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COMMERCIAL AVAILABILITY REQUEST

-- PUBLIC VERSION --

August 10, 2009

Ms. Janet Heinzen
Acting Chair, Committee for the Implementation of Textile Agreements
Office of Textiles and Apparel, Room H3100
U.S. Department of Commerce
14th and Constitution Ave., NW
Washington, DC 20230

Re: Commercial Availability Request Under Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act

Pursuant to Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA-DR”) Implementation Act and the Modified Final Procedures set forth in 73 Fed. Reg. 53200 (September 15, 2008) (“Final Procedures”), BWA and Sorini, Samet & Associates, LLC (“SS&A”) respectfully request that the fabric described herein (“subject fabric”) be added to the list in Annex 3.25 of CAFTA-DR in an unrestricted quantity.

The subject fabric in this Request (“current Request”) is the same in all specifications as the plain weave fabric that the U.S. Committee for the Implementation of Textile Agreements (CITA) determined to be unavailable in commercial quantities in a timely manner (“previous Request”),¹ except that the current Request broadens the fabric specifications to include various weave types (detailed in Section I). After a reengagement of the potential suppliers from the due diligence process of the previous Request, BWA and SS&A have determined that the subject fabric is not available in commercial quantities in a timely manner from a supplier in the CAFTA-DR countries. It is following a good faith effort to secure the fabric that BWA and SS&A submit this Commercial Availability Request.

¹ CITA File Number: 102.2009.01.02.Fabric.SoriniSametforBWA

I. Detailed Product Description

The fabric in question is a woven modal-polyester blend of ring-spun yarn, of various weave types, with a unique combination of finishing processes that are critical for the end-use of men's shirts intended for sportswear and travel. For the end-use described, other fabrics of different fibers, yarn types, thread counts, or weaves, and without the exact combination of finishing processes, cannot substitute the requested fabric.

Fabric Type	Woven modal-polyester apparel fabric
Fiber Content	52% to 95% spun modal rayon; 5% to 48% filament polyester
Yarn Size	Spun modal rayon metric 44/1 to 88/1; filament polyester metric 59 to 92
Thread Count	Metric 31 to 53 warps ends per centimeter; metric 27 to 36 filling picks per centimeter
Weave Type	Twill or dobby or jacquard or oxford or satin
Fabric Weight	Metric 100 to 300 grams per square meter
Fabric Width	Metric 137 to 153 centimeters
Coloration	(Piece) dyed or yarns of different colors
Finishing Processes	Wicked, UV blocker, peached, sanded wash, stain-resistant, and teflon finish
Quantity	Metric [[***]] square meters per month
HTSUS	5516.12; 5516.13; 5516.22; 5516.23 In the finishing process, in the event that the polyester filament content breaks and turns into fiber, the classification would be a woven fabric of 100% synthetic staple fiber (HTSUS 5516.92; 5516.93)

II. Quantity

BWA requires [[***]] square meters per month.

III. Due Diligence

The potential suppliers from the current Request and the previous Request were compiled through (1) BWA's experience doing business in the CAFTA-DR region, (2) through the 2008 Davison Salesman Blue Book, and (3) through the contact mechanisms of U.S. and Central American textile and apparel trade associations. These efforts did not result in identifying any parties that were able to supply the subject fabric in the parameters, time and/or quantities required by BWA.

In the due diligence process of the previous Request, BWA engaged in direct business-to-business dialogue with three potential suppliers with regard to their ability to supply the subject fabric in a plain weave. BWA revisited the dialogue with these potential suppliers in the due diligence process of the current Request to determine whether they had interest in pursuing orders of the same fabric in different weave types. Please refer to the cited previous Request for a complete account of the previous due diligence process.²

Over the course of the due diligence process of the current Request, three firms initially indicated an interest to supply the subject fabric: (1) Inman Mills, (2) Industrias Liztex ("Liztex"), and (3) Fox-Rich Textiles ("Fox-Rich"). Inman Mills and Fox-Rich were ultimately non-responsive to BWA's contacts, and Liztex replied that it would not supply the fabric.

