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May 4, 2009

VIA ELECTRONIC MAIL

Ms. Janet Heinzen, Director
Office of Textiles and Apparel
Room 3100
United States Department of Commerce
14th. Street and Constitution Avenue, NW
Washington, DC 20230

Dear Ms. Heinzen:

I am responding on behalf of my client, Swift Galey, to a Federal Register request for comment regarding the wholly formed requirement for qualifying woven fabric under the Dominican Republic (DR) Earned Import allowance Program (DR 2 for 1). I would like to register my client's strong support for the Commerce Department's Interim Procedures for the Earned Import Allowance Program and its requirement that qualifying woven fabrics must be formed and finished only in the United States.

On Swift Galey's behalf, I offer the following comments in support of Commerce's position.

**FROM ITS FIRST FORMULATION, THE DR 2 FOR 1 PROGRAM
WAS BASED ON FABRIC FINISHING ONLY IN THE UNITED STATES**

I represented Swift Galey during the development, agreement and implementation stages of the DR 2 for 1 Program. The Program was the result of two concerns: the need to improve the competitiveness of DR garment makers and to provide new market opportunities to U.S. manufacturers of qualifying fabrics.

From my initial discussions in August 2007, through implementation by the U.S. Congress all parties, including some who now object to U.S.-only finishing, agreed that the program was to be based on delivering qualifying U.S. fabrics to garment makers in the DR ready for cutting and sewing into trousers. The Program would also permit DR garment makers to use some quantity of foreign fabric (ultimately set at 2 U.S. qualifying to 1 non-qualifying) in other shipments of trousers to the U.S and thereby reduce their average costs of production. During the entire effort I heard of no discussion about shipping U.S. greige fabric to another country for finishing and

qualifying under the Program and no one involved in the effort that I have asked has indicated they heard such a discussion.

My notes of meetings and discussions with DR garment makers, their consultants, U.S. importers and U.S. government officials, including then-U.S. Special Textile Negotiator Scott Quesenberry and then-Deputy Assistant Secretary of Commerce Matt Priest, also indicate that, while finishing was not specifically addressed, the understanding was that qualifying U.S. fabrics would be shipped directly to DR garment makers in a form ready to be cut and sewn; no discussion took place of finishing qualifying fabric anywhere other than the U.S.

SWIFT GALEY IS THE LARGEST U.S. SUPPLIER OF FINISHED TWILL FABRICS TO THE DR AND ITS SUPPORT FOR THE PROGRAM DEPENDED ON U.S.-ONLY WEAVING AND FINISHING

When the proposal first surfaced in 2007, Swift Galey was the largest supplier of finished woven cotton twill fabric to the casual trouser manufacturers in the DR garment industry. The DR was the dominant producer of men's casual cotton trousers in the CAFTA-DR region, but was under increasing pressure from Asian garment makers, mainly China, Bangladesh and Vietnam. During 2007, DR exports of these types of trousers dropped 20 percent and by the time the Program was enacted DR exports had been halved from the previous year's levels. This decline in exports has resulted in a sharp decline in U.S. exports of trouser fabrics and makes implementation of the Program with finishing only in the U.S. more important than ever.

Swift Galey's support of the Program was, and remains, crucially dependent on the requirement that the qualifying fabrics be woven and finished in the U.S. Swift Galey is the largest domestic finisher of such fabrics at its plant in Society Hill, SC and has ample capacity to increase its output under the 2 for 1 Program, as currently defined.

THE DR 2 FOR 1 PROGRAM IS IN REALITY A U.S. TRADE PREFERENCE PROGRAM AND LACKS RECIPROCITY ESSENTIAL FOR FREE TRADE AGREEMENTS

The key element of Free Trade Agreements is the principle of reciprocity and the DR 2 for 1 Program does not meet this test. It is a unilateral grant of preferential access by the U.S. to the permitting qualifying DR trouser exports to enter the U.S. at a zero duty rates. Arguments have been submitted to Commerce its decision to require U.S. finishing of qualifying fabrics is inconsistent with some U.S. Free Trade Agreements and even cite the value-added rule of origin in the U.S.-Israel Agreement as an example of the need to change the finishing rule. Such arguments miss the point because they ignore the fundamental element of the Program, namely, the DR 2 for 1 Program by its very structure cannot meet the test of reciprocity essential to free trade agreements and such agreements have no relevancy in establishing procedures for this Program. The U.S. gave the DR a benefit and asked for no reciprocity. It seems clear that the Commerce Department has the authority to define the Program's procedures as it sees fit based on trade preference programs, because the Program is, in fact a trade preference.

THE PROGRAM WAS NEGOTIATED IN CLOSE CONSULTATION WITH U.S. TEXTILE MANUFACTURERS AND ORGANIZATIONS TO ENSURE ADEQUATE CONGRESSIONAL SUPPORT

From the very first development of the proposal until final passage by Congress, the effort, led by Scott Quesenberry of USTR, was carried out in close consultation with all interested parties, and focused on obtaining and keeping the support of the U.S. textile industry. The program had to be limited in product coverage and duration to overcome some concerns but in the end; widespread support of textile manufacturers was achieved. The essential element of that support was the basic requirement that U.S. qualifying fabrics would be formed in the U.S. and shipped to the DR ready to be cut and sewn by DR garment makers, which means that the fabrics were finished in the U.S., as well.

