA has no authority to obligate or compel requesters to purchase products, and therefore, cannot require requesters to include an ''offer to buy.'' However, should a subject or substitutable product be available from a CAFTA-DR supplier, articles containing such products from third-country sources would not qualify for preferential trade benefits.

Another commentator suggested that denials, approvals in restricted quantities, or removals contain contact information of the potential CAFTA-DR supplier(s) of the subject product(s). This information would already be contained in any response with an offer to supply or rebuttal submission. Moreover, as this information is posted on the Internet, there is no need to duplicate such information in CITA's determination notice.

The same commentators suggested that responses with an offer to supply should contain a sample of the petitioned or allegedly substitutable product. CITA is not adopting this suggestion. CITA notes that given the abbreviated timeline to conduct these proceedings and depending on the nature of the requested product, it may not be possible for an interested entity to provide a sample in all situations. Samples may be submitted with requests or offers to supply, but this is not required. CITA notes that in the event that the 14-day extension is invoked, interested entities are provided with additional time to provide a sample product to substantiate their claims should they choose to do so.

A commentator asked that CITA allow discretion regarding treatment of business confidential information in special circumstances, such as when a potential supplier wants to keep its name confidential for fear of retaliation. CITA has not adopted this suggestion. In order to conduct this procedure in an open and fair manner, CITA finds it is necessary for all participants to know: (1) the names of potential suppliers that have been contacted by petitioners, and (2) those interested entities who object to the request. However, specific proprietary information may be treated as business confidential information. **See** section 3 of the Final Procedures.

**Restricted Quantities:** One commentator was strongly opposed to an automatic review of restricted quantities in a CITA determination, alleging that such reviews would burden parties and CITA with unnecessary processes. Moreover, this commentator claims that the automatic review is not required by the legislation. Section 203(o)(4)(C)(vi) of the CAFTA-DR Implementation Act provides that the restriction may be eliminated not later than six months after the product is added to the list in Annex 3.25 of the Agreement in a restricted quantity. Therefore, CITA may review current circumstances to determine whether eliminating the restricted quantity is warranted. This section of the Final Procedures has been revised to provide clarity. See section 8(c)(3) of the Final Procedures.

One commentator asked that CITA specify how it will determine a given quantity in determinations that involve restricted quantities. In the course of the proceeding, based on the information submitted , CITA will specify an amount that can be provided by the CAFTA-DR supplier(s). CITA will provide additional explanation in a Frequently Asked Questions (''FAQ'') document that will be made available on its website.

Another commentator requests that in section 8(c)(2) of the Interim Procedures, regarding approvals in unrestricted quantities, the language be modified to read, ''... if CITA determines that no CAFTA-DR supplier(s) or manufacturer(s) could fulfill any amount of the request.'' CITA has determined to remove this sentence all together, as it is redundant to the previous sentence.

The same commentator asked that CITA consider eliminating a quantity restriction only upon receipt of a request from an interested entity. CITA has not adopted this suggestion. Section 203(o)(4)(C)(vi) of the CAFTA-DR Implementation Act does not require that a request be submitted to CITA, but only that CITA may remove the restriction within six months after the product is added to the Annex 3.25 list in a restricted quantity.

A commentator asked that CITA clarify that approvals in restricted quantities take effect 30 days after the official receipt of the request. CITA is required to make a determination, whether a denial, approval in an unrestricted quantity, or an approval in a restricted quantity, within the 30 U.S. business-day deadline, with the caveat that CITA may extend the deadline for an additional 14 U.S. business days should additional information be required. See Section 8(c) of the Interim and Final Procedures.

Another commentator asked that CITA specify that the effective date of the elimination of a restriction will be six months after the date of publication of the notice. CITA has not adopted this suggestion. CITA notes that section 203(o)(4)(C)(vi) of the CAFTA-DR Implementation Act does not specify the effective date for removal of the restricted quantity should CITA make such a determination. CITA would publish in the **Federal Register** any modification to products on the Annex 3.25 list, such as removal of a restriction, which in effect adds a product to the Annex 3.25 list in an unrestricted quantity. CITA notes that section 203(o)(4)(C)(v) of the CAFTA-DR Implementation Act specifies that the effective date for adding products to the Annex 3.25 list in an unrestricted or restricted quantity is the date of publication in the **Federal Register**.

A commentator asked that CITA clarify that a review to determine whether to remove restricted quantities can take place later than six months after adding the product in a restricted quantity to the Annex 3.25 list. CITA has not adopted this suggestion. The procedure in section 8(c)(3)(ii) of the Final Procedures implements Section 203(o)(4)(C)(vi) of the CAFTA-DR Implementation Act which provides only for a review not later than six months after the product is added to the Annex 3.25 list in a restricted quantity.

**Changed Circumstances:** Several commentators requested that CITA clarify a discrepancy in the timeframes provided for reconsideration of determinations in sections 8(c)(6) and 9(a) of the interim procedures. Another commenter requested that CITA strike section 8(c)(6).

