

United States International Trade Commission

**Certain Textile Articles Containing
Rayon and Other Manmade Fibers:
Effect of Modifications of NAFTA
Rules of Origin for Goods of Canada
and Mexico**

(Inv. No. NAFTA-103-023)

and

**Certain Textile Articles Containing
Acrylic and Modacrylic Fibers:
Effect of Modifications of NAFTA
Rules of Origin for Goods of Canada
(Inv. No. NAFTA-103-024)**

Investigation Nos. NAFTA-103-023 and NAFTA-103-024

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Certain Textile Articles Containing Rayon and Other Manmade Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico

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Investigation Nos. NAFTA-103-023 and NAFTA-103-024



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Executive Summary

This report contains the Commission's advice to the President in two investigations, inv. nos. NAFTA-103-023 and NAFTA-103-024, relating to proposed modifications to the rules of origin for certain textile articles in the North American Free Trade Agreement (NAFTA), as requested by the United States Trade Representative (USTR). The advice and supporting analysis concern the probable effect of the proposed modifications on U.S. trade under NAFTA, total U.S. trade, and domestic producers of the affected articles. The advice and analysis for the respective investigations is set forth in two parts.

Part I of the report contains the Commission's advice and supporting analysis for inv. no. NAFTA-103-023, *Certain Textile Articles Containing Rayon and Other Manmade Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico*, relating to the proposed modifications to the rules of origin for two groups of textile articles: (1) rayon filament tow and certain rayon staple fibers, and (2) textile flock, dust, and mill neps. The proposed changes would apply to imports from and exports to all NAFTA parties. Table 1 provides a summary of advice regarding the probable effect of modifications to NAFTA rules of origin for the United States, Canada, and Mexico for the subject textile articles.

Part II of the report contains the Commission's advice and supporting analysis for inv. no. NAFTA-103-024, *Certain Textile Articles Containing Acrylic and Modacrylic Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada*, relating to proposed modifications to NAFTA rules of origin for a third group of textile articles containing acrylic and modacrylic staple fibers. The textile articles subject to this investigation include (1) yarns and thread, (2) woven warp pile fabrics, and (3) knit warp pile fabrics. The proposed changes would apply to trade between the United States and Canada only. Table 2 provides a summary of advice regarding the probable effect of modifications to NAFTA rules of origin for the United States and Canada for the subject textile articles.

Commission staff relied on U.S. government production and trade data and contacted domestic firms and U.S. importers to collect the information needed to develop the probable effect advice. Commission staff relied on these sources to ascertain whether domestic production of certain rayon, acrylic, or modacrylic fiber exists. Staff learned that there is no domestic production of the subject rayon fibers. Staff also learned that there is production of acrylic or modacrylic fibers only for specialized, industrial use in the United States, and no such production for intended use in yarns or fabrics.

TABLE 1 Summary of advice concerning modifications to NAFTA rules of origin for certain textile articles of the United States, Canada, and Mexico (inv. no. NAFTA-103-023)

Product Information	Nature of modification	Probable effect advice
<p><u>Product name:</u> Certain yarns, fabrics, and other textile articles containing certain rayon fibers.</p> <p><u>Description:</u> Spun and filament yarns, knit and woven fabrics, nonwoven fabrics, sanitary towels, feminine hygiene products, consumer and industrial wipes, consumer and industrial flocking, and other textile products made of certain rayon fibers. These rayon fibers are manmade cellulosic-based fibers and include rayon filament tow, and rayon staple fibers, whether or not carded or combed. Lyocell, another manmade cellulosic-based fiber, is specifically excluded from the proposed rule changes.</p> <p><u>HTS chapters and subheadings:</u> Chapters 52, 54, 55, 56, and 60; certain rayon fibers classified in 5502.00.00, 5504.10.00, and 5507.00.00</p> <p><u>End use:</u> Yarns and fabrics for apparel and home furnishings; nonwoven textile articles for consumer and industrial applications.</p>	<p>The current NAFTA rules specify that certain yarns, fabrics, and other textile articles must be made in the United States, Canada, and Mexico from rayon fibers formed inside an FTA party to be considered originating and thus qualify for NAFTA preferences.</p> <p>The proposed rule change is liberalizing because it would allow certain yarns, fabrics, and other textile articles made from rayon fibers formed outside an FTA party to be considered originating goods for NAFTA purposes.</p>	<p>Change in U.S. total trade: Change in U.S. trade under NAFTA: Imports: Negligible increase Imports: Small increase Exports: Negligible increase Exports: Small increase</p> <p>Effect on U.S. producers: Beneficial effect</p> <p>The proposed rule change could result in a negligible increase in total U.S. imports and exports of certain rayon textile articles and a small increase in imports and exports of such textile articles between the United States and NAFTA partners. Because the rule change will eliminate the duty on these articles, it could have a beneficial effect on U.S. producers because it is likely to make them more cost competitive in the North American market.</p> <p>The proposed rule change would have no effect on U.S. imports and exports of the subject rayon fibers under NAFTA, but may result in a small increase in total U.S. imports of such fibers. Rayon fibers are not produced in NAFTA countries so any increase would come from non-NAFTA suppliers. Because there is no U.S. production of such rayon fibers, there would be no effect on U.S. fiber producers.</p>

