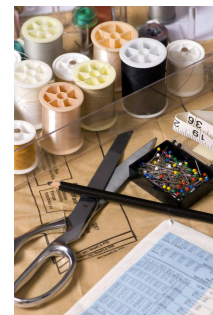

❖ SPC&B Textile Report ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

August 4, 2011

- I. National Textile Association Submits, Then Withdraws, Safeguard Petition on Upholstery Fabrics From China***
- II. CPSC May Target Ultrasheer Garments as Safety Hazard***
- III. Least Developed Country Trade Preference Program Legislation Introduced in Senate***
- IV. Textile Enforcement Bill Reintroduced in House***



I. Last week, the National Textile Association (NTA) filed a petition with the U.S. International Trade Commission (ITC) for a Section 421 safeguard action against alleged unfairly priced Chinese imports of upholstery fabrics. Because the NTA withdrew the petition the same day it was filed, asserting that it was just a “draft” and not meant to be filed as an actual petition, complete details are not available. Nevertheless, media reports indicate that the petition sought relief in the form of a 125% duty on chenille upholstery fabric and 75% duty on all other upholstery fabrics. Reportedly, the petition claimed that a surge in imports of Chinese textiles has caused material injury to the domestic upholstery fabric industry, in the form of plant closures and significant job losses.

If the petition had been officially filed, it would have been the first attempt to use a Section 421 safeguard trade remedy against a textile product from China. Ever since the Obama Administration’s imposition of additional duties on tires from China pursuant to such an action, there has been speculation as to whether domestic textile interests would attempt to obtain similar remedies for textile products. In a press release issued after the petition was withdrawn, the NTA stated that the upholstery fabric council remains interested in pursuing a trade remedy, probably under Section 421, if it determines that a case can be brought.

II. Staff members at the Consumer Product Safety Commission (CPSC) have advised that the fashion trend of using ultra-sheer fabrics made of silk or rayon is causing concerns about their compliance with the Flammable Fabrics Act (FFA). Very sheer, lightweight fabrics made with these fibers tend to be more flammable than heavier fabrics and may not pass the FFA’s flammability test. Recently, 100% silk scarves, as well as dresses, skirts and blouses, have been recalled for failing the flammability standard. Companies producing or selling ultra-sheer garments should ensure that they have the appropriate testing programs in place to avoid facing similar recalls.

III. Senator Dianne Feinstein (D-CA) introduced legislation that would open up the U.S. market to textile and apparel goods imported from the 13 least-developed countries that are not currently beneficiaries under any U.S. trade preference program: Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Laos, Maldives,

75 Broad Street
New York, New York 10004
Phone: 212-425-0055
Fax: 212-425-1797
212-742-2180

SHARRETTS, PALEY, CARTER & BLAUVELT, P.C.

www.spcblaw.com

Email: customs@sharretts-paley.com

1660 L Street, N.W.
Washington, D.C. 20036
Phone: 202-223-4433
Fax: 202-659-3904

Nepal, Samoa, Solomon Islands, East Timor, Tuvalu and Vanuatu. The Asia-South Pacific Trade Preferences Act would authorize the President to grant duty-free and quota-free benefits for garments and other products similar to those afforded to beneficiary countries under the Africa Growth and Opportunity Act (AGOA).

IV. Representative Larry Kissell (D-NC) and 15 other co-sponsors, reintroduced the Textile Enforcement and Security Act (“TESA”), which had been introduced in both houses of Congress last year, but did not move forward. The legislation is intended to address the perceived surge in illegal trafficking in the DR-CAFTA region. The bill has many components, including: funding of investigations and providing rewards for information regarding unlawfully imported textile and apparel goods; seizure authority for textile and apparel goods wrongfully claimed as eligible for trade preference programs; creation of an electronic verification program to track yarn and fabric inputs in free trade agreements; hiring of additional Import Specialists trained to handle textiles; providing Customs with expanded authority to seize goods imported from trade preference areas; increasing bond requirements; and establishing a nonresident importer program requiring, among other things, identification/registration of a registered agent in the state of the port in which goods are entered.

Importers have been seeing increased enforcement efforts by Customs in the past year, and if this bill is passed, can expect even more. As a result, any importer making a claim for a duty preference must have policies and procedures in place to confirm the accuracy and completeness of the following:

1. Certificate of origin
2. Origin of the yarns and fabrics used in production of the finished product
3. Evidence of cutting and sewing in the form of production records; and
4. Conformity of fabrics with short supply designations.

Reliance on manufacturers’ representations is not sufficient; the importer should independently verify the accuracy of all information.

For information on textile and apparel trade enforcement and how you can protect your company from increased duties and/or penalties, please contact Gail Cumins at gcumins@spcblaw.com, Alli Baron at abaron@spcblaw.com, or Donna Shira at dshira@spcblaw.com respectively, or call (212) 425-0055.