In section 8(c)(6) of the Interim Procedures, CITA proposed to allow for proceedings based upon changed circumstances. Several commentators expressed that CITA does not possess statutory authority to conduct changed circumstances proceedings. The Final Procedures clarify when it is appropriate for the agency to conduct a proceeding based upon changed circumstances. It is CITA's intention at this time to exercise its inherent authority to reconsider, and/or subsequently amend, commercial availability determinations that may have been procured by, **e.g.**, error, fraud, or similar faults. **See, e.g., Elkem Metals, et al. v. United States**, 26 C.I.T. 234, 239, 193 F. Supp. 2d 1314, 1319-20 (2002) (''It is indeed the general rule that administrative agencies in general...have the inherent authority to institute reconsideration proceedings so as to 'vindicate the integrity of the administrative process.'''); **Belville Min. Co. v. U.S.**, 999 F.2d 989, 997 (6th Cir. 1993) (''Even where there is no express reconsideration authority for an agency...the general rule is that an agency has inherent authority to reconsider its decision, provided that reconsideration occurs within a reasonable time after the first decision.'')(citations and internal quotations omitted)); **Bookman v. United States**, 197 Ct. Cl. 108, 453 F.2d 1263, 1265 (1972) (explaining the general rule that ''every tribunal, judicial or administrative, has some power to correct its own errors or otherwise modify its judgment, decree, or order'' and that ''[courts] will sustain the reconsidered decision of an agency, as long as the administrative action is conducted within a short and reasonable time'') (citations and internal quotations omitted)); **Gilmore Steel Corp. v. U.S.**, 7 C.I.T. 219, 223, 585 F. Supp. 670, 674 (1984) (holding that the International Trade Administration had the authority to correct a manifest error that ''taints the proceeding''); **Gun South, Inc. v. Brady**, 877 F.2d 858, 862 (11th Cir. 1989) (concluding that the Bureau of Alcohol, Tobacco, and Firearms ''must necessarily retain the power to correct the erroneous approval of firearms import applications'' despite the absence of express statutory authority).

Therefore, the proposed changed circumstances provision was not based on statutory changes made by the CAFTA-DR Implementation Act, but rather relied on the longstanding inherent authority that CITA has always possessed. **See** cases cited **supra**. Further, neither the CAFTA-DR Implementation Act nor case precedent prohibits the proposed proceeding. In the interest of fairness and transparency, however, it seems appropriate to clarify the agency's inherent authority to address such faults in the conduct of the proceeding. In the Final Procedures, CITA has deleted section 8(c)(6) and provided a clarification in the ''Background'' section.

**Deadlines:** Several commentators noted that the deadlines set forth by the procedures do not allow for extensions for responses with offers to supply or rebuttal comments. The procedures do allow for CITA to extend the time limit for responses with offers to supply and rebuttal comments. However, even if an extension is provided, CITA is required to meet the statutory deadline for making a determination. See sections 6 and 7of the Final Procedures; see also,

e.g., section 203(o)(4)(C)(iv) of the CAFTA-DR Implementation Act.

Another commentator suggested that CITA begin the timeline for the proceeding from the date of publication of the commercial availability request rather than the date of its official receipt by CITA, which would allow for two additional days for submitting responses with offers to supply. CITA has not adopted this suggestion, as CITA needs sufficient time to review the completeness of commercial availability requests before notifying interested parties that a commercial availability request has been submitted and accepted. At the same time, the statute requires that the determination be made within a certain time period from the date of submission. Therefore, in order for CITA to make a commercial availability determination within the statutorily prescribed deadlines, CITA needs the two days in question to review the completeness of the commercial availability request before notifying interested parties that a request has been submitted and accepted. **See** section 203(o)(4)(C)(iv) of the CAFTA-DR Implementation Act.

Another commentator suggested that when CITA seeks to meet with interested entities during an extended review period, the meeting should include all sides of the issue and be open to the public. Should CITA convene a meeting between the requester and interested entities providing offers to supply, such meetings will be public and conducted in an open manner.

A commentator explained that the procedures should state that CITA may determine to extend the 30-day deadline for an additional 14 days to obtain additional information. Section 8 of the Final Procedures explains that CITA is permitted to extend the 30 U.S. business-day deadline for an additional 14 U.S. business days. This same section of the procedures clearly explains the purpose of the 14 U.S. business day extension. See also section 203(o)(4)(c)(iv) of the CAFTA-DR Implementation Act.

Another commentator asked that CITA add in section 8(c)(3)(i) of the Interim Procedures the phrase, ''or not more than 44 U.S. business days where extension is provided...'' CITA has adopted this suggestion in its Final Procedures.

A commentator requested that CITA clarify that if CITA provides an extension for submitting responses with offers to supply, CITA's determinations will still meet the statutory deadline. CITA has adopted this suggestion in its Final Procedures.

