

SANDLER, TRAVIS & ROSENBERG, P. A.

DONNA L. BADE*
ROBERT J. BECERRA*
PEGGY LOUIE CHAPLIN
DAVID E. COHEN
CHARLES L. CROWLEY*
LENNY FELDMAN
SHANNON E. FURA*
GERALD B. HORN
ZHAOKANG JIANG
EDWARD M. JOFFE*
ERIK D. JOHANSEN*
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KRISTEN S. SMITH
DEBORAH B. STERN*
MICHELLE L. STOPKA*
THOMAS G. TRAVIS*
THOMAS V. VAKERICS
KENNETH WOLF*
NANCY J. WOLLIN*

RONALD W. GERDES (1947-2005)

* NOT ADMITTED IN DISTRICT OF COLUMBIA

ATTORNEYS AT LAW
1300 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004-3002
(202) 216-9307
FAX (202) 842-2247
E-MAIL ADDRESS: info@strtrade.com
WEBSITE: www.strtrade.com

NICOLE BIVENS COLLINSON
MARK HANEY
JO BRONSON HARRIS
WILLIAM H. HOUSTON
SHAWN MCCAUSLAND
JENNIFER A. MULVENY
W. CHAD NESBIT
CATHERINE NG
LAUREN V. PEREZ
DZUNG PHAM
RHODA A. SALUS
DENNIS J. WAKEMAN
ADRIAN A. WILLIAMS
TRADE ADVISORS

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MYLES J. AMBROSE
P. TRISTAN BOURGOIGNIE*
DOUGLAS M. BROWNING
STEPHEN L. BUCKLIN*
T. RANDOLPH FERGUSON*
C. MICHAEL HATHAWAY
LEON I. JACOBSON*
JOHN C. KINGERY
TODD G. KOCOUREK*
CINDY R. KORENBERG*
LEE MERMELSTEIN*
MATTHEW K. NAKACHI*
MELISSA MILLER PROCTOR*
L. JANÁ SIGARS*
OF COUNSEL

received
8/20/09

SANDLER & TRAVIS
TRADE ADVISORY SERVICES
DETROIT • OTTAWA • SÃO PAULO
CONSULTING SERVICES

Chairman
Committee for the Implementation of Textile Agreements
U.S. Department of Commerce
Room 3001
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

Re: Request for Public Comments on Commercial Availability Request Under the U.S.-Bahrain Free Trade Agreement

Dear Chairman:

On behalf of our client, WestPoint Home, Inc., we hereby submit comments in response to the Committee for the Implementation of Textile Agreements' (CITA) request for public comments concerning the commercial availability of certain compacted ring spun cotton yarns under the U.S.-Bahrain Free Trade Agreement published in the *Federal Register* on July 21, 2009. WestPoint Home respectfully requests that CITA recommend that the President revise the rules of origin for certain bedding, curtains, bed covers and pillow cases to address the commercial non-availability of certain compacted ring spun cotton yarns in the territories of the U.S. and Bahrain.

We seek this designation because: (1) there are no producers of fine gauge compact ring spun yarn in the U.S. or Bahrain; (2) the United States has already found that similar compact ring spun cotton yarns are not commercially available in the U.S. under other preference programs; and (3) the unique characteristics of compact ring spun yarn render other yarns non-substitutable.

I. No US/Bahrain Producers Of Fine Gauge Compact Ring Spun Cotton Yarns

As noted, by the Government of Bahrain in its Petition, there are no producers of fine gauge compact ring spun cotton yarns in Bahrain.¹ There are, likewise, no producers of fine gauge compact ring spun cotton yarn in the United States.² While there are two known spinners of fine gauge ring spun yarn in the U.S., neither of these companies produce, nor do they have the capacity to produce, compact ring spun yarns in any gauge.³

II. U.S. Determined Compact Ring Spun Yarn Not Commercially Available

The United States has previously determined that compact ring spun yarn is not commercially available in the United States. In connection with a commercial availability request regarding compact ring spun yarn, CITA and the ITC determined that it was not commercially available in the U.S. Nothing has changed since these determinations were issued, which would question their applicability or relevance to the current determination. Thus, CITA, we submit, must continue to find that compact ring spun yarns are not available in commercial quantities.

