

CITA Report on the Short Supply Petition of Itochu International, Inc.

Short Supply Request

On November 20, 2001, the Committee for the Implementation of Textile Agreements (CITA) received a petition from Itochu International, Inc., on behalf of Symphony Fabrics and Unifi, Inc., alleging that cuprammonium rayon filament yarn, classified in subheading 5403.39 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled from such yarn be eligible for preferential treatment under the United States - Caribbean Basin Trade Partnership Act (CBTPA) and the African Growth and Opportunity Act (AGOA). On November 26, 2001, CITA published a Federal Register notice requesting public comments on the petition.

Public Comments

Four comments were received during the public comment period.

Eastman Chemical Company (Eastman): Eastman opposes the petition. Eastman is a major producer of cellulose acetate yarn. This part of their business has shrunk considerably due to substitution of other fibers, such as nylon and polyester, for the same end-uses. According to Eastman, in some end-uses, cuprammonium rayon filament and acetate filament yarns are interchangeable, including lining fabrics used in tailored men's wear. Eastman acknowledges that no U.S. production exists of cuprammonium rayon but claims that cellulose acetate yarns are substitutable for cuprammonium rayon filament yarns for purposes of the intended use. Cellulose acetate yarns are currently supplied by two domestic producers (Eastman and Celanese) in commercial quantities and in a timely manner. Eastman believes that granting the petition will bring harm to the domestic cellulose acetate yarn industry by reducing the domestic demand for cellulose acetate yarns.

Celanese: Celanese opposes the petition. Celanese produces cellulose acetate products. Celanese claims that rayon and acetate are substitutable in major end-uses. Celanese does not dispute that rayon filament yarn is no longer produced in the United States nor does it claim that rayon and acetate are substitutable in all potential applications. Cellulose acetate fiber is being supplied by two domestic suppliers in commercial quantities and in a timely manner.

Duro Industries, Inc. (Duro): Duro supports the petition. Duro is one of the largest privately held textile dyeing and finishing facilities in the United States. Dyeing and finishing of fabrics woven with the cuprammonium rayon yarn for apparel usage is a major portion of its business and critical to its survival. Duro ships substantial amounts of this fabric to NAFTA partners and wants to expand its business to CBTPA and AGOA countries.

Balson Hercules (a Division of Duro Industries, Inc.): Balson Hercules supports the petition. Balson Hercules is an amalgamation of several converters. It is the largest supplier of U.S.

woven linings for the Menswear Trade. The exclusion of cuprammonium rayon filament yarn from the CBTPA and AGOA has significantly reduced the company's sales of these linings and it urges that this product be included.

Advice and Consultations

On December 12, 2001, CITA and the U.S. Trade Representative (USTR) requested the advice of the Industry Sector Advisory Committee (ISAC) for Wholesaling and Retailing and the ISAC for Textiles and Apparel. Neither committee submitted advice regarding the petition.

On December 13, 2001, CITA and USTR offered to hold consultations with the Senate Finance Committee and the House Ways and Means Committee. Neither Committee has requested consultations on this petition.

USTR received the advice of the U.S. International Trade Commission (ITC) on the probable economic effects on the domestic industry of granting the petition. The ITC concluded that granting duty-free and quota-free treatment to apparel made in eligible countries from cuprammonium rayon filament yarn would likely have a negligible adverse effect on U.S. producers of yarns that are made from other artificial fibers, e.g. acetate.

Analysis

Domestic Availability

It is acknowledged by all parties that cuprammonium rayon filament yarn is not produced in the United States. None of the comments received indicates that the domestic industry has the manufacturing capability to supply this yarn. This is consistent with the information obtained during our investigation last year regarding the availability of viscose rayon filament yarn. Thus, we conclude that cuprammonium rayon filament yarn is not currently being produced in commercial quantities in a timely manner and that the U.S. industry does not have the capability to produce it.

Substitutable Products

As set forth in CITA's Procedures in Considering Requests Under the Textile and Apparel Short Supply Provisions (66 FR 13502), CITA also considers whether other products that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the subject product for purposes of the intended use. The question, therefore, is whether cellulose acetate yarn is substitutable for cuprammonium rayon filament yarn, as claimed by Celanese and Eastman.

