

**Commercial Availability Request
Public Version**

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VIA EMAIL (OTEXA CAFTA@ita.doc.gov) AND FEDEX

Committee for the Implementation of Textile Agreements
Room H3100, U.S. Department of Commerce
14th and Constitution Ave., N.W.
Washington DC 20230

Attention: Mr. Josh Teitelbaum, Chairman

Re: Tang Textiles & Apparel
Commercial Availability Request-CAFTA-DR
(1) Warp Stretch Woven Rayon, Nylon, Spandex Fabric
(2) Warp Stretch Woven Rayon, Polyester, Nylon, Spandex Fabric
Our Reference: 12674-0660001

Dear Mr. Teitelbaum:

On behalf of our client, Tang Textiles & Apparel (“Tang Textiles”, located at 222 West 37th St. #10 New York NY 10018), and pursuant to Section 203 of the Dominican Republic-Central America- United States Free Trade Agreement (“CAFTA-DR”) Implementation Act (19 U.S.C. 4033(o)(4)) and the Committee for the Implementation of Textile Agreements’ (“CITA’s”) Modified Final Procedures for Considering Requests Under the Commercial Availability Provision of CAFTA-DR (73 Fed. Reg. 53200 (Sept. 15, 2008)), we request that certain warp stretch woven nylon/rayon/spandex fabric and warp stretch woven nylon/rayon/polyester spandex fabric be added to the CAFTA-DR Short Supply List at U.S. Note

20(a) to Chapter 98, Subchapter XXII, Harmonized Tariff Schedule of the United States (“HTSUS”), as it is not available in commercial quantities in a timely manner from a producer in the CAFTA-DR countries.

I. DETAILED PRODUCT INFORMATION

A. Warp Stretch Woven Rayon, Nylon, Spandex Fabric

The first fabric is certain warp stretch woven rayon/nylon/spandex fabric. The fabric specifications are as follows, some of which are expressed in ranges:

Fiber Content:	Rayon (67-80%), Nylon (15-35%), Spandex (2-6%)
Yarn Configuration:	Warp: nylon filament combined with spandex filament Filling: rayon staple
Yarn Denier:	Nylon and Spandex of various deniers.
Width:	Metric: 139 – 153 cm; English: 55-60 in
Weight:	220-315 grams per square meter
Thread Count (Density):	Metric: 30-74 ends per cm (Warp) X 27-38 picks per cm (Filling); English: 76-185 ends per inch (Warp) X 70-95 picks per inch (Filling)
Weave Type:	Various Weaves
Finish / Processing	Of yarns of different colors and/or piece-dyed and/or printed

The due diligence described below revealed that the fabric described above is not available in commercial quantities in a timely manner. Without seeking to further limit the above

description, we note that the fabrics meeting the above specifications are subject to classification under the following HTSUS subheadings:

- 5516.22.00
- 5516.23.00
- 5516.24.00

Tang Textiles will require a minimum of [*****] meters per month/ [*****] meters per year ([*****] yards per month / [*****] yards per year) of the above warp stretch woven rayon, nylon, spandex fabric for delivery to one or more specified factories in the CAFTA-DR territory, within [*****] to [*****] weeks from the date the order is placed.

B. Warp Stretch Woven Rayon, Polyester, Nylon, Spandex Fabric

The second fabric is certain warp stretch woven rayon/polyester/nylon/spandex fabric.

Fiber Content:	Rayon (30-70%), Polyester (20-52%), Nylon (9-35%), Spandex (2-6%)
Yarn Configuration:	Warp: nylon filament, polyester filament & spandex filament Filling: rayon staple combined with polyester filament
Yarn Denier:	Polyester, Nylon and Spandex of various deniers.
Width:	Metric: 139 – 153 cm English: 55-60 in
Weight:	220-315 grams per square meter
Thread Count (Density):	Metric: 30-48 ends per cm (Warp) X 27-40 picks per cm (Filling); English: 76-120 ends per inch (Warp) X 70-100 picks per inch (Filling)
Weave Type:	Various Weaves
Finish / Processing	Of yarns of different colors and/or piece-dyed and/or printed

The due diligence described below revealed that the fabric described above is not available in commercial quantities in a timely manner. Without seeking to further limit the above description, we note that the fabrics meeting the above specifications are subject to classification under the following HTSUS subheadings:

- 5407.10.00
- 5407.92.20
- 5407.93.20
- 5407.94.20
- 5516.22.00
- 5516.23.00
- 5516.24.00

Tang Textiles will require a minimum of [*****] meters per month/ [*****] meters per year ([*****] yards per month / [*****] yards per year) of the above warp stretch woven polyester, rayon, nylon, spandex fabric for delivery to one or more specified factories in the CAFTA-DR territory, within [*****] to [*****] weeks from the date the order is placed.