In 2005, CITA, at the request of an interested party, determined that certain compacted, plied,⁴ ring spun yarn were not commercially available in the U.S. under the Caribbean Basin

¹ Letter from Dr. Hassan A. Fakhro, Minister of Industry and Commerce, Kingdom of Bahrain to Ambassador Kirk, United States Trade Representative dated April 1, 2009 (“Petition”); US-Bahrain Market for Fine Gauge Compact Ring Spun Cotton yarns & Characteristics of Fine Gauge Compact Ring Spun Cotton Yarns, Government of Bahrain (July 7, 2009) (“Additional Information”).

² *Id.*

³ Buhler Cotton Yarns currently produces fine gauge cotton yarns as fine as 60’s (English) and 110’s (English) for niche orders and could produce 100’s (English) in significant quantities, but is not currently doing so. R L Stowe Mills, Inc. currently produces 60’s (English) yarns and may be able to produce 70’s, but is not certain, but it does not have the capability to produce yarns finer than 70’s (English). However, these yarns are not compact ring spun yarns, the compact process is required for the products being produced. We reiterate that neither Buhler Cotton Yarns nor R L Stowe Miss, Inc. currently produces or has the capacity to produce compact ring spun yarns in any gauge in the United States.

⁴ We note that while the prior requests concerned plied yarns and the subject yarn is single, it does not change the commercial availability of the yarn as they are substantially similar in construction. The only difference is that plied

Trade Partnership Act (CBTPA) and the Andean Trade promotion and Drug Eradication Act (ATPDEA). CITA concluded that “[b]ased on the information and advice received . . . the [compact ring spun] yarns set forth in the request cannot be supplied by the domestic industry in commercial quantities in a timely manner.”⁵

On January 10, 2006, CITA received a petition from The National Council of Textile Organizations (NCTO) requesting that CITA revoke its previous designation that compact ring spun yarn is not available in commercial quantities.⁶ CITA received comments from 14 interested parties and met directly with these interested parties. CITA also sought advice from the International Trade Commission and the Senate Finance Committee. As a result of its deliberate and thorough review, CITA maintained that compact ring spun yarn is not commercially available in the U.S. Specifically, CITA stated in its determination that it “carefully reviewed the request, the comments, advice received, and met with interested parties . . . and [b]ased on our review of the information provided . . . and our knowledge of the industry, CITA finds that the subject yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner.”⁷ This decision was affirmation that its prior determination that compact ring spun yarns are not commercially available in the U.S. was correct.

Furthermore, the United States International Trade Commission (ITC), at the request of the United States Trade Representative, conducted an investigation on the effect of granting the above commercial availability request for compact ring spun yarn. In its report, the ITC found that “there is currently no known U.S. production of the subject yarns, and U.S. production capacity for the yarns is reportedly very limited.”⁸

contains more than one compact ring spun yarn plied together. If you cannot make multiple or plied yarns of compact ring spun yarn, you cannot make the required single yarn either.

⁵ Designations Under the Textile and Apparel Commercial Availability Provision of the United States-Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA), 70 Fed. Reg. 58190, 58191 (Oct. 5, 2005) (“Original Designation”).

⁶ See Denial of Request to Revoke Commercial Availability Designation Under the United States-Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA), 71 Fed. Reg. 13586, 13587 (March 16, 2006) (“Denial to Revoke Original Designation”).

⁷ *Id.* at 13587.

⁸ Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin and Andean Countries, United States International Trade Commission, Inv.

There is nothing to suggest that conditions have changed since CITA's original determination. No new production of U.S.-made compact yarns or capacity for production of compact yarns has been added that would render either of CITA's decisions or the ITC's findings no longer applicable. We, therefore, respectfully request that CITA find, as it has in the past, that compact ring spun yarns are not available in commercial quantities in the U.S.