TABLE 1 Summary of advice concerning modifications to NAFTA rules of origin for certain textile articles of the United States, Canada, and Mexico (inv. no. NAFTA-103-023)—*continued*

Product Information	Nature of modification	Probable effect advice
<p><u>Product name:</u> Textile flock, dust, and mill neps of acrylic or modacrylic fibers.</p> <p><u>Description:</u> Short fiber fragments, not exceeding 5 millimeters in length (flock); ground textile fibers in powder-like form (dust); and entangled knots of fibers that will not straighten (mill neps).</p> <p><u>HTS subheading:</u> 5601.30.00</p> <p><u>End use:</u> Industrial and ornamental applications (flock); cosmetics and fiber blends for yarn spinning (dust); and specialty yarns (neps).</p>	<p>The current NAFTA rules specify that the flock, dust, and mill neps must be made in the United States, Canada, or Mexico from acrylic or modacrylic tow formed inside an FTA party to be considered originating and thus qualify for NAFTA preferences.</p> <p>The proposed rule change is liberalizing because it would allow textile flock, dust, and mill neps made from tow formed outside an FTA party to be considered originating goods for NAFTA purposes.</p>	<p>Change in U.S. total trade: Change in U.S. trade under NAFTA: Imports: None Imports: None Exports: Negligible increase Exports: Small increase</p> <p>Change in U.S. production: Potential beneficial effect</p> <p>The proposed rule change would have no effect on U.S. imports of textile flock, dust, and mill neps under NAFTA and no effect on total U.S. imports, as the current rate of duty for the subject products is free. The proposed rule change could result in a small increase in U.S. exports of textile flock under NAFTA and therefore could result in a negligible increase in total U.S. exports. To the extent that exports of flock increase, there would likely be a beneficial effect on U.S. producers of flock.</p> <p>The proposed rule change relative to non-originating acrylic and modacrylic tow would likely have no effect on U.S. fiber producers, because there appears to be no significant domestic production of acrylic or modacrylic tow. To the extent that U.S. exports of flock increase, there could be a small increase in U.S. imports of acrylic or modacrylic tow.</p>

TABLE 2 Summary of advice concerning modifications to NAFTA rules of origin for certain textile articles of the United States and Canada (inv. no. NAFTA-103-024)

