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October 8, 2008

**Public Version**

Mr. R. Matthew Priest  
Chairman, Committee for the Implementation of Textile Agreements  
U.S. Department of Commerce  
14<sup>th</sup> and Constitution Avenue, NW  
Washington, DC 20230

**Re: Commercial Availability Request  
100% Polyester Pin Dot Dobby Fabric  
HTSUS Subheadings 5407.93.20, 5515.12.00**

Dear Mr. Priest:

This short supply request is filed on behalf of our client, Fishman & Tobin, a designer, manufacturer, and importer of premier children's clothing for over 90 years, with global headquarters at 625 Ridge Pike Building E, Conshohocken, PA. The company employs over 440 people in the United States.

Pursuant to Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement ("CAFTA-DR") Implementation Act and the Modified Procedures published in the Federal Register Notice of September 12, 2008, by the Committee for the Implementation of Textile Agreements ("CITA"), we hereby request a determination that certain 100% polyester pin dot doobby fabrics (Fishman & Tobin reference 1679), classifiable in subheadings 5407.93.20 and/or 5515.12.00, Harmonized Tariff Schedule of the United States ("HTSUS"), be added to the list of fabrics, yarns and fibers not available in commercial quantities in a timely manner in the CAFTA-DR countries, set forth in Annex 3.25 of the Agreement and incorporated in Note 20(a) of Chapter 98, Subchapter XXII, HTSUS.

Fishman & Tobin is filing this request because the company has found it impossible to purchase such fabric in the United States, the CAFTA-DR region, or even in Mexico. The company has owned and operated a factory in Santiago, Dominican Republic, for over 20 years and has approximately 2000 employees working at the facility. Our client wishes to do everything in its power to keep its Dominican Republic factory competitive, noting that over 50

percent of the factories in the Dominican Free Zone have had to close due to competition from the Far East. The majority of Fishman & Tobin's Dominican Republic manufacturing utilizes the subject fabric and others for which the company also is requesting short supply status.

## 1. Detailed Product Information

The subject fabric is a woven of 100% polyester filaments and staple fibers. A complete description is set forth below. Fishman & Tobin utilizes this fabric for the production primarily of men's and boys' dress suits, jackets and pants. The instant fabric has the content, characteristics, hand feel, and price range that render it perfectly suitable for the dresswear trade. The fabric is classifiable in subheading 5407.93.20 and/or 5515.12.00, HTSUS, depending on the percentages of filaments and staple fibers. We note that the fabric description provides ranges of content, counts, etc., so as to ensure that variances in fabric construction will not preclude the ability to enter the finished garments under CAFTA-DR, and to avoid having to submit multiple requests for short supply designation. The specifications set forth below, including all of the ranges, are identical to those expressed in our due diligence letters.

- Fiber Content: 100% Polyester
- Yarn:
  - Warp 30/2 or 30/1 – 50/2 or 50/1 spun polyester staple fibers combined with polyester filament of 100-300 Denier or 51/2 or 51/1 – 85/2 or 85/1 spun polyester staple fibers combined with polyester filament of 90 to 30 decitex
  - Fill 30/2 or 30/1 – 50/2 or 50/1 spun polyester staple fibers combined with polyester filament of 100-300 Denier or 51/2 or 51/1 – 85/2 or 85/1 spun polyester staple fibers combined with polyester filament of 90 to 30 decitex
- Construction: Range of 180-210 warp ends x 85-95 filling picks per inch or 70 to 82 warp ends x 33 to 37 filling picks per centimeter
- Weight: 6.2 to 7.5 oz./yd<sup>2</sup> or 210 to 255 g/m<sup>2</sup>
- Width: 56 to 64 in. or 142 to 163 cm.
- Weave: Various
- Finish: Containing at least 2 different color yarns, each of which is dyed a different color, with either cationic or disperse dyes or any combinations of both

## 2. Quantity

Fishman & Tobin will require approximately [ ] of the fabrics that are the subject of its short supply requests, in time for production for [ ] and going forward. The fabrics will be used

for production of men's and boys' dress suits, jackets and/or pants in the Dominican Republic for subsequent importation into the United States as CAFTA-DR eligible garments.

### 3. Due Diligence

Fishman & Tobin contacted a number of mills and textile associations representing mills in the United States and known mills located in other countries in the CAFTA-DR region, with the detailed description provided above, along with a swatch of the material.<sup>1</sup> Most of the mills and members of the associations did not express an interest in supplying this fabric. In fact, several mills advised that they would be unable to supply the requested fabric in the quantity and time frame provided in our request. For those who did not reply to its initial request, Fishman & Tobin sent follow-up letters, with the same result. The two mills' responses that did express an interest are discussed further below.

Copies of the business confidential correspondence, including the initial letters, responses, and follow-up letters, are provided with the confidential version of this submission. The results of Fishman & Tobin's due diligence efforts are set forth below.

<b>Mill/Association Contacted</b>	<b>Date of First Letter</b>	<b>Response</b>	<b>Date of Second Letter</b>	<b>Response</b>
Bill Gaffney, Sales Rep. Milliken & Company 110 East Neck Road Huntington, NY 11743	4/04/08	Milliken replied by letter dated April 8, 2008, indicating its inability to supply the fabric	N/A	N/A
Tony Strickland Director, Technical Sales & Textiles Burlington Worldwide 804 Green Valley Road Greensboro, NC 27408	4/04/08	None	5/01/08	Letter of May 15, 2008 indicating capability of producing the fabric. In subsequent correspondence, Burlington confirmed that it cannot supply this fabric.