II. DUE DILIGENCE

Attached as **Exhibit A** are the signed Due Diligence Certifications required under the CITA Final Procedures. In performing the due diligence required by CITA's Modified Final Procedures, we identified possible CAFTA-DR suppliers for the subject fabric using four sources:

1. **Previous Petitions-** We reviewed the recent (2008-present) previously approved petitions that concerned similar fabric (MMF + spandex woven fabric). Only the #136 and #147 approvals concerned similar fabric. We used the supplier lists from these petitions as a starting point.
2. **Davidson's-** We then cross referenced the supplier list with the current Davidson's textile lists (including the list of new textile companies) and removed any companies that were not within the parameters of the subject fabric (MMF + spandex woven fabric). (e.g., we removed companies identified only as cotton fabric producers or knit fabric producers). We then added additional companies we identified that may produce fabric potentially within the scope of the subject fabric that were not on the previous supplier lists. These companies were identified by sorting the Davidson's list by the following:
 - **Location-** We only reviewed companies located in the U.S. or the DR-CAFTA countries;
 - **Description-** We reviewed companies that were described as MMF fabric, woven fabric, apparel fabric producers and eliminated companies that conducted processing (as opposed to fabric making) or produced knit, industrial, or other non-scope fabrics, yarns, and fibers;
 - **Category-** We reviewed companies that were mills, or related to MMF or woven fabrics;
 - **SIC Designation-** We eliminated some companies based on their SIC designation (i.e., industrial product producers, converters, jobbers, etc.);
 - **Type of Process-** Where available, we focused on the companies that perform weaving;
 - **Type of Product-** We focused on the companies that produce fabric rather than finished apparel or other products.
3. **Company Websites and Business Websites-** We then reviewed the US and CAFTA country producer company websites or business references to obtain more information concerning the types of fabric the companies produce. Where the website indicated that the company did not produce fabrics within the scope of our subject parameters, we excluded the company from the supplier contact list.
4. **OTEXA site-** We included all CAFTA trade associations and the relevant US trade associations listed on the OTEXA website.

On March 9, 2016, we sent communications via email to the companies and textile trade associations in the U.S. and the CAFTA-DR Countries identified using the sources described

above. On March 23, 2016, we sent follow up communications via email to the companies and textile trade associations that did not respond to our initial inquiries.

The request letter explained that Tang Textiles supplies fabric to companies that manufacture garments in CAFTA-DR countries and thus seeks to obtain fabric that could be used to produce CAFTA-DR qualifying apparel. The request letter included the same tables of detailed fabric specifications as appears in this letter, as well as information about required quantities. Additionally, the letter requested the supplier's proposed production timeline. Included as **Exhibit B** are copies of the original March 9, 2016 and follow-up March 23, 2016 emails sent to the trade associations and fabric producers. Included as **Exhibit B(1)** are the emails sent to the trade associations, including individual emails sent to other contacts where the initial email indicated that the original address was undeliverable, as well as any responses we received. The email correspondence with the U.S. producers is included in **Exhibit B(2)** and for DR-CAFTA producers in **Exhibit B(3)**. We request confidential treatment of all attachments.

Attached as **Exhibit C** are charts that list all the U.S. and CAFTA-DR producers and trade associations that were identified during our due diligence research and to which we sent request letters. **Exhibit C(1)** reflects the trade associations located in the CAFTA-DR region and the U.S., **Exhibit C(2)** reflects the U.S. producers, and **Exhibit C(3)** reflects the CAFTA-DR producers. Columns B through F list the associations and producers contact information. Column G reflects the initial correspondence date and responses on March 9, 2016 to the initial correspondence. Column H reflects additional responses and any subsequent contact, including subsequent attempts to contact suppliers when no response was received. Highlighted in red are

the suppliers that affirmed it could not produce the required fabric (as well as associations that indicated that the fabric is unavailable). Highlighted in yellow are the suppliers that we could not contact with the available information, despite requests for updated contact information from the relevant associations.