One commentator asked that CITA acknowledge that in ''emergency circumstances'' CITA could make a decision prior to its 30 U.S. business-day deadline. CITA has not adopted this suggestion. CITA is required to make a determination ''within'' 30 U.S. business days of receipt of a commercial availability request, unless an extension is provided. See section 203(o)(4)(C)(iv) of the CAFTA-DR Implementation Act. Moreover, each proceeding must allow all interested entities sufficient time to respond with offers to supply and provide rebuttal comments in the course of the proceeding.

**Deemed Approval:** One commentator objected to the provision regarding ''Deemed Approval,'' noting that such requirements set a negative precedent for future procedures. CITA has not adopted this suggestion. Section 203(o)(4)(D) of the CAFTA-DR Implementation Act provides expressly for the ''Deemed Approval'' procedure.

Another commentator asked that the ''Deemed Approval'' provision apply to all determinations in these proceedings, not only to commercial availability requests to add a given product to Annex 3.25. Section 203(o)(4)(D) of the CAFTA-DR Implementation Act provides that the ''Deemed Approval'' process only applies to commercial availability requests and not to requests to remove or restrict.

**Interested Entities:** One commentator claimed that CITA inadvertently limited participation in commercial availability proceedings by using the term ''interested entities'' to identify who may request to be included on the email notification list. The Final Procedures clarify that any interested party can be included on the mass email notification list.

Another commentator asked that CITA clarify that trade associations are an ''interested entity.'' CITA has not adopted this suggestion. The term ''interested entity'' is defined in section 203(o)(4)(B)(i) of the CAFTA-DR Implementation Act, and this definition does not include trade associations. However, trade associations can participate in the process as an interested party.

A commentator noted that the language of the procedures differs from the Agreement and the CAFTA-DR Implementation Act, using the standard for determining whether to add a product to the Annex 3.25 list as ''are not available'' instead of ''are available'' in the CAFTA-DR countries. The language of the procedures is consistent with both the Agreement and the CAFTA-DR Implementation Act.

One commentator asked that CITA clarify that non-essential character components are eligible for determinations. The CAFTA-DR Implementation Act provides for determinations whether ''fabrics, yarns, or fibers'' are to be added to the list in Annex 3.25 of the Agreement. See section 203(o)(4)(A). Further, Section Notes 2, 3, and 4 to Section XI of Annex 4.1 of the Agreement provides for how the list of fabrics, yarns, and fibers in Annex 3.25 is taken into account in applying the Agreement's rules of origin. Nothing in the commercial availability process alters the rules of origin contained in the Agreement.

Several commentators asked that CITA elaborate on several of the provisions included in the procedures, including ''Deemed Approval,'' approvals with restricted quantities, the contents of commercial availability requests, responses with offers to supply, and rebuttal comments. CITA has adopted this suggestion and will provide further explanations in a FAQ document to be made available on its website.

Another commentator asked that CITA review its procedures after one year to determine if any modifications are necessary. The Final Procedures provide that the procedures may be modified at any time to address concerns that may arise. CITA notes that these are administrative procedures rather than regulations, and can be modified as needed.

**Final Procedures**

This notice also sets forth the final procedures the Committee for the Implementation of Textile Agreements (''CITA'') will follow in implementing certain provisions of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA-DR Implementation Act''). Section 203(o)(4) of the CAFTA-DR Implementation Act establishes procedures for the President to modify the list of fabrics, yarns, or fibers not available in commercial quantities in a timely manner in the countries that are Parties to the CAFTA-DR, as set out in Annex 3.25 of the Agreement. The President has delegated to CITA the authority to determine whether a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in CAFTA-DR countries and has directed CITA to establish procedures that govern the submission of a request and provide the opportunity for interested entities to submit comments and supporting evidence in any such determination pursuant to the CAFTA-DR Implementation Act. This notice

hereby gives notice to interested parties of the procedures CITA will follow in considering such requests.

**Background:**

The CAFTA-DR provides a list in Annex 3.25 of the Agreement for fabrics, yarns, and fibers that the Parties to the Agreement have determined are not available in commercial quantities in a timely manner from suppliers in the United States or other CAFTA-DR countries. A textile and apparel good containing fabrics, yarns, or fibers that is included in Annex 3.25 of the Agreement may be treated as if it is an originating good for purposes of the specific rules of origin in Annex 4.1 of the Agreement, regardless of the actual origin of those inputs, provided that all other fabrics, yarns, or fibers of the component that determines the classification of the good meet the specific rules of origin in Annex 4.1 of the Agreement. The CAFTA-DR Implementation Act provides that the President will establish procedures governing the submission of requests and may determine whether additional fabrics, yarns, or fibers are not available in commercial quantities in a timely manner in the United States or the other CAFTA-DR countries. In addition, the CAFTA-DR Implementation Act establishes that the President may remove a fabric, yarn, or fiber from the list, if it has been added to the list in an unrestricted quantity pursuant to section 203(o), if he determines that the fabric, yarn, or fiber has become available in commercial quantities in a timely manner.