<sup>1</sup> We note that the subject fabric was included with nine other fabrics in Fishman & Tobin's search for suppliers in the CAFTA-DR region. These other fabrics also are the subject of short supply requests that have been or are being filed by this company.

<b>Mill/Association Contacted</b>	<b>Date of First Letter</b>	<b>Response</b>	<b>Date of Second Letter</b>	<b>Response</b>
Bob McCormick, President Kaltex 350 Fifth Avenue New York, NY 10118	4/04/08	None	5/01/08	None
Dennis Gilrain Managing Director Swift Gale Five Concourse Parkway Atlanta, GA 30328	4/04/08	None	5/01/08	None
Brian Tack Sales Representative Mount Vernon Mills, Inc. 91 Fourth Street Trion, Georgia 30753	5/01/08	Mount Vernon replied by fax on May 9, 2008, advising that the mill does not produce the requested fabric	N/A	N/A
David Trumbull Director, Member Services National Textile Association 6 Beacon Street Boston, MA 02108	4/04/08	The Association replied by email, stating that there was no interest among the member companies to supply the fabric	N/A	N/A
Augustine Tantillo Executive Director American Manufacturing Trade Action Coalition 910 16 <sup>th</sup> Street NW Washington, DC 20006	4/04/08	None	5/01/08	None
Michael Hubbard Vice President National Council of Textile Organizations 910 17 <sup>th</sup> Street NW Washington, DC 20006	4/04/08	None	5/01/08	None

<b>Mill/Association Contacted</b>	<b>Date of First Letter</b>	<b>Response</b>	<b>Date of Second Letter</b>	<b>Response</b>
Robert Huang Sales Manager Nien Hsing Textile Co., Ltd. 13F., No. 306, Neihu Road Taipei Taiwan (Owners of Alpha Textil in Nicaragua – see below)	4/04/08	None	5/01/08	Company replied by email on May 6, 2008, stating that the Alpha facility cannot produce the requested fabric
Chen San-Chun Production Manager Alpha Textil, SA Zona Franca Industrial Mateare KM 15 ½ Carretera Nueva a Leon Managua, Nicaragua	4/04/08	None	5/01/08	None
Al Dinunzio, Sales Rep. Industrias Liztex 1359 Broadway New York, NY 10018 (for its facility located at Parques Del Lago, KM 30.5 Carretera Al Pacifico, Amatitlan, Guatemala City, Guatemala)	4/04/08	Letter returned, address incorrect, re-sent to a corrected NY address	5/15/08 to address in Guatemala	Response of July 17 that the mill could produce the fabric; however, it refused to supply the fabric if meant for Fishman & Tobin's two major customers for the subject garments.
Juan Carlos Cartenega Sales & Production Manager Textisure Monte Textile S.A. Kilometro 18 ½ Carretera Mayan Golf Villa Nueva, Guatemala, CA	4/04/08	None	5/01/08	None

It is evident from the results of Fishman & Tobin's inquiries outlined above that the subject fabric is not available from mills located in the CAFTA-DR region in the quantities required and within the given time frame. The two mills purporting to make the requested fabric were unable to satisfy Fishman & Tobin's production needs. Burlington Worldwide, after

initially indicating an interest in supplying this fabric, has since confirmed that the company cannot supply the fabric as specified. Industrias Liztex refuses to supply Fishman & Tobin because of its main customers.

#### **4. Substitutable Products**

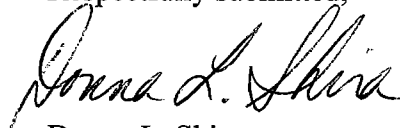
Fishman & Tobin has been unable to obtain any fabric produced in the CAFTA-DR region that would be an adequate substitute for the fabric which is the subject of this request. As stated above, this fabric is used to produce men's and boys' dress suits, jackets and pants, and is particularly suited for that purpose. Fishman & Tobin's customers require a certain quality, drapability, and hand that this fabric provides, and for which there is no substitute available from regional mills.

#### **5. Conclusion**

In view of the above, we hereby request a determination that the polyester pin dot dobby fabric is not available in commercial quantities in a timely manner from mills that produce fabric in the CAFTA-DR region. We therefore request that CITA add this fabric to the list of fabrics, yarns and fibers in Annex 3.25 of the Agreement and incorporated in Note 20(a) of Chapter 98, Subchapter XXII, HTSUS.

Should you require any additional information in order to approve this request, please do not hesitate to contact the undersigned.

Respectfully submitted,



Donna L. Shira

Cc: Barry Briskman

**Interested Entity's Due Diligence Certification:**

I, Barry Briskman, Vice President, Worldwide Sourcing, of Fishman & Tobin Inc., certify that:

1. I have read the attached submission.
2. The information contained in the submission is, to the best of my knowledge, complete and accurate.

Signed: \_\_\_\_\_

  
Barry Briskman

Date: 10/8/08

**Legal Counsel's Due Diligence Certification:**

I, Donna L. Shira, of Sharretts, Paley, Carter & Blauvelt, P.C., counsel to Fishman & Tobin Inc., certify that:

1. I have read the attached submission.
2. Based on the information provided to me by Barry Briskman, I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

Signed: \_\_\_\_\_

  
Donna L. Shira

Date: 10-08-08

**Business Confidential Information Deleted**

**ATTACHMENT**

**Public Version**

Confidential version contains copies of Fishman & Tobin's  
confidential request letters and confidential responses thereto,  
as described in the foregoing letter