III. Compact Ring Spun Yarn's Unique Characteristics Makes Other Yarns Inappropriate Substitutes

The characteristics of compact ring spun yarn are unique and cannot be replicated or substituted by other products. In each of the commercial availability proceedings regarding compact ring spun yarn, it has been alleged that other yarns may substitute for the compact ring spun yarns, however both CITA and the International Trade Commission rejected these arguments and CITA should do so again, if these arguments are again offered.

The ITC specifically addressed the substitutability arguments by stating that “[w]hile some U.S. yarn spinners indicate that alternative yarns made by domestic firms can be used to produce fabric that is largely indistinguishable from fabrics made with compacted yarns, input from other industry and academic sources suggest that some of the alternative yarns are not commonly produced in the United States and that compacted yarns possess different physical and chemical properties that result in a different look, feel, and performance in the finished fabric.”⁹ The ITC concluded that “[g]iven the unique properties of the subject yarns, there appears to be no U.S. production of yarns that could be considered directly substitutable for the subject [compact ring spun] yarns.”¹⁰

In addition, CITA, in its denial of NCTO's request to revoke its finding of commercial non-availability for compact ring spun yarn, found “that the petitioner has not substantiated its

No. 332-465-008 at 008-1 (June 30, 2005). The ITC further noted that there is only one known domestic yarn producer that currently owns a compact ring spinning frame. *Id.* at 008-3

⁹ *Id.* at 008-5

¹⁰ *Id.*

claim that ring spun yarns currently produced by the domestic industry are substitutable for the subject compact plied yarns.”¹¹

Furthermore, commercial observations, laboratory testing and academic research has conclusively demonstrated that compact ring spun yarns cannot be substituted with non-compacted ring spun yarn. The process used to produce compact ring spun yarn is an enhancement of conventional ring spinning. The ITC notes that with compact ring spinning “air suction and compaction is used to condense the fibers, causing them to lay closer together and parallel with each other” producing a “smooth, tight yarn that has less air between the fibers[,] . . . reduces undesirable yarn hairiness, and increases strength and evenness.”¹² These unique characteristics impart to the fabrics made from compact ring spun yarns “a smooth look and feel, increased pilling resistance, and added luster.”¹³

By comparison, the ITC noted that “in the conventional ring-spinning process, a weak zone known as the ‘spinning triangle’ is formed . . .”¹⁴ Within the spinning triangle, “outlying fibers may not be fully integrated into the yarn, resulting in protruding fibers or yarn hairiness.”¹⁵ In compact spinning process this ‘spinning triangle’ is nearly eliminated.¹⁶ Among other things, yarn that is less hairy translates into lower weaving stops and therefore higher efficiency.

We also draw attention to the July 7, 2009 submission by the Government of Bahrain, which demonstrates through laboratory testing the differences between compact ring spun yarn and non compact ring spun yarn.¹⁷ In particular, we note that the number of thick places are dramatically higher in the non compact yarn, which is of particular importance considering that

¹¹ *Denial to Revoke Original Designation* at 13587.

¹² ITC report at 008-02.

¹³ ITC report at 008-02.

¹⁴ ITC report at n.6.

¹⁵ ITC report n.6

¹⁶ *Id.*

¹⁷ *See* Additional Information at 2-4. Test results compared 80 (English) Pima cotton non-compact ring spun yarn with 80 (English) Pima cotton compact ring spun yarn on Uster equipment. Tests were performed at WestPoint Home labs. We have corrected typographical errors, which appeared in the figures reported for the IPI and hairiness of the compact yarn.

the compact yarns are used to produce high thread count bedding, pillowcases and curtains. For example, the Neps +200%, which measures the number of tick places above +200% of mean yarn diameter having less than 0.4cm in 1000 meters for the compact yarn is over 440% greater than that of the compact yarn.¹⁸ Finally, we note that the non-compact yarn is 132% hairier than the compact yarn.