The SAA provides that the President will delegate to CITA his authority under section 203(o)(4) of the Agreement (''Commercial Availability Provision''), to establish procedures for modifying the list of fabrics, yarns, or fibers not available in commercial quantities in a timely manner for Agreement countries, as set out in Annex 3.25 of the Agreement.

These procedures are not subject to the requirement to provide prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(b)(A) (Administrative Procedures Act). These procedures may be modified in the future to address concerns that may arise as CITA gains experience in implementing them. CITA possesses inherent authority to reconsider, and/or subsequently amend, commercial availability determinations that may have been procured by error, fraud, or similar faults. Should CITA undertake to review a determination under such circumstances, CITA will provide notice to the public, through the email and website notification processes described in the Final Procedures, and provide opportunity for interested entities to submit comments and information for CITA's consideration.

**Procedures for Considering Requests**

**1. Introduction**

The intent of the CAFTA-DR Commercial Availability Procedures is to foster the use of U.S. and CAFTA-DR products by implementing procedures that allow products to be placed on or removed from a product list, on a timely basis, and in a manner that is consistent with normal business practice. To this end, these procedures are intended to facilitate the transmission, on a timely basis, of order requests and offers to supply such requests; have the market indicate the availability of the supply of products that are the subject of requests; make available promptly, to interested entities and parties, information regarding the requests for products and offers to supply received; ensure wide participation by interested entities and parties; provide careful scrutiny of information provided to substantiate order requests and response to supply offers; and provide timely public dissemination of information used by CITA in making commercial availability determinations.

**2. Definitions**

*(a) Commercial Availability Request.* A ''Commercial Availability Request'' is a submission from an interested entity requesting that CITA place a good on the list in Annex 3.25 because that fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a supplier in the CAFTA-DR countries.

*(b) Interested Entity.* An ''interested entity'' means a government that is a Party to the Agreement, other than the United States; a potential or actual purchaser of a textile or apparel good; or a potential or actual supplier of a textile or apparel good. CITA recognizes that a legal or other representative may act on behalf of an 'interested entity.' See section 203(o)(4)(B)(i) of the CAFTA-DR Implementation Act.

*(c) Interested Party.* An ''interested party'' means any interested person that requests to be included on the email notification list for Commercial Availability proceedings. Any interested person may become an interested party by contacting CITA. See Office of Textile and Apparel, U.S. Department of Commerce, website for details at *http://web.ita.doc.gov/tacgi/CABroadcast.nsf/Document?Openform* or send an email to *OTEXACAFTA@ita.doc.gov*.

*(d) Official Receipt.* The ''official receipt'' is CITA's email confirmation that it has received both the email version and the original submission signed by the interested entity delivered via express courier.

*(e) Request.* A ''request'' refers to the Commercial Availability Request.

*(f) Request to Remove or Restrict.* A ''request to remove or restrict'' is a submission from an interested entity, made no sooner than six months after a product has been added to the Annex 3.25 list in an unrestricted quantity pursuant to Section 203(o) of the CAFTA-DR Implementation Act, requesting that CITA either remove a product or that a quantity restriction be introduced.

*(g) Requestor.* The ''requestor'' refers to the interested entity that files a request, either a Commercial Availability Request or a Request to Remove or Restrict, under the CAFTA-DR Commercial Availability provision, for CITA's consideration.

*(h) CAFTA-DR Supplier.* A ''CAFTA-DR supplier'' is a potential or actual supplier of a textile or apparel good in the territory of any Party.

*(i) Response with an Offer.* A ''response with an offer'' is a submission from an interested entity to CITA providing its objection to the request or asserting its ability to supply the subject product by providing an offer to supply the subject product described in the request.

*(j) Rebuttal Comment.* A ''rebuttal comment'' is a submission from an interested entity providing information in response to evidence or arguments raised in a response with an offer submission. Rebuttal comments must be limited to evidence and arguments provided in a response with an offer submission.

*(k) Fiber, Yarn, or Fabric.* The term ''fiber, yarn, or fabric'' means a single product or a range of products, which meet the same specifications provided in a submission, and which may be only part of a Harmonized Tariff Schedule of the United States (''HTSUS'') provision.

*(l) U.S. Business Day.* A ''U.S. business-day'' is any calendar day other than a Saturday, Sunday, or a legal holiday. See section 203(o)(4)(B)(i) of the CAFTA-DR Implementation Act.

**3. Submissions for Participation the CAFTA-DR Commercial Availability Proceeding.**

*(a) Filing a Submission.*All submissions for a CAFTA-DR Commercial Availability proceeding (e.g., Commercial Availability Request, Response with an Offer, Rebuttal Comments, and Request to Remove or Restrict) must be in English. If any

attachments are in a language other than English, then a translation must be provided. Each submission must be submitted to the U.S. Department of Commerce's Office of Textiles and Apparel (''OTEXA'') in two forms, electronic mail and original signed submission.