Product Information	Nature of modification	Probable effect advice
<p>Product name: Yarns and thread containing acrylic and modacrylic fibers.</p> <p>Description: Spun yarns and thread containing acrylic or modacrylic staple fibers. Yarns may have different physical characteristics, depending on the intended end use. For example, craft yarns intended for knitting may be bulky in appearance.</p> <p>HTS headings: 5508-5511</p> <p>End use: Made for retail sale for the craft market (e.g., for hand-knitting), as well as for use in downstream production of woven and knit fabrics.</p>	<p>The current NAFTA rules specify that these types of yarns and thread must be made in the United States, Canada, or Mexico from acrylic or modacrylic staple fibers formed inside an FTA party to be considered originating and thus qualify for NAFTA preferences.</p> <p>The proposed rule change is liberalizing because it would allow yarns and thread made from acrylic or modacrylic staple fibers formed outside an FTA party to be considered originating goods for NAFTA purposes.</p>	<p>Change in U.S. total trade: Change in U.S. trade under NAFTA: Imports: Negligible increase Imports: Small increase Exports: None Exports: None</p> <p>Effect on U.S. producers: Potential adverse effect</p> <p>The proposed changes to the rules could result in a small increase in U.S. imports from Canada, resulting in a negligible increase in total U.S. imports. Any increase in acrylic yarn imports from Canada could result in an adverse effect on U.S. yarn producers, particularly producers of craft yarns sold at retail, which accounts for most U.S. acrylic yarn imports from Canada. Because any increase in U.S. acrylic yarn imports from Canada would likely be concentrated in yarns intended for retail sale, it is unlikely there would be an effect on U.S. producers of downstream products, such as knit and woven fabrics. The proposed changes likely would not result in any change to U.S. exports of the subject yarns to Canada or the world.</p> <p>The proposed changes to the rules would likely result in no change in U.S. imports of acrylic staple fibers from NAFTA partners or the world and no effect on the U.S. fiber producers.</p>
<p>Product name: Woven warp pile fabrics, cut, containing acrylic and modacrylic fibers.</p> <p>Description: Woven pile fabrics (velvet) containing acrylic or modacrylic staple fibers.</p> <p>HTS subheading: 5801.35.00</p> <p>End use: Upholstery, draperies, and apparel.</p>	<p>The current NAFTA rules specify that these types of fabrics must be made in the United States, Canada, or Mexico from acrylic or modacrylic staple fibers formed inside an FTA party to be considered originating and thus qualify for NAFTA preferences.</p> <p>The proposed rule change is liberalizing because it would allow the certain woven warp pile fabrics made from acrylic or modacrylic staple fibers formed outside an FTA party to be considered originating goods for NAFTA purposes.</p>	<p>Change in U.S. total trade: Change in U.S. trade under NAFTA: Imports: None Imports: None Exports: Negligible increase Exports: Small increase</p> <p>Effect on U.S. producers: Potential beneficial effect</p> <p>The proposed rule change could result in a small increase in U.S. exports to Canada, which would result in a negligible increase in total U.S. exports. Any increase in U.S. exports would likely benefit the domestic industry. The proposed rule change is not expected to affect the level of U.S. imports of the subject fabrics from Canada or the world, since there are no known producers of the subject fabrics in Canada.</p> <p>The proposed rule change would likely result in no change in imports of acrylic staple fibers from NAFTA partners, and a small increase in the level of total U.S. imports of such fibers. There are no known U.S. producers of acrylic staple fibers intended for use in fabrics, and thus, there would be no effect on the U.S. fiber producers.</p>

TABLE 2 Summary of advice concerning modifications to NAFTA rules of origin for certain textile articles of the United States and Canada (inv. no. NAFTA-103-024)—*continued*

Product Information	Nature of modification	Probable effect advice
<p><u>Product name:</u> Knit warp pile fabrics containing acrylic and modacrylic fibers.</p> <p><u>Description:</u> Knit long pile fabrics (such as fake fur) containing acrylic or modacrylic staple fibers.</p> <p><u>HTS subheading:</u> 6001.10.20</p> <p><u>End use:</u> Paint rollers, industrial items, stuffed toys, pet products, equestrian products, apparel, and medical goods.</p>	<p>The current NAFTA rules specify that these types of fabrics must be made from acrylic or modacrylic staple fibers made in the United States, Canada, or Mexico to be considered originating and thus qualify for NAFTA preferences.</p> <p>The proposed rule change is liberalizing because it would allow the subject fabric to be made from acrylic and modacrylic staple fibers formed outside an FTA party, of yarns formed to be considered originating goods for NAFTA purposes.</p>	<p>Change in U.S. total trade: Change in U.S. trade under NAFTA: Imports: None Imports: None Exports: Negligible increase Exports: Small increase</p> <p>Effect on U.S. producers: Potential beneficial effect</p> <p>The proposed rule change could result in a small increase in U.S. exports to Canada, which could result in a negligible increase in total U.S. exports. Any increase in U.S. exports likely would benefit the domestic industry. The proposed rule change is not expected to affect the level of U.S. imports of the subject fabrics from Canada or the world, since there are no known producers of the subject fabrics in Canada.</p> <p>The proposed rule change would likely result in no change in imports of acrylic staple fibers from NAFTA partners, and a small increase in the level of total U.S. imports of such fibers. There are no known U.S. producers of acrylic staple fibers intended for use in fabrics, and thus, there would be no effect on the U.S. fiber producers.</p>

Glossary and Product Flow Diagram

Acetate fiber—A type of artificial manmade fiber made from cellulose acetate, whereby not less than 92 percent of the hydroxyl groups in the fiber are acetylated. Acetate is made from deconstructed wood pulp that has been purified into fluffy white cellulose. After several chemical changes, cellulose acetate is formed. At this stage, it is dissolved in acetone, becoming a viscous resin that is extruded through a spinneret (manufacturing equipment resembling a shower head). As the resulting fine filaments emerge, the solvent is evaporated in warm air in a process known as dry spinning. The end product is cellulose acetate filament fiber.

