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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”)

**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

**EFFECTIVE DATE:** *[INSERT DATE OF PUBLICATION]*

**SUMMARY:** The Committee for the Implementation of Textile Agreements (“CITA”) has determined that certain two-ply polyester yarn, 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:** Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

**FOR FURTHER INFORMATION ON-LINE:** <http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf> under “Approved Requests,” Reference number: 202.2016.06.01.Yarn.ST&RforPolartec.

### **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; and Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

### **Background:**

Annex 3.25 of the CAFTA-DR Agreement contains a list of 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. Articles 3.25.4 and 3.25.5 of the CAFTA-DR Agreement provide that this list may be modified if 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. Section 203(o)(4) of the CAFTA-DR Implementation Act authorizes the President to make determinations regarding commercial availability of fabrics, yarns and fibers in the CAFTA-DR countries and to proclaim modifications to the list in Annex 3.25.

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 (*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) (“CITA’s procedures”).

On June 1, 2016, the Chairman of CITA received a Request for a Commercial Availability Determination (“Request”) from Sandler, Travis & Rosenberg, P.A. on behalf of Polartec LLC. (“Polartec”) for a certain two-ply polyester yarn, as specified below.

On June 3, 2016, in accordance with CITA’s procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for DR-CAFTA Commercial Availability

proceedings. In its notification, CITA advised that any Response with an Offer to Supply (“Response”) to the Request must be submitted by June 15, 2016, and any rebuttal comments to a Response (“Rebuttal”) must be submitted by June 21, 2016.

On June 15, 2016, the Chairman received two Responses: one from CS Central America S.A. de C.V (“CSCA”), and one from Unifi Manufacturing, Inc (“Unifi”). On June 24, 2016, Unifi withdrew its Response. On June 28, 2016, Polartec submitted its Rebuttal.

In accordance with Section 203(o)(4) of the DR-CAFTA Implementation Act, Article 3.25 of the DR-CAFTA, and section 8(c)(4) of CITA’s procedures, because there was insufficient information to make a determination within 30 U.S. business days, CITA extended the deadline to make its determinations by 14 U.S. business days, and called for a public meeting on July 8, 2016, to collect additional information from representatives of Polartec and CSCA and provide the interested entities with an opportunity to submit additional evidence to support their claims regarding the capability of CSCA to supply the subject yarn. At CITA’s request, additional information was submitted by CSCA for the record on July 12 and July 13, 2016.

Section 8 of CITA’s procedures provide that after receiving a Request, a determination will be made as to whether the subject product is available in commercial quantities in a timely manner in the CAFTA-DR countries. In the instant case, CSCA provided several samples to Polartec, which both CSCA and Polartec had tested to determine if the samples met the required specifications. Because the test results provided for the record were inconclusive, CITA looked to other information in the record to determine whether CSCA had demonstrated it had the capability of supplying the subject product as specified.

Section 6(b)(3)(iv) of CITA’s procedures state that “regardless of whether a sample is provided, a respondent must demonstrate its ability to produce the subject product by providing sufficient relevant information regarding their production capability.” The record clearly indicates that, while CSCA provided some information regarding their current production and development

timeline, CSCA had not provided any information regarding its production process, specifically with respect to: (1) how its experience with its current yarn production imparted the necessary expertise to make yarns with the specified physical properties and performance characteristics; or (2) what kind of modifications CSCA would have to make to its current yarn production processes to produce the subject yarn. CITA finds that, given the differences between the yarns CSCA currently produces and the specifications of the subject yarn, this information was necessary to adequately demonstrate CSCA's capability to supply the subject yarn, which requires significantly different physical properties and performance characteristics. CSCA had several opportunities to present CITA with the information required under its procedures, but failed to do so in the course of due diligence, in its Response, or in the public meeting. Therefore, because CSCA did not provide sufficient relevant information regarding its production capability as required under CITA's procedures, CSCA did not demonstrate its capability to produce the subject yarn in commercial quantities in a timely manner.

Therefore, in accordance with section 203(o) of the CAFTA-DR Implementation Act, and Section 8 of 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 Two-Ply Polyester yarn**

**HTSUS:** 5402.33.60

**Fiber Content:** 100% Polyester (60-66% Cationic, 34-40% Disperse)

**Number of Plies:** 2

**Yarn Size:** 122 Metric (73.8 denier/82decitex) to 103 Metric (87 denier/97 decitex)

**Filaments:** 144 total

**Yarn Properties:**

False Twist Textured – Mechanical process by which POY material(s) are heated, drawn, twisted/untwisted, and heat set in order to add bulk and comfort characteristics.

3.12 to 3.45 Break Force/Tenacity (CN) (ISO 2062)

30.68 to 33.92% Elongation (ISO 2062)

7.5 to 8.5% Crimp contraction (ASTM D4031)

8.0 to 8.8% Shrinkage (ASTM D2259)

154 to 170 Interlace per meter (manual count in 10 cm section – extrapolated to 1 m)

2.5 to 2.7% Oil pick up (ASTM D2257)

NOTE: The yarn size designations describe a range of yarn specifications for yarn before knitting, dyeing and finishing of the fabric. They are intended as specifications to be followed by the mill in sourcing yarn used to produce fabric. Dyeing, finishing, and knitting can alter the characteristics of the yarn as it appears in the finished fabric. This specification therefore includes yarns appearing in the finished fabric as finer or coarser than the designated yarn sizes provided that the variation occurs after processing of the greige yarn and production of the fabric. The specifications for the yarn apply to the yarn itself prior to cutting, sewing and finishing of a finished garment. Such processing may alter the measurements.

Janet E. Heinzen,  
*Acting Chairman, Committee for the Implementation of Textile Agreements*

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