(1) An electronic mail (''email'') version of the submission must be either in PDF, Word, or Word-Perfect format and must contain an adequate public summary of any business confidential information and the due diligence certification, sent to **OTEXA__CAFTA@ita.doc.gov**. The ''email'' version of the submission will be posted for public review on OTEXA's CAFTA-DR Commercial Availability website at http:otexa.ita.doc.gov. No business proprietary information should be submitted in the ''email'' version of any document.

(2) The original signed submission must be received via express courier to—Chairman, Committee for the Implementation of Textile Agreements, Room H3100, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, DC 20230. Any business confidential information upon which an interested entity wishes to rely must be included in the original signed submission only. Except for the inclusion of business confidential information, the two versions of a submission should be identical.

(3) Brackets must be placed around all business confidential information contained in submissions. Documents containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information.'' Documents, including those submitted via ''email,'' provided for public release, must have a bolded heading stating ''Public Version'' and all the business confidential information must be deleted and substituted with asterisks.

(4) Generally, details, such as quantities and lead times for providing the subject product, can be treated as business confidential information. However, the names of suppliers who were contacted, what was asked generally about the capability to manufacture the subject product, and the responses thereto should be included in public versions, which will be made available to the public.

*(b) Due Diligence Certification.* An interested entity must file a certification of due diligence as described in subsection (b)(1) with each submission, both email and original signed versions, containing factual information. If the interested entity has legal counsel or other representative, the legal counsel or other representative must file a certification of due diligence as described in subsection (b)(2) with each submission, both email and original signed versions, containing factual information. Accurate representations of material facts submitted to CITA for the CAFTA-DR Commercial Availability proceeding are vital to the integrity of this process and are necessary for CITA's effective administration of the statutory scheme. Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information. Any submission that lacks the applicable certifications will be considered an incomplete submission that CITA will reject and return to the submitter. CITA may verify any factual information submitted by interested entities in a CAFTA-DR Commercial Availability proceeding.

(1) For the person responsible for presentation of the factual information: I, (name and title), currently employed by (interested entity), certify that (1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate.

(2) For the person's legal counsel or other representative:I, (name), of (law or other firm), counsel or representative to (interested entity), certify that (1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

*(c) Official Receipt.* A submission will be considered officially submitted to CITA only when both the email version and the original signed submission have been received by CITA. For request submissions, CITA will confirm to the requestor that both versions of the request submission were received through an email confirmation. CITA's email confirmation shall be considered the ''official receipt'' of the request submission, and also begins the statutory 30 U.S. business-day process for CITA consideration of requests. CITA will confirm official receipt of response and rebuttal submissions by posting the response or rebuttal on the dedicated website at *http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf*.

**4. Submitting a Request for Consideration in a Commercial Availability Proceeding.**

*(a) Commercial Availability Request.* An interested entity may submit a Commercial Availability request to CITA alleging that a fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a producer in the CAFTA-DR countries.

*(b) Contents of a Commercial Availability Request.*

*(1) Detailed Product Information.* The Commercial Availability request must provide a detailed description of the product subject to the request, including, if applicable, fiber content, construction, yarn size, and finishing processes; and the classification of the product under the HTSUS. All measurements in the entire submission must be stated in metric units, or if the English count system is used in any part, then a conversion to metric units must be provided.

*(2) Quantity.* The Commercial Availability request must provide the specific quantity of the product needed by the requestor, in standard units of quantity for production of the subject product in the CAFTA-DR countries.

*3) Due Diligence.* The Commercial Availability request must provide a complete description of the due diligence undertaken by the requestor to determine the subject product's availability in the CAFTA-DR countries. Due diligence for the requestor means it has made reasonable efforts to obtain the subject product from CAFTA-DR suppliers. The requestor must provide the names and addresses of suppliers contacted, who was specifically contacted, the exact request that was made, the dates of those contacts, whether a sample of the subject product was provided for review, and the exact response given for the supplier's inability to supply the subject product under the same conditions as contained in the Commercial Availability request submitted to CITA, in addition to any other information the requestor believes is relevant. The requestor must submit copies or notes of relevant correspondence, both inquiries and responses, with these

suppliers. Relevant correspondence includes notes of telephone conversations. Specific details of correspondence with suppliers, such as quantities and lead times for providing the subject product, can be treated as business confidential information. However, the names of CAFTA-DR suppliers who were contacted, what was asked generally about the capability to manufacture the subject product, and the responses thereto should be available for public review to ensure proper public participation in the process. ''Lead times'' refers to supplying the subject product within normal business time frames for the subject product once an order is received. Specific delivery dates are not necessary. Required delivery dates that fall within the time needed to complete the Commercial Availability determination process are not acceptable.