1. Inman Mills ultimately did not respond to BWA's inquiries. Inman had asked BWA to provide style-by-style specifications for fabric that would fall within the range of required parameters. BWA provided Inman Mills with this information, on a confidential basis, but did not hear back from Inman Mills after multiple follow-up attempts.
2. Liztex initially expressed an interest to supply to SS&A, but after discussing the matter in detail with BWA, Liztex confirmed via email that it would not be producing the subject fabric in the near future.
3. Fox-Rich initially expressed an interest to SS&A and to BWA, and after discussing the matter in detail with BWA via telephone (June 23), Fox-Rich confirmed that it would not be interested in supplying the subject fabric to BWA. BWA attempted to re-confirm that Fox-Rich would not offer to supply to subject fabric via email on two occasions (June 23 and June 25), and Fox-Rich did not respond. On the third follow-up attempt (July 8), Fox-Rich responded by addressing the issue of price. BWA contacted Fox-Rich again via telephone (July 17) to discuss the process of making and supplying the fabric, and asked whether Fox-Rich would pursue supplying the fabric to

² CITA File Number: 102.2009.01.02.Fabric.SoriniSametforBWA

BWA, regardless of price. During this telephone conversation Fox-Rich told BWA that it needed to further discuss the matter internally, and afterward Fox-Rich did not respond to BWA by the promised date. After a record of non-responsiveness throughout the business-to-business dialogue, and having not responded to BWA's email and telephone follow-up attempts since July 27, BWA determined the subject fabric is not commercially available in a timely manner from this company.

The following information sets forth the firms and associations that were contacted with regard to whether they, or their members, could supply the subject fabric within the specifications described in Section I of the current Request. Confirmations of the contacts are provided within Appendix I of the confidential version of the current Request. All communications were conducted via e-mail unless otherwise noted.

(1) Company: Mount Vernon Mills, Inc.

Address: 91 4th Street, PO Box 7, Tion, GA 30753
Phone: (706) 734-2311
Contact: Rich Turner, President – Apparel Fabrics: rich@mvmills.com
David Thrailkil, Sales Contact: DavidTh@Mvmills.com
Date Contacted: April 28, 2009
Nature of Request: Inquiry to ability to supply subject fabric.
Sample Provided: No
Follow up: May 14, 2009: Inquiry to ability to supply subject fabric.
Reply and Date: May 15, 2009: Rich Turner replied that Mount Vernon does not run any rayon blends.

(2) Company: Industrias Liztex

Address: Parques del Lago Km 30.5, Ruta al Pacifico Amatitlan, Guatemala
Phone: (502) 6633-6550
Contact: Saul Mishaan, Sales Contact: saul@liztex.com
Date Contacted: April 28, 2009
Nature of Request: Inquiry to ability to supply subject fabric.
Sample Provided: No (Plain weave sample provided November 2008)
Follow up: May 14, 2009: Inquiry to ability to supply subject fabric.
Reply and Date: May 14, 2009: Saul Mishaan replied that Liztex can delivery the fabric and asked for a sample.
Reply and Date: May 14, 2009: SS&A responded that Liztex was sent a sample of the fabric in a plain in November 2008, and at that time Liztex stated it could not get the raw materials to make the fabric. SS&A also informed Liztex that the subject fabric in a plain weave was added to the CAFTA-DR short supply list.
Reply and Date: May 14, 2009: Mishaan replied that Liztex would be able to get a price on the raw materials in the near future.

Reply and Date: June 26, 2009: Andrew Lerner of B-W-A contacted Saul Mishaan via telephone to discuss production and delivery of the subject fabrics.

Reply and Date: June 26, 2009: Mishaan replied to Andrew Lerner via email to confirm that Liztex and its exporting companies will not be pursuing production of fabrics with modal rayon in the short future.

(3) Company: Monte Textil S.A.

Address: Km 18.5 Carr al Mayan Golf Villa Nueva, Guatemala

Phone: (502) 6628-0800

Contact: Juan Carlos Castaneda, Export Manager:

juancarlos@textisur.com

Date Contacted: April 28, 2009

Nature of Request: Inquiry to ability to supply subject fabric.

Sample Provided: No

Reply and Date: May 5, 2009: Juan Carlos Castaneda replied that Monte Textil cannot produce the modal/poly blend in a plain weave, but that Monte has the capability to produce various other weave types in 100% cotton.

Reply and Date: May 5, 2009: SS&A responded to confirm whether or not Monte could supply the modal/poly blend in the various other weave types.

Reply and Date: May 5, 2009: Castaneda replied that Monte could not supply the modal/poly blend.

(4) Company: Inman Mills

Address: 300 Park Road, PO Box 207, Inman, SC 29349

Phone: (864) 472-0252

Contact: Ben Truslow, Contact: btruslow@inmanmills.com

Date Contacted: April 28, 2009

Nature of Request: Inquiry to ability to supply subject fabric.