Viscose Rayon Filament Yarn Petition

Last year, CITA considered a very similar question, that is, whether cellulose acetate yarn is substitutable for viscose rayon filament yarn. ICF Industries had submitted a petition to CITA requesting short supply treatment for viscose rayon filament yarn, classified in HTSUS subheadings 5403.31 and 5403.32. Public comment was received from Celanese, Eastman, the American Textile Manufacturers Institute (ATMI), and ICF Industries. In that case, public comments received indicated that there was no domestic production of viscose rayon filament yarn and no domestic capability to produce this yarn, so CITA focused on whether acetate filament yarn was substitutable for viscose rayon filament yarn. All the comments addressed only whether rayon filament yarn generally was substitutable for acetate filament yarn, and did not distinguish among types of rayon filament yarn.

In its comments, ATMI claimed that acetate filament yarn is not an acceptable substitute for rayon. In contrast, Celanese and Eastman argued that acetate filament yarns are directly interchangeable with rayon filament yarn in many instances and for many end-uses. In its petition and comments, ICF emphasized the many physical differences between rayon and acetate, and ICF provided samples of a variety of fabrics containing rayon filament yarn. CITA also examined samples of fabric made using acetate filament yarn. As a result, CITA representatives were able to observe the unique qualities rayon imparts to fabrics such as the specific hand, sheen, comfort, reaction to dye and color retention. ICF provided numerous scientific and technical differences between the rayon filament yarn and acetate filament yarn, such as chemical makeup, anti-static properties, fiber strength, moisture retention and stretch capacity. These differences are significant to dyeing, finishing and processing as well as to wearing comfort and style. The ITC reported that granting the petition would likely benefit U.S. producers of fabrics made from rayon filament yarn and was expected to have little adverse effect on any U.S. producers of similar yarns that may compete with rayon filament yarn.

Based on the information provided and its knowledge of the industry, CITA concluded that cellulose acetate filament yarn was not substitutable for rayon filament yarn. CITA provided its report to Congress on July 19, 2001. Prior to extending short supply treatment to viscose rayon filament yarn pursuant to its determination that this yarn was not available in commercial quantities in a timely manner, CITA again consulted with industry and end-users, and concluded that it was appropriate to extend short supply treatment.

Cuprammonium Rayon Filament Yarn

The instant petition seeks to obtain short supply treatment for cuprammonium rayon filament yarn, classified in HTSUS subheading 5403.39. As the comments and analysis in the viscose rayon filament yarn petition process considered rayon filament yarn generally, at issue is whether cuprammonium rayon is distinguishable from rayon made using the viscose process for purposes of a short supply determination.

Fairchild's Dictionary of Textiles describes rayon as a generic fiber category defined by the Federal Trade Commission as a manufactured fiber composed of regenerated cellulose. Viscose and cuprammonium rayon are two types of the generic rayon category. Viscose rayon is the type of rayon that is produced in the greatest quantity and diversity. During the early days of the rayon industry, it was possible to spin finer denier filaments by the cuprammonium method than by the viscose system, although in recent years this distinction has ceased to exist.

Industry experts have informed CITA representatives that cuprammonium rayon is a type of rayon product that has the same essential characteristics as viscose rayon, but is of a finer grade rayon than viscose rayon. Moreover, the information regarding the scientific and technical differences between rayon and acetate provided in the previous petition process, information which was instrumental in CITA's conclusion that viscose rayon filament yarn and acetate filament yarn are not substitutable, appears equally applicable here. Thus, it appears that cellulose acetate yarn is not substitutable for cuprammonium rayon filament yarn.

The comments received from Celanese and Eastman do not provide any information to rebut this conclusion. First, their comments make no attempt to distinguish cuprammonium rayon from viscose rayon, despite their familiarity with CITA's decision on viscose rayon filament yarn. This fact, combined with the fact that the companies failed to distinguish between the two products in their comments on the previous petition, strongly indicates that the companies believe that the two types of rayon should be treated in the same manner for purposes of the short supply process. Moreover, Celanese and Eastman did not provide any additional information to support their claim that rayon and acetate are substitutable.

Based on the information provided and our knowledge of the industry, we conclude that acetate filament yarn is not substitutable for cuprammonium rayon filament yarn.

Conclusion

CITA has determined that cuprammonium rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. After the expiration of 60 days, CITA will consider whether it is appropriate to extend short supply treatment to apparel articles from cuprammonium rayon filament yarn.