(4) *Substitutable Products.* The Commercial Availability request must provide information on whether the requester believes that other products supplied by the CAFTA-DR supplier are not substitutable in commercial quantities in a timely manner for the product(s) that is (are) the subject of the request for purposes of the intended use. Clearly describe the unique characteristics of the subject product that distinguishes it from other similar or potentially substitutable products. Describe why such characteristics are required for the purposes of the end-use of the product and cannot be substituted by another product available from a CAFTA-DR supplier.

(5) *Additional Information.* The Commercial Availability request may provide any additional evidence or information believed to be relevant for CITA to determine whether a fiber, yarn, or fabric is not available in commercial quantities in a timely manner from a producer in the CAFTA-DR countries.

**5. Consideration and Acceptance of a Request.**

In considering whether to accept a request, CITA will consider and determine whether it provides all the required information specified in sections 3 and 4 of these procedures. CITA will determine whether to accept the request for consideration and investigation not later than two U.S. business days after the official receipt of a request.

*(a) Request Rejected.* If CITA determines that the request does not contain the required information, the requestor will be notified promptly by email that the request has not been accepted and the reasons for the rejection. A request may be resubmitted with additional information for the subject product and CITA will reevaluate it as a new request.

*(b) Request Accepted.* If CITA determines that the request contains the required information, CITA will notify interested parties by email that a request has been accepted and filed and will assign a File Number. CITA will post the accepted request on its website for public notice. The email notification and the website posting will indicate the calendar date deadlines for submitting offers to supply and submitting rebuttal responses.

**6. Submitting a Response with an Offer in a Commercial Availability Proceeding.**

Respondents must meet the requirements outlined in 3 of these procedures. General comments in support of or opposition to a commercial availability request do not meet the requirements of a Response with an Offer. A Due Diligence Certification must accompany a Response with an Offer.

*(a) Response With an Offer Submission.* An interested entity may file a response submission to a request CITA accepted advising CITA of its objection to the request and its ability to supply the subject product by providing an offer to supply the subject product as described in the request. An interested entity will have 10 U.S. business days after official receipt of a request to respond to a request. If good cause is shown, CITA may extend this deadline, but CITA will still meet the statutory deadline for making a determination.

*(b) Contents of a Response with an Offer.*

(1) *File Number.* The Response with an Offer needs to reference the CITA File Number assigned to the particular Commercial Availability Request being addressed.

(2) *Quantity.* The Response with an Offer must supply the quantity of the requested subject product that the CAFTA-DR supplier, is capable of currently supplying, in standard units of quantity. All measurements must be in metric units. If the English count system is used in any part, then a conversion to metric units must be provided.

(3) *Production Capability.* The Response with an Offer must report the quantity, in metric units, that the CAFTA-DR supplier produced of the subject product, or a substitutable product, in the preceding 24-month period.

(i) For products that have experienced cyclical demand or are not currently produced, the CAFTA-DR supplier should indicate the quantity that has been supplied or offered commercially in the past, with an explanation of the reasons it is not currently produced or offered.

(ii) If the requestor has requested a new style, weight, or other variation that is new to the market or new to the respondent, then the CAFTA-DR supplier(s) should provide detailed information on its current ability to make the subject product.

(iii) If the CAFTA-DR supplier(s) are making a new product that has not yet been offered to the market, but could meet the requirements of the subject product, then the CAFTA-DR supplier(s) need(s) to provide detailed information regarding the product and their ability to meet a request.

(iv) *Substitutable Products.* The Response with an Offer may provide, if relevant, the basis for the responder's belief that other products that are supplied by the CAFTA-DR supplier in commercial quantities in a timely manner are substitutable for the product(s) that are the subject of the request for purposes of the intended use.

(4) *Due Diligence.* The Response with an Offer must provide a complete description of the due diligence undertaken by the CAFTA-DR supplier to substantiate the ability to supply the subject product.

(i) In the case of new variations of a product, the CAFTA-DR supplier must substantiate the ability to manufacture the subject product. The CAFTA-DR supplier must provide sufficient detail of the manufacturing capabilities of the facility that will supply the subject product, in addition to any other information the supplier believes is relevant.

(ii) If some operations, such as finishing, will be completed by other entities, the name of the facility and contact information must be provided.

(5) Location of the CAFTA-DR supplier. The Response with an Offer must provide the name, address, phone number, and email address of a contact person at the facility claimed to be able to supply the subject product.

**7. Submitting Rebuttal Comments.**

Rebuttal Comments must meet the requirements outlined in 3 of these procedures. General comments in support of or opposition to a Request or a Response with an Offer do not meet the requirements of a Rebuttal Comment. A *Due Diligence Certification* must accompany a Rebuttal Comment.

*(a)* Rebuttal Comments. Any interested entity may submit a Rebuttal Comment to a Response with an Offer submission. An interested entity must submit its Rebuttal Comment not later than 4 U.S. business-days after the deadline for Response with an Offer submission. If good cause is shown, CITA may extend the time limit, but CITA will still meet the statutory deadline for making a determination.