Sample Provided: No (Plain weave sample provided November 2008)

Reply and Date: April 29, 2009: Ben Truslow responded that Inman would need to see style-by-style specifications in order to make a more informed decision.

Reply and Date: May 4, 2009: SS&A responded that the client would be put in touch to discuss the specifics.

Follow up: May 5, 2009: BWA contacted Inman Mills directly to acknowledge Inman's expressed interest to supply the fabric, and requested from Truslow specific information regarding Inman's past experience producing the fabric, and specific questions about Inman's production capability to provide a finished fabric to the required specifications in compliance with rules of CAFTA-DR.

Follow up: May 7, 2009: BWA sent style-by-style specifications to Inman for review.

Follow up: May 14, 2009: BWA attempted to contact Inman via telephone and via email with inquiries to ability to supply the subject fabric. BWA left a voicemail for Truslow.

Reply and Date: No further response from company.

(5) Company: Fox-Rich Textiles, Inc.

Address: 37 Danbury Road, Ridgefield, CT 06877

Phone: (203) 438-3153

Contact: Jim Reich, President: jim@fox-rich.com

Date Contacted: April 28, 2009

Nature of Request: Inquiry to the ability to supply subject fabric.

Sample Provided: No

Reply and Date: April 28, 2009: Jim Reich responded that Fox-Rich should not have a problem making the subject fabric. Reich said he had not checked on the availability of the yarn, and that Fox-Rich is not in the modal/rayon market regularly.

Reply and Date: April 29, 2009: SS&A replied to Reich, reminding him that BWA had directly engaged with Fox-Rich on the exact same fabric in a plain weave in late 2008, and that BWA could not pursue Fox-Rich's offer at that time because (1) Fox-Rich declined to furnish information regarding the finishing subcontractors that would be used by Fox-Rich, and (2) the fabric specifications of Fox-Rich's offer were outside of the parameters required by BWA.

Reply and Date: April 30, 2009: Reich replied to SS&A that Fox-Rich can supply the fabric to BWA's specifications, and can also supply BWA with any technical information needed. Reich also maintained that it is against his company's policy to provide a list of suppliers that would be involved in the production of the order.

Reply and Date: April 30, 2009: SS&A inquired whether Fox-Rich would be able to make an offer to BWA of which the fabric specifications would fall within BWA's required parameters.

Reply and Date: April 30, 2009: Reich replied that Fox-Rich can make a fabric in construction that meets the required specifications, provided the yarn is available to Fox-Rich.

Reply and Date: May 5, 2009: BWA contacted Jim Reich directly to acknowledge Fox-Rich's expressed interest to supply the fabric. BWA reminded Reich that Fox-Rich had made an offer to supply in late 2008, but the offer fell outside of BWA's required parameters. BWA also reminded Reich that Fox-Rich was sent a sample of the fabric in a plain weave for its review. BWA requested from Reich specific information regarding

- Fox-Rich's past experience producing the fabric, and specific questions about Fox-Rich's production capability to provide a finished fabric to the required specifications in compliance with rules of CAFTA-DR.
- Reply and Date: May 5, 2009: Reich replied that he preferred to begin where the business dialogue ended in late 2008. Reich referred to the quote made on December 3, 2008, and asked BWA if the prices and parameters were acceptable. Once confirmed, Reich stated, Fox-Rich will run sample yardage for BWA's approval.
- Reply and Date: May 6, 2009: BWA responded to Reich, stating that the last two offers that Fox-Rich made to BWA regarding the subject fabric were unacceptable.³ The first offer, made on December 5, 2008, was not CAFTA-DR compliant. The second offer, made on December 22, 2008, was outside the required fabric construction parameters.
- Reply and Date: May 6, 2009: Reich responded that Fox-Rich will "come up with a conforming construction."
- Reply and Date: May 6, 2009: BWA replied that it needs the information in its original email in detail.
- Reply and Date: May 6, 2009: Reich asked BWA what other information was needed.
- Reply and Date: May 6, 2009: BWA referred Reich back to BWA's original email to Fox-Rich on May 5, 2009 for the information BWA required of Fox-Rich.
- Reply and Date: May 6, 2009: Reich replied to BWA's original questions regarding Fox-Rich's past experience and capabilities to produce the subject fabric. Reich replied that Fox-Rich has not made the fabric, and had limited knowledge of one of the finishing processes. In addition, Fox-Rich again declined to provide information about its subcontractors.
- Reply and Date: May 6, 2009: BWA responded the Reich's email, clarifying that BWA needed to know Fox-Rich's experience producing modal rayon and polyester blended fabric in the past 24 months, and type of machinery that would be used to make the fabric. BWA again asked if the finishing would be subcontracted, and if so BWA needed to know by whom, due to the complicated processes involved.
- Reply and Date: May 6, 2009: Reich replied that Fox-Rich has not made modal/polyester blended fabric in the past 24 months. Reich also stated the finishing would be subcontracted, but did not