Critics of the Commerce decision regarding finishing have indicated that finishing in the US-only was not specifically stated. In the intense discussions and negotiations that preceded enactment, there was no need to discuss finishing – all parties were satisfied that the fabric to be delivered to the DR as U.S. qualifying would be finished in the U.S. because it had to be ready for cut and sew by DR garment makers.

ENFORCEMENT IS DEPENDENT ON EFFECTIVE DOCUMENTATION AND WOULD BE DIFFICULT TO ACHIEVE IF THIRD COUNTRIES BECOME INVOLVED

The Commerce Department has primary responsibility for enforcement of the DR 2 for 1 Program and depends heavily on documentation for that enforcement. In addition to all of the above stated reasons that finishing should take place only in the U.S., it seems clear that effective enforcement would become more difficult if third countries were able to participate in the Program as finishers. The paper trail is simple and clear under the current procedures. An export declaration accompanies the shipment of qualifying fabrics directly to the DR. Apparel assembly takes place in the DR. The trousers are shipped directly to the U.S. Claims for Earned Import Allowances can be verified by comparing the export of U.S. qualifying fabrics to the claims for Allowances, adjusting for waste, etc.

Any procedure that introduces third countries into the mix will clearly reduce the ability of Commerce to follow the paper trail. Shipments of greige fabrics to other finishers will inevitably be mingled with non-qualifying fabrics and paperwork will become much more complicated, and less certain when audits are conducted.

THE DR 2 FOR 1 PROGRAM COULD HAVE BEEN ENACTED AS A STAND-ALONE PROGRAM, AS WAS CONTEMPLATED AT ONE TIME

Given the preferential nature of the 2 for 1 Program, it could have been enacted by the Congress as a stand-alone program. In fact, efforts were made to enact it as a stand-alone amendment to the 2008 Farm Bill and did not succeed only because the deadline set by the Farm Bill conferees

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expired before offsets could be found to “pay” for the Program’s impact in reducing duties collected by the U.S. On behalf of Swift Galey, I was personally involved in the effort to secure passage as a stand-alone part of the Farm Bill, as were representatives of other companies and organizations with interests in the Program, including those that are opposing the U.S. finishing requirement.

It seems clear that the connection between the program and the vehicle to which it was attached for enactment is one of legislative convenience and does not limit the ability of the Commerce Department to establish procedures to implement the Program as a trade preference which, in fact, it is.

THE DR 2 FOR 1 PROGRAM WAS IMPLEMENTED UNDER THE ANDEAN TRADE PREFERENCES ACT OF 2008 AND WAS AN AMENDMENT TO CAFTA-DR PRIMARILY TO FACILITATE PASSAGE

Enactment of the Program was achieved through an amendment to CAFTA-DR, but as discussed earlier, enactment could have been achieved as a stand-alone bill or as an amendment to any germane legislation. The ATPDEA was renewed in 2008 and became the vehicle for the Program. It is immaterial whether the program was enacted as an amendment to CAFTA-DR or not. Doing so facilitated passage, but at no time was any argument or Congressional intent expressed to treat the Program as anything other than a preferential program and at no time was it ever contemplated that finishing of the qualifying fabrics could take place outside the U.S.

IN CONCLUSION, THE COMMERCE DEPARTMENT SHOULD NOT CHANGE ITS PROCEDURES THAT REQUIRE QUALIFYING FABRICS TO BE FORMED AND FINISHED ONLY IN THE U.S.

The Commerce Department procedures requiring finishing only in the U.S. is well supported by a number of facts including: the history of initial development of the Program through enactment that qualifying U.S. fabrics were to be delivered directly to DR garment makers ready for cutting and sewing; Congressional intent exhibited by no reference to finishing in other countries; the preferential nature of the Program that has no direct connection to free trade agreements; the consistent views of the chief negotiator at USTR throughout the effort that U.S. qualifying fabrics were to be shipped directly to the DR ready to be cut and sewn; widespread support of the U.S. textile industry for U.S.-only finishing; and finally, significant enforcement problems are likely if third countries become involved.

Ms. Janet Heinzen

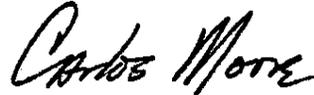
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On behalf of my client, Swift Galey, our recommendation to you is that, based on the abundant and compelling reasons discussed above, Commerce maintain its procedures without change and continue to require that all qualifying fabrics under the DR 2 for 1 Program must be formed and finished only in the U.S.

Please contact me if you should have questions.

Sincerely,

A handwritten signature in black ink that reads "Carlos Moore". The signature is written in a cursive style with a large, prominent initial "C".

Carlos Moore

CM:jct