

Mr. R. Matthew Priest, Chairman
Committee for the Implementation of
Textile Agreements
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Room H3100A
Washington, D.C. 20230

**Re: Rebuttal Comments to DR CAFTA Short Supply Request Response by Cone
Denim
File Number:116.2009.05.13.Fabric.AmericanDesignIndustries**

Dear Mr. Priest:

The following rebuttal comments are being submitted in response to Comments made by ITG Cone Denim regarding our request to add a certain fabric to Annex 3.25 of the DR-Cafta under file 116.2009.05.13.Fabric.AmericanDesignIndustries.

ITG Cone Denim has failed to demonstrate that it is capable of producing the subject fabric in commercial quantities in a timely manner as required under the Commercial Availability provision of the DR-Cafta and CITA's Procedures. Rather, ITG Cone Denim informally makes several comments and fails to substantiate its claims to provide the subject fabric in a timely manner.

"Due dilligence" as stated in commercial availability procedures modified on September 12, 2008 says "for the requestor means it has made reasonable efforts to obtain the subject fabric in cafta dr countries".

ADI contacted since April 3, 2009 over 31 institutions, including 22 mills and 9 official Associations, summing all Cafta DR National Associations. In the US alone we contacted the 3 largest and most aggressive textile associations. The National Textile Association published publicly to the whole world the list of fabrics needed by ADI. As well, ADI contacted ALL denim companies listed under the official Otxa database.

Our company is perplexed by Cone Denim's lack of knowledge of current situations in Nicaragua, ADI's past communications with Cone Denim Nicaragua, and oblivious comments on TPL incentives that are not presently available in Nicaragua.

We must inform CITA's Chairman that ADI has been fully aware of Cone Denim Nicaragua ever since it started, and inaugurated its US\$100 million facilities with President Daniel Ortega in Ciudad Sandino. Ever since Cone Denim set foot in Nicaragua we have been in communications with Operations Manager Steve Maggard (steve.maggard@conedemin.com 505-930-1143)

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specifically; as well as Tim Deaton (tim.deaton@conedemin.com 336-379-6323) and Phil Goetz (phil.goetz@conedenim.com).

Mr. Maggard has been in conversations with ADI for years, and has clearly expressed Cone Denim's lack of machinery to make our fabrics. Before closing down indefinitely, Mr. Maggard said they were a couple of years from acquiring the machinery necessary to make ADI fabrics. We met with Mr. Maggard in Cone Denim Ciudad Sandino facility numerous times. With his Harley Davidson hard hat he showed us the facility, and we sat down with him personally in his office at least 3 times in the last 2 years, and he always said that Cone Denim as a company could not supply our fabrics.

Last year we tried again with Cone Denim, this time Mr. Goetz upon receiving samples offered fabrics from their DANANG Facility!

CITA has made clear that it intends for the commercial availability procedures to mirror normal business practices. If Cone Denim was interested in supplying fabrics it would have done so in the numerous meetings we had, rather than "wait" to object to ADI's request for findings of commercial non availability.

ADI must mention that Nicaragua, active member of DR CAFTA has recently lost over 30,000 jobs. Our textile industry is a dangerous 30% of what it represented 3 years ago. We are at a grave crossroad to loose everything with no commercial availability of the subject product in a timely manner in the DR Cafta region and no incentives.

It is public knowledge that Cone Denim's facility in Nicaragua is shut down indefinitely and proceeded to lay off over 800 workers. Since then, there is no one even answering the phones. Having had several official and professional meetings with Cone Denim with the same result proved to ADI that Cone Denim did not have the machinery nor the interest to supply the exact subject fabrics in commercial quantity in a timely manner. In its response Cone Denim does not demonstrate its ability to produce the subject product. There is no description whatsoever of any equipment involved in the process of our fabrics. There is no mention of the fabric construction, fiber content, yarn size and availability, width, weight, etc. Finishing processes are quickly alluded to, but no real time or solution is given, they simply mention that it is available in the DR Cafta region with no details of where exactly nor when would this be acquired.

Paragraph 6(a) of the Procedures require an interested party to provide "an offer to supply the

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subject product as described in the request.” Cone Denim does not do so. It merely states its ability to make the subject fabrics and objects to the fabrics at issue being added to Annex 3.25. Paragraph 7 of the Procedures also states that “general comments in support or opposition to a Request...do not meet the requirements of a Rebuttal Comment”. Since Cone Denim does not make an offer as required under the Procedures, its comments should be viewed as mere “general comments in opposition” and should be rejected by the Committee.

A mere statement of a claim substantially is legally insufficient.

Therefore, the fabric in question, as required by ADI and its customers, is not available as specified, or in the form of a substitutable fabric, in commercial quantities in a timely manner in the DR_CAFTA region. CITA should therefore approve ADI’s petition.

Sincerely,

Luis Carlos Mantica
Managing Partner