Characteristic	Description	Non-Compact Yarn	Compact Yarn	% Difference
Thin -50%	Number of thin places below -50% of mean yarn diameter measured in 1000 meters	24.50	28.4	-14%
Thick +50%	The number of thick places above +50% of mean yarn diameter measured in 1000 meters	62.00	35.6	174%
Neps +200%	The number thick places above +200% of mean yarn diameter having length less than 0.4cm in 1000 meters	154.3	35.6	433%
IPI	The total sum of Thin-50%, Thick +50% and Neps +200%, called IPI or Imperfections	240.8	99.6	242%
Hairiness	Number of protruding fibers (hairs) of above 1mm length from mean yarn diameter in 1cm of yarn length	3.24	2.45	132%

A greater number of thick (and thin) places on the yarn results in a greater number of imperfections. High occurrences of imperfections translate into lower weaving efficiency and undesirable fabric appearance. Thus, laboratory testing further indicates that non-compact yarns are not substitutable for compact yarns as they differ widely in thickness and hairiness rendering them unusable for high thread count applications.

Finally, the considerable literature on compact yarns makes clear that these yarns have unique characteristics that render them a higher quality yarn with attributes that satisfy specific customer demands. For example, Cotton Incorporated, the research and marketing arm of the

¹⁸ We also note that the Thick +50%, which measures the number of thick places above +50% for the compact yarn is over 174% greater than that of the compact yarn.

cotton industry examined the enhanced properties of bedding fabrics made of compact yarns in an article posted on its website. The article quotes several home furnishing companies, including the Vice-President of Merchandise for Divatex as stating that “compact yarns are stronger yarns and sheets have a softer hand and color remains bright was after wash.”¹⁹ Another publication published by the International Textile Center at Texas Tech University describes compact yarns as providing “higher strength, reduced hairiness and improved evenness.”²⁰

In conclusion, ITC and CITA administrative findings, laboratory tests as well as academic and industry research all conclusively conclude that there are no substitutable products for compact ring spun yarns. We, therefore respectfully request that CITA reaffirm this finding, if necessary.

IV. Granting Preferential Treatment to Subject Yarns Will Benefit U.S Firms, Workers and Customers

The proposed preferential treatment would likely benefit U.S. firms weaving the specific fabrics from the subject yarns, because it will provide U.S. fabric mills with an opportunity to reclaim a portion of the textile business. As there is no known U.S. production of pillowcases, sheets made from the subject yarn there will be no adverse impact on domestic producers. The proposed preferential treatment will likely benefit U.S. consumers of the specified products produced from compact ring spun yarn as imports may pass some of the duty savings to its retail customers.

¹⁹ Cotton Incorporated, *Dream Weaving Goes High Tech*, available at: <http://www.cottoninc.com/lsmarticles/?articleID=411> (last viewed Aug. 14, 2009).

²⁰ International Textile Center, Texas Tech University, *Compact Spinning, New Potential for Short Staple Cottons*, Textile Topics, Volume 2002-2, Spring 2002.

CITA Chairman
August 20, 2009
Page 8

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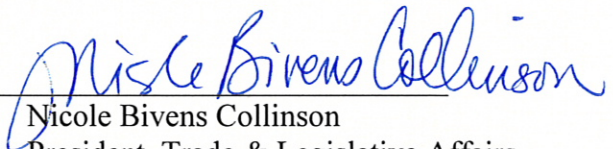
V. Conclusion

Based on the foregoing, we respectfully request that CITA again find that compact ring spun yarn is not available in commercial quantities in the U.S.

Thank you for your consideration of this request. If you have any questions or require further information, please contact the undersigned at your convenience.

Respectfully submitted,

SANDLER, TRAVIS & ROSENBERG, P.A.

By: 
Nicole Bivens Collinson
President, Trade & Legislative Affairs