EMBAJADA DE LA REPÚBLICA DOMINICANA
1715 22ND STREET N. W.
WASHINGTON, D. C. 20008

EDW-148-08

June 17, 2008

Mr. R. Matthew Priest, Chairman
Committee for the Implementation of Textile Agreements
U.S. Department of Commerce
Room H3001A
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

PUBLIC VERSION

Re: Petition Regarding the Commercial Availability of Certain Twill Fabrics (#16)

Dear Mr. Chairman:

On behalf of the Government of the Dominican Republic, we herewith submit this request for a finding of commercial non-availability pursuant to the provisions of Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement ("DR-CAFTA") Implementation Act and CITA Final Procedures for implementing Section 203(o)(4) contained in CITA's Federal Register notice of March 15, 2007, with respect to certain fabric which apparel manufacturers in the Dominican Republic wish to use in the manufacture of apparel. By means of this letter, we request that the subject fabric be added to Annex 3.25 of the Agreement.

Complete details of the fabric in question are listed in the attached Annex.

This fabric previously was the subject of a request for a finding of commercial non-availability on June 15, 2007. One company, Liztex – Textiles Amatitlan, S.A. (Liztex) submitted a Response in the matter claiming they were able to produce this fabric in commercial quantities in a timely manner. The request was ultimately denied with respect to this fabric.[1]

As noted below, and despite our extensive efforts during the past 17 months, Liztex has not provided a sample of the subject fabric. Instead, we have received ever-changing requirements for the production of samples and conflicting information as to the actual abilities

[1] Determination Under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement), 72 Fed. Reg. 46,445 (Comm. for the Implementation of Textile Agreements Aug. 20, 2007).

of these two companies. Given this exhaustive effort, it is clear to us that this fabric is not available in the DR-CAFTA region and certainly not available in commercial quantities and in a timely manner as required under CITA's Procedures.

For example, Liztex claimed that it produced 40,000 linear meters of the subject fabric during the 24 month period ending June 2007, yet it does not have any representative samples of the fabric on hand. It is normal business practice for a mill to maintain an inventory of the fabrics it has previously produced. However, Liztex refused to provide any such samples. In July 2007, Liztex stated that it normally provided samples to potential customers upon the presentation of a sample and the written specifications required[2]. When officials from Grupo M, an apparel company located in the Dominican Republic, provided physical samples and the specifications to Liztex in October 2007, Liztex claimed that it would not have the requisite sample looms installed until the beginning of 2008. Liztex further stated that it could provide counter samples, but Grupo M would have to purchase 1,000 yards. Finally, after the sample looms were installed earlier this year, Liztex demanded $100 for the production of a counter sample.

The requirement for the payment of production samples is highly irregular and is by no means a standard business practice. Grupo M has never been required to pay for samples from any other mill with which it purchases fabrics, whether for a new or existing supplier, including those located in the United States, Central America and Asia. Further ADOZONA, the Dominican Association of Free Trade Zones, polled its largest apparel exporting members to determine their normal business practices with respect to payment for samples. Virtually none has ever been requested to pay for the production of a fabric sample, whether for a new or existing supplier, other than the recent requests made by Liztex and Monte Textile, S.A. of Guatemala in connection with similar due diligence efforts.

## Due Diligence

U.S. Companies

The Government of the Dominican Republic held extensive consultations with representatives of the U.S. textile industry, including the National Coalition of Textile Organizations (NCTO), the American Manufacturing Trade Action Coalition (AMTAC), and the National Textile Association (NTA) with regard to this and other fabrics during the first quarter of 2007. The associations explicitly acknowledged that their members did not object to the inclusion of this fabric on Annex 3.25. Further, no U.S. companies objected to our previous commercial non-availability request dated June 15, 2007.

Central American Companies

The Government of the Dominican Republic also performed due diligence with respect to

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[2] CITA Report on CAFTA-DR Commercial Availability Request
23.2007.06.18.Fabric.GovernmentoftheDominicanRepublic – 29 Fabrics

all potential suppliers throughout the DR-CAFTA region. Other than Liztex, no company expressed an ability or interest in producing this fabric and none filed a Response to our previous commercial non-availability request dated June 15, 2007.

Following CITA's denial of our request for a finding of commercial non-availability for this fabric, we continued our due diligence efforts with respect to Liztex. Details of those communications are described below. Full product details, as set forth in the Annex, were provided.