Acrylic filament fiber—A manufactured fiber composed of at least 85 percent by weight of acrylonitrile units. The fibers are produced using either dry or wet spinning methods.

Acrylic staple fiber—Staple fibers are made by either cutting acrylic filament fibers to a uniform length, which is done on the same production line as the filament fiber production, or by grouping the acrylic filament fibers into tow, which is then stretched to break the fibers into varying lengths.

Artificial manmade fiber—A type of manmade fiber created through technological means from chemicals and natural materials, such as cellulose (wood pulp). Rayon, acetate, and lyocell are subsets or types of artificial manmade fibers. The characteristics of each of these fibers differ according to the different types of cellulose and chemicals used in their respective production processes. In the body of this report, “manmade cellulosic-based fiber” will be used in place of the term “artificial manmade fiber.”

Carding—Carding includes opening, cleaning, and aligning the staple fibers, and then forming them into a continuous, untwisted strand, known as a sliver. When carded fibers are spun into yarns, they are known as carded yarns.

Combing—Combing is an extra step that takes place after carding in which existing short fibers are removed and the remaining fibers are further aligned. The combing process produces a stronger, more compact, finer, and smoother yarn than carding. When carded fibers are further processed by combing and spun into yarns, they are known as combed yarns.

Decitex—One tenth of a tex, which is a unit for expressing linear density. A tex is equal to the weight in grams of 1 kilometer of yarn, filament, fiber, or any other textile strand.

Dry spinning—One of several methods of manufacturing a manmade fiber filament. The material is dissolved in a solvent and extruded through a spinneret; the solvent is then evaporated, resulting in the formation of long, continuous filaments. Acetate filament is made using the dry spinning process.

Dust—Ground textile fibers in a powder form.

Filament fiber—Fiber that is continuous and may be of an indefinite length.

Flock—Fibers that have been either cut or ground to short fragments not exceeding 5 millimeters in length. There are two main types of flock, namely, precision cut flock, where all fiber lengths are approximately equal; and random cut flock, where the fibers are of varied lengths.

Knit fabric—A fabric made by interloping one or more ends of yarn.

Knit long pile fabric—Sometimes referred to as sliver knitting, in which sliver is drawn in by the needles to create a pile effect in the fabric.

Lyocell—A type of artificial manmade fiber with the brand name Tencel™. According to the Federal Trade Commission (FTC), lyocell is made from cellulose and is manufactured using an organic solvent spinning process. In this case, “organic solvent” means that the process involves a mixture of organic chemicals and water and that no substitution of the hydroxyl groups takes place. “Solvent spinning” means that the mixture is dissolved and spun without forming any chemical intermediates. The production of lyocell is an environmentally clean manufacturing process that produces stronger fibers, yarns, and fabrics than rayon, especially when wet.

Modacrylic fiber—Manufactured fiber composed of less than 85 percent but at least 35 percent by weight of acrylonitrile units. The fiber is produced using either the dry or wet spinning method.

Neps—Small knots of entangled fibers removed by wire teeth during the carding process that will not straighten to a parallel position.

Rayon fiber—A type of artificial manmade fiber made from pure cellulose that is usually extracted from wood pulp (also known as regenerated cellulose). According to the FTC, in the case of rayon, “the substituents have replaced not more than 15 percent of the hydrogens of the hydroxyl groups.” In the most common rayon production process, the regenerated cellulose undergoes several transformations in the presence of several chemicals. Ultimately, a soluble viscose solution is extruded through a spinneret to form soft continuous strands of fibers or filaments that then pass through a sulfuric acid bath (this step in known as wet spinning). This method of manufacturing rayon is generally environmentally polluting, releasing toxic gases into the environment.

Sliver—A loose rope of untwisted fibers.

Spun yarn—Yarn made from staple fibers (as opposed to filament fibers).

Top—A continuous untwisