

the instant case, the information on the record indicates that the fabric offered by HyT does not meet the specifications outlined in Intradeco's Request, differing in fiber content, appearance, shrinkage tolerance, and yarn construction. Further, HyT has not established why its proposed fabric, with its different specifications, is substitutable for the subject product. CITA therefore finds that HyT has not demonstrated its ability to supply the specified fabric or one substitutable. Therefore, in accordance with section 203(o) of the CAFTA-DR Implementation Act and CITA's procedures, as no interested entity has substantiated its ability to supply the subject product in commercial quantities in a timely manner, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated *website* for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton/Polyester Three Thread Circular Knit Fleece Fabric (Fabric #2)

HTSUS: 6001.21

Fiber Content: 67-73% cotton/27-33% polyester

Average Yarn Number:

Face Yarn: 100% combed cotton, 50/1 to 57/1 metric (30/1 to 34/1 English).

Tie Yarn: 100% filament polyester; 176 to 184/48 filament metric filament polyester (49 to 51/48 filament denier)

Fleece Yarn: 57-63% carded cotton/37-43% polyester; 15/1 to 20/1 metric (9/1 to 12/1 English).

Machine Gauge: 21

Weight: 271-310 grams per square meter (8.0 to 9.15 ounces per square yard)

Width: 152-183 centimeters (60 to 72 inches)

Finish: Piece dyed and/or printed

In addition, the technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. The height of the pile is a requirement of the finished fabric. During processing, including rolling of the fabric, the actual height of the fabric, including the napping, may be less.

Performance Criteria: Vertical and horizontal shrinkage must be less than 5%. Torque may not exceed 4% All fabrics must have a Class 1 flammability rating.

For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Kimberly Glas,

Chairman, Committee for the Implementation of Textile Agreements.

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

September 16, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

DATES: *Effective Date:* **September 21, 2009.**

SUMMARY: The Committee for the Implementation of Textile Agreements ("CITA") has determined that certain cotton/nylon/spandex raschel knit open work crepe fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ONLINE: <http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf> under "Approved Requests," Reference number:

130.2009.08.21.Fabric.ST&Rfor Hansae

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act ("CAFTA-DR Implementation Act"), Pub. Law 109-53; the Statement of Administrative Action accompanying the CAFTA-DR Implementation Act; and Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006); Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200 (September 15, 2008) ("CITA's procedures").

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in

commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also Section 203(o)(4)(C) of the CAFTA-DR Implementation Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. Pursuant to this authority, on September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR. See CITA's procedures.

On August 21, 2009, the Chairman of CITA received a Request for a Commercial Availability Determination ("Request") from Sandler, Travis & Rosenberg, P.A., on behalf of Hansae Co. Ltd., for certain cotton/nylon/spandex raschel knit open work crepe fabric, as specified below. On August 24, 2009, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply ("Response") must be submitted by September 4, 2009, and any Rebuttal Comments to a Response must be submitted by September 11, 2009, in accordance with Sections 6 and 7 of CITA's procedures. No interested entity submitted a Response to the Request advising CITA of an objection to the Request and an ability to supply the subject product.

In accordance with Section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

Therefore, the subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton/Nylon/Spandex Raschel Knit Open Work Crepe Fabric

HTSUS: 6005.22.00, 6005.24.00

Fabric type: Raschel knit, open work crepe fabric**Fiber content:** 59–63% cotton, 33–36% nylon, wrapped with 3–5% spandex**Yarn size:****Cotton:**

English: 57/2 to 63/2

Metric: 96/2 to 107/2

Nylon:

English: 38 to 42 denier/24 filament or 66 to 74 denier / 2

Metric: 38 to 62 denier/24 filament or 121.50 to 136.50 / 2

Spandex (wrapped around Nylon):

Spandex—English: 199.5 to 220.5 denier; Metric: 40.85 to 45.15;

Nylon—English: 66–74 denier/2; Metric: 121.50 to 136.5/2)

Machine gauge: 18**Number of bars:** 34**Weight:** 110 to 140 grams per sq. meter**Width:** 127 to 152 centimeters**Finishing Process:** Piece dyed or printed**Kimberly Glas,***Chairman, Committee for the Implementation of Textile Agreements.*

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR Agreement)**

September 16, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.**ACTION:** Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA–DR Agreement.**DATES:** *Effective Date:* **September 21, 2009.****SUMMARY:** The Committee for the Implementation of Textile Agreements (“CITA”) has determined that certain cotton/polyester three thread circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA–DR countries. The product will be added to the list in Annex 3.25 of the CAFTA–DR Agreement in unrestricted quantities.**FOR FURTHER INFORMATION CONTACT:** Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3651.**FOR FURTHER INFORMATION ON-LINE:** <http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf>, under “Approved Requests,” reference number:

127.2009.08.07.Fabric.ST&Rfor Intradeco.

SUPPLEMENTARY INFORMATION:**Authority:** The CAFTA–DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (“CAFTA–DR Implementation Act”), Pub. Law 109–53; the Statement of Administrative Action (SAA), accompanying the CAFTA–DR Implementation Act; and Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006); Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200 (September 15, 2008).**BACKGROUND**

The CAFTA–DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA–DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA–DR Agreement provides that this list may be modified pursuant to Article 3.25(4)–(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA–DR Agreement; see also Section 203(o)(4)(C) of the CAFTA–DR Implementation Act.

The CAFTA–DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA–DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA–DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200) (“procedures”).

On August 7, 2009, the Chairman of CITA received a request for a commercial availability determination (“Request”) from Sandler, Travis & Rosenberg, P.A. on behalf of Intradeco Apparel, Inc. (“Intradeco”), for certain cotton/polyester three thread circular

knit fleece fabrics. On August 11, 2009, in accordance with CITA’s procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA–DR Commercial Availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply (“Response”) must be submitted by August 21, 2009, and any Rebuttal Comments to a Response (“Rebuttal”) must be submitted by August 27, 2009. On August 24, 2009, CITA announced that, in accordance with Section 6(a) and 7(a) of its procedures, it found sufficient good cause to extend the deadlines for Responses to August 24, 2009, and deadlines for Rebuttals to August 28, 2009. On August 24, 2009, Hylos y Telas s.a. (“HyT”) submitted a Response to the Request. On August 28, 2009, Interdeco submitted a Rebuttal to the Response.

In its Request, Intradeco stated that it had conducted due diligence to source the fabric from CAFTA–DR suppliers, including HyT. Intradeco reported that it had engaged in a dialogue with HyT over the course of several weeks, during which time it requested information about HyT’s capacity and asked that HyT confirm its interest in supplying the subject fabric. The requestor asserted that HyT did not provide detailed information about its production capability and capacity to produce the subject fabric. As a result, Intradeco claimed that HyT did not demonstrate that it is able supply the fabric in question in commercial quantities in a timely manner.

In the Response submitted by HyT, the supplier stated that it had been in contact with Intradeco in the course of its due diligence efforts, and had offered to supply the subject fabric. In the Confidential version of its Response, HyT provided information regarding its production capabilities, including quantities of past production of other fabrics, and an inventory of its manufacturing equipment. HyT also stated that it had developed a new fabric in response to Intradeco’s inquiries, and had sent a sample to Intradeco on August 8, 2009. With the sample, HyT also sent a lab report reflecting the specifications of the fabric, known as a “specification sheet.” HyT asserted that it had provided Intradeco with the same specification sheet it included as an attachment in the Confidential version of its Response. In its Response, HyT stated that, while there were some variations in the specifications of the fabric it had developed and the required specifications of the subject fabric, “such differences (were) not an obstacle