*(b)* Contents of a Rebuttal Comment. The Rebuttal Comment may respond only to evidence or arguments raised in the Response with an Offer submission and must identify the Response with an Offer submission, evidence and/or arguments to which it is responding. The Rebuttal Comment needs to reference the CITA File Number assigned to the particular Commercial Availability Request being addressed.

**8. Determination Process.**

(a) Not later than 30 U.S. business days after official receipt of a request (or not later than 44 U.S. business days where an extension is provided), CITA will notify interested entities by email and interested parties and the public by a posting on its website whether the subject product is available in commercial quantities in a timely manner in the CAFTA-DR countries and whether an interested entity has objected to the request.

(b) CITA will notify the public of the determination by publication in the **Federal Register** when the determination results in a change to the Commercial Availability List in Annex 3.25 of the Agreement.

(c) *Types of Determinations.*

(1) **Denial.** A denial means that CITA has determined that the subject product is available in commercial quantities in a timely manner in the CAFTA-DR countries. If a request is denied, notice of the denial will be posted on the CAFTA-DR Commercial Availability website at *http://web.ita.doc.gov/tacgi/CABroadcast.nsf/Document?Openform.*

(2) **Approval in Unrestricted Quantity.** An approval in unrestricted quantities means that CITA has determined that the subject product is not available in commercial quantities in a timely manner in the CAFTA-DR countries or that no interested entity has objected to the request.

(i) If a request is approved without restriction, a notice will be published in the U.S. **Federal Register** not later than 30 U.S. business days (or not more than 44 U.S. business days where an extension is provided ) after the official receipt of a request, adding the subject product to the Commercial Availability List in Annex 3.25 of the Agreement.

(ii) The effective date of the determination is the date of publication of the notice in the U.S. **Federal Register**.

**(3) Approval in a Restricted Quantity.**

(i) **Approval in a Restricted Quantity.** An Approval in a Restricted Quantity means that CITA has determined to add the subject product to the Commercial Availability List in Annex 3.25 of the Agreement with a specified restricted quantity. CITA may approve the request in a restricted quantity if CITA determines that a CAFTA-DR supplier(s) can partially fulfill the request for the subject product. The restricted quantity specifies the amount of the subject product that can be provided by a CAFTA-DR supplier(s).

(A) If a request is approved in a restricted quantity, a notice will be published in the **Federal Register** not later than 30 U.S. business days (or not more the 44 U.S. business days where an extension is provided ) after official receipt of the request, adding the subject product to the Commercial Availability List in Annex 3.25 of the Agreement with a specified restricted quantity. The restricted quantity specifies the amount of the subject product that can be provided by a CAFTA-DR supplier(s).

(B) The effective date of the determination will be the date of publication in the U.S. **Federal Register**.

(ii) **Elimination of a restricted quantity.** Not later than six months after adding a product to the Commercial Availability List in Annex 3.25 of the Agreement in a restricted quantity, CITA may eliminate the restriction if it determines that the subject product is not available in commercial quantities in a timely manner in the CAFTA-DR countries.

(A) The determination that the subject product is not available in commercial quantities in a timely manner will be based upon whether the restricted quantity has been provided by a CAFTA-DR supplier(s). CITA will solicit comments and information from the CAFTA-DR supplier(s) and the requester.

(B) If the CAFTA-DR supplier(s) are still capable of providing the restricted quantity, the restriction will remain.

(C) If the CAFTA-DR supplier(s) are unable to provide the restricted quantity, CITA will eliminate the restricted quantity. CITA will publish a notice in the U.S. **Federal Register**, and post on the website, that the restricted quantity is eliminated and the subject product is added to the Commercial Availability List in Annex 3.25 in an unrestricted quantity. The effective date of the determination will be the date of publication in the U.S. **Federal Register**.

**(4) Insufficient Information to Determine.** CITA will extend its time period for consideration of the Commercial Availability Request by an additional 14 U.S. business days in the event that CITA determines, not later than 30 U.S. business days after official receipt of a Commercial Availability Request, that it has insufficient information to make a determination regarding the ability of a CAFTA-DR supplier to supply the subject products of the Commercial Availability Request based on the submitted information. CITA will normally determine that it does not have sufficient information to make a determination on a Commercial Availability Request when CITA finds there is inconsistency in material information contained in the Commercial Availability Request, one or more Offers to Supply the subject product, and/or the Rebuttal Comments. CITA will notify interested parties via email that it has extended the time period for CITA's consideration by 14 U.S. business-days. CITA also will announce the extension on the website.

(i) *Process during Extension Period.* During the extended time period, CITA will request that interested entities provide additional evidence to substantiate the information provided, and may initiate a meeting with interested entities. Should CITA elect to conduct a meeting, it will comply with

requirements to conduct proceedings in an open manner. Such evidence may include inter alia product samples, lab tests, detailed descriptions of product facilities, and comparisons of product performance in the intended end-use of the subject product. Any samples, if requested, of fibers, yarns, or fabrics, that are provided to CITA will be made available for public inspection at the Office of Textiles and Apparel, Room 3110, U.S. Department of Commerce, 14th St. and Constitution Ave., N.W., Washington, DC 20230. All written submissions must follow instructions described in section 3 of these procedures. Samples should be identified with a cover sheet that describes the specifications of the sample and be identical to the specifications of the request.