³ Details of the business dialogue between BWA and Fox-Rich Textiles can be found in the confidential version of the prior Request - CITA File Number: 102.2009.01.02.Fabric.SoriniSametforBWA

provide the requested contact information for the subcontractors.

Reply and Date: May 7, 2009: BWA asked Reich if Fox-Rich is a converter.

Reply and Date: May 7, 2009: Reich replied that Fox-Rich is a converter, and that Fox-Rich sometimes gets involved with the process at the yarn buying stage and equipment purchasing.

Reply and Date: May 28, 2009: BWA sent Reich specifications for three fabric lines that would meet the specifications and BWA asked for quotes on timing of yarn purchase, development lead-time, and bulk production and costing.

Follow up: June 12, 2009: Mark Heard of BWA followed up with Jim Reich of Fox-Rich on the last email from BWA, requesting quotes on the subject fabric lines.

Reply and Date: June 21, 2009: Reich asked BWA for an approximate price range needed.

Reply and Date: June 22, 2009: Heard responded in the [[***]] range.

Reply and Date: June 22, 2009: Reich responded that the Fox-Rich price would be over what BWA wants to pay.

Reply and Date: June 23, 2009: Mark Heard attempted to contact Fox-Rich via telephone, and left a voicemail for Jim Reich.

Reply and Date: June 23, 2009: Reich contacted Heard via telephone. After detailed discussions of the processes involved in making fabric, Reich confirmed that Fox-Rich was no longer interested in supplying the subject fabric to BWA. Reich confirmed that Fox Rich had never produced a fabric like this before and is unfamiliar with some of the processes involved.

Follow-up: June 23, 2009: Heard sent a follow-up email to Reich to request a confirmation via email that Fox-Rich was no longer interested in supplying the subject fabric to BWA.

Follow-up: June 25, 2009: Heard sent a follow-up email to Reich, asking for email confirmation that Fox-Rich was not interested in supplying the subject fabric to BWA.

Follow-up: July 8, 2009: Heard sent a follow-up email to Reich, asking for email confirmation that Fox-Rich would not pursue the subject fabric.

Reply and Date: July 8, 2009: Reich replied that Fox-Rich would pursue the fabric if a customer would pay the price for the fabric.

Reply and Date: July 17, 2009: Heard called Reich via telephone to re-confirm that Fox-Rich was not interested in supplying the subject fabric, regardless of price. Reich again confirmed no prior experience making the subject fabric, and again confirmed unfamiliarity with some of the processes involved with making the subject fabric. After the discussion, Reich said he needed to discuss and evaluate the issue further internally, and would respond to BWA soon.

Follow-up: July 27, 2009: After no response from Fox-Rich since July 17, Heard called Reich via telephone to follow up on Fox-Rich's internal discussions. Reich said he still needed to further discuss the matter internally, and would get back to Heard in the morning (July 28).

Follow-up: July 28, 2009: Fox-Rich did not respond as indicated the prior day. Heard sent Reich an email to ask if Fox-Rich would pursue the subject fabric.

Reply and Date: Fox-Rich has not responded to BWA via telephone or email since it indicated it would do so on July 27th.

As a result of the above inquiries, SS&A and BWA do not believe that the subject fabric is commercially available in the CAFTA-DR region in a timely manner and we request that it be added to Annex 3.25.

IV. Substitutable Products

The fabric in question is a woven modal-polyester blend of ring-spun yarn, of various weave types, with a unique combination of finishing processes that are critical for the end-use of men's shirts intended for sportswear and travel. For the end-use described, other fabrics of different fibers, yarn types, thread counts, or weaves, and without the exact combination of finishing processes, cannot substitute the requested fabric.

V. Closing

If you have any questions or require further information with regard to this request, please contact Keith Jenkins at (202) 393-4481, or kjenkins@ssa-dc.com.

Sincerely,



Keith A. Jenkins
Senior Director of Government Affairs

AUGUST 10, 2009
Date