In response to the second round of due diligence, a single U.S. producer, Inman Mills, indicated that they could not weave filament only warp fabrics (such as those that are at issue in this petition), but inquired whether the fabrics are truly filament or covered yarns with a staple fiber sheath. Once Inman Mills expressed an interest, we initiated business to business communications between Tang Textiles and Inman Mills. A lab test issued to Tang Textiles for a fabric of similar construction and using comparable warp yarn to those herein confirmed that the warp yarn type is filament only. Specifically, the lab report included in **Exhibit B(2)**, confirmed that the warp yarn type for this fabric is “Spandex core covered with multi-filaments.” Upon request, Tang Textiles provided Inman Mills with the lab test and samples, and asked that Inman respond to various unanswered questions regarding the mix of weave and color ways, capacity, timelines, etc., that remained unaddressed. Without responding to the Tang Textiles inquires, Inman Mills closed the loop by simply responding that it had reviewed the samples provided and that it was unable to produce the fabric. As indicated, Inman did not address Tang Textile’s questions or its ability to meet the required specs nor made an offer to supply. The communications between Tang Textiles and Inman Mills are included in **Exhibit B(2)**.

In short, all of the parties contacted either affirmatively indicated an inability to produce the fabric or failed to respond to at least two attempted communications. Thus, as confirmed by

the due diligence described in the tables attached in **Exhibit C**, the requested fabric is unavailable from CAFTA-DR producers for the purposes of the short supply provision.

III. SUBSTITUTABLE PRODUCTS

As noted above, the specifications for the requested fabric are expressed in ranges, to give producers the most flexibility to provide fabric that would fulfill Tang Textiles requirements. Tang Textiles is unaware of any fabric outside the ranges of these specifications that is substitutable for the requested fabric. Tang Textiles customers, who manufacturer CAFTA-DR eligible apparel made from fabric of this type, expect that the fabric satisfy these specifications (both in terms of the ranges and finishing). Fabric not meeting the specifications outlined above would not permit Tang Textiles to meet the demands of its customers.

In our due diligence, a question arose from Inman Mills whether the warp yarn was filament only or had a filament core or dual filament core with a spun sheath. Although Inman Mills indicated that it could not produce the fabric required (nor did it address its ability to meet any of the fabric specs), we note that filament only warp fabric and filament core with a spun sheath fabric are completely different types of fabric (*i.e.*, they are not substitutable). Filament yarns are produced through the extrusion process. The filament is continuous from beginning to end. Core spun yarns, however, have a two component structure with core and sheath. Core-spinning is a process by which spun fibers are twisted around and cover an existing filament to produce a sheath-core structure in which the already formed yarn is the core.

Core spun yarns are thicker and, therefore, are better suited for more “rugged” end uses than filament yarns. As such, fabrics from these two different types of warp yarns are not substitutable because filament only warp fabrics have a softer, slicker hand feel and smoother garment drape than core spun fabrics. Furthermore, disadvantages of core spun fabrics include potential pilling as well as “core slippage”, *e.g.*, slippage of the filament core within the staple sheath (when being pulled to pass over or when being rubbed by machine parts during further mechanical processes or during other end uses).

In any event, no party has indicated its ability or interest in making a purportedly substitutable product.

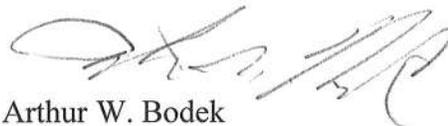
IV. CONCLUSION

Tang Textiles seeks to purchase the subject warp stretch woven nylon/rayon/spandex fabric and warp stretch woven rayon/polyester/nylon/spandex fabric for use in garment production in CAFTA-DR countries. The foregoing letter and the attached documentation confirm that the fabric Tang Textiles seeks is not available in commercial quantities from CAFTA-DR producers. We therefore respectfully request that CITA add this fabric to the CAFTA-DR Short Supply List.

We appreciate your kind consideration in this matter. Please contact Arthur W. Bodek or Angela M. Santos at (212) 557-4000 with any questions.

Sincerely,

GRUNFELD, DESIDERIO, LEBOWITZ,
SILVERMAN & KLESTADT LLP



Arthur W. Bodek



Angela M. Santos