(ii) CITA also will consider evidence in support of claims that CAFTA-DR supplier(s) can supply a substantially similar product to that specified in the request.

(iii) CITA will make a determination, not later than 44 U.S. business days after the official receipt of a Commercial Availability Request whether to Approve, Approve with Restriction, or Deny the Commercial Availability Request and will follow the notification process accordingly.

**(5) Deemed Approval.** In the event that CITA does not make a determination in response to a Commercial Availability Request to add a product to Annex 3.25 of the Agreement within the statutory deadlines provided, not later than 45 U.S. business-days after the official receipt of the commercial availability request or not later than 60 U.S. business-days after the official receipt of the Commercial Availability Request that was determined to lack sufficient information pursuant to subsection (c)(4), the requested subject product shall be added to the Commercial Availability List in Annex 3.25 , in an unrestricted quantity, in accordance with the requirements of section 203(o)(4)(D) of the CAFTA-DR Implementation Act. CITA will notify the public of the Deemed Approval by publication in the U.S. **Federal Register** and posting on OTEXA's website.

**9. Six Month Procedures:**

(a) *Request to Remove or Restrict.* No earlier than six months after a product has been added to the Commercial Availability List in Annex 3.25 in an unrestricted quantity pursuant to sections 203(o)(2) and (4) of the CAFTA-DR Implementation Act, an interested entity may submit a request to CITA requesting that a product be either removed or that a quantity restriction be introduced.

*(b) Content of a Request to Remove or Restrict.* The Request to Remove or Restrict must provide the substantive information set forth in subsection 6(b) (Contents of a Response with an Offer) of these procedures.

*(c) Procedures.*

(1) In considering whether to accept a Request to Remove or Restrict, CITA will follow procedures set forth in section 5 (*Consideration and Acceptance of a Request*) of these procedures.

(2) If CITA determines to accept the Request to Remove or Restrict, CITA and any responding interested entity shall follow applicable procedures and contents set forth in subsections 6(a) (Response Submission) and section 7 (Submitting Rebuttal Evidence) of these procedures.

(3) As set forth in subsections 8(a) and (b) (*Determination Process*) of these procedures, CITA will determine whether the subject product of the Request to Remove or Restrict is available in commercial quantities in a timely manner in the DR-CAFTA countries not later than 30 U.S. business days after the official receipt of the request.

(i) If CITA determines that the product is available in commercial quantities in a timely manner in the DR-CAFTA countries, e.g., that a CAFTA-DR supplier is capable to supply the entire subject product requested originally, then that product will be removed from the Commercial Availability List in Annex 3.25 of the Agreement.

(ii) If CITA determines that the product is available in restricted quantities in a timely manner in the CAFTA-DR countries, e.g., that a CAFTA-DR supplier is capable to supply part of the subject product requested originally then a restricted quantity will be introduced for that product.

(iii) If the Commercial Availability List changes as a result of CITA's determination for the Request to Remove or Restrict, CITA will notify interested parties by email of its determination and will publish a notice of its determination for the request to remove or restrict in the U.S. **Federal Register**.

(A) For removal, the notice will state that textile and apparel articles containing the subject product are not to be treated as originating in a CAFTA-DR country if the subject product is obtained from non-CAFTA-DR sources, effective for goods entered into the United States on or after six months (i.e., 180 calendar days) after the date of publication of the notice.

(B) For restriction, the notice will specify the restricted quantity for the subject product that is to be effective on or after six months (i.e., 180 calendar days) after the publication date of the notice.

**R. Matthew Priest,**

*Chairman, Committee for the Implementation of Textile Agreements.*

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**BILLING CODE 3510–DS–S**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; Overview Information; Centers for Independent Living; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.132A.

*Dates: Applications Available:* March 21, 2007.

*Deadline for Transmittal of Applications:* April 20, 2007.

*Deadline for Intergovernmental Review:* June 19, 2007.

*Eligible Applicants:* To be eligible to apply, an applicant must—

(a) Be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency;

(b) Have the power and authority to—

(1) carry out the purpose of part C of title VII of the Rehabilitation Act of 1973, as amended (the Act) and perform the functions listed in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366 within a community located within a State or in a bordering State; and

(2) Receive and administer—

(i) Funds under 34 CFR part 366;

(ii) Funds and contributions from private or public sources that may be used in support of a center for independent living (center); and

(iii) Funds from other public and private programs;

(c) Be able to plan, conduct, administer, and evaluate a center consistent with the standards and assurances in section 725(b) and (c) of the Act and subparts F and G of 34 CFR part 366;