**Liztex Guatemala**
Parques Del Lago
Km. 30.5
Carretera Al Pacifico
Amititlan
Guatemala City
Guatemala, C.A.
**Al Dinunzio aldinunzio@liztexnyc.com**
Phase I
4/27/07: Initial inquiry regarding ability to produce subject merchandise
4/27/07: Liztex advised it could make subject fabric.
5/25/07 Samples requested.
No communications were ever received from Liztex in response to this message.
6/20/07: Liztex submitted to CITA a Response with an Offer to Supply with respect to our previous commercial non-availability request dated June 15, 2007. As noted in our rebuttal comments dated July 9, 2007, the Response was woefully inadequate with respect to the informational elements that CITA specifically requires to be included in any Response. Specifically, Liztex did not include any information whatsoever with respect to its capabilities, particularly with respect to where its promotional materials and its website did not include any reference to its ability to make many of the fabrics included in the June 15 commercial non-availability request. Liztex stated that it had produced 40,000 linear meters3 of the subject fabric during the previous 24 months. Liztex did not provide CITA with a sample of the subject fabric.

7/31/07: CITA conducted a meeting of interested parties to the June 15 commercial availability request. During this meeting, Liztex exhibited a "variety of fabric samples that it said illustrated the range of its capabilities and its ability to manufacture the subject fabric(s)"4. However, a visual inspection of the fabric during the meeting indicated that the applicable sample did not meet the specifications required. Liztex acknowledged that it had never produced the subject fabric. Further, "Liztex explained that it did not provide samples of the subject fabric(s) because, in its normal business practice, potential customers usually provide a sample of the fabric to be produced along with the requisite specifications and required performance characteristics".5

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[3] Liztex's document does not provide a unit of measure for this data. It is presumed to be in linear meters.
[4] CITA Report on CAFTA-DR Commercial Availability Request
23.2007.06.18.Fabric.GovernmentoftheDominicanRepublic – 29 Fabrics
[5] Ibid

Phase II
10/12/07: Request regarding capability and pricing for fabric
10/15/07: Follow up
10/16/07: Liztex provided prices
10/29/07: Grupo M requested address for sending samples and expressed requirement that samples must be exact matches.
10/30/07: Liztex provided address and advised that it did not have the requisite equipment to make samples and would not have said equipment until the first of 2008. Company would have to make samples in 1,000 yard lots and would charge for the same.
10/30/07: Questioned need to pay for samples as this is not normal business practice. Samples sent to Liztex at the address provided.
10/31/07: Liztex reiterated that sample looms would be installed in "early 2008".
11/16/07: Liztex sent samples to Grupo M Offices in NYC.

Comment: Upon review, the sample failed to meet the required specifications, notably:

| SPECIFICATION | REQUIREMENT | LIZTEX SAMPLE |
|---|---|---|
| Yarn Number | 11/1 x 11/1 | 10/1 x 10/1 |
| Weight | 7.0 oz/sq yd | 6.5 oz/sq yd |

4/11/08: Follow up
4/11/08: Liztex advised that it would charge $100 for the preparation of a hand-loomed sample.
4/11/08: Grupo M advised that small size samples were not acceptable and that payment for samples was unusual.
4/11/08: Liztex advised that they would send samples if any were under production, that they would require a 500 yard minimum and suggested concentrating on only 2-3 fabrics at a time.

**Substitutable Products**

No fabrics which differ from the fiber content, yarn sizes, construction or any of the other physical parameters set forth in the Annex are substitutable for the subject fabric as they do not impart certain characteristics that are required, including, hand, drape, colorfastness, etc.

Thank you for your consideration of this request. If you have any questions or require further information, please contact my office. If you have any questions or comments regarding this submission, please contact Wellington Bencosme at (202) 332-6280 or wbencosme@us.serex.gov.do.

Sincerely,

Flavio D. Espinal
Ambassador

EMBAJADA DE LA REP. DOMINICANA
EN WASHINGTON, D.C.

**ANNEX**

| | |
|---|---|
| HTS | 5212.23.6060 |
| Fiber Content | 55% cotton/45% linen |
| Average Yarn Number (Metric) | 18/1 - 19/1 |
| | 18/1 - 19/1 |
| Average Yarn Number (English) | 11/1 |
| | 11/1 |
| Weave | Twill |
| Weight (Metric) | 231 – 243 gm/sq mtr |
| Weight (English) | 6.8 – 7.2 oz/sq yd |
| Width (Metric) | 141 – 148 cm |
| Width (English) | 56 – 58 inches |
| Finish | Piece dyed |
| Quantity | 23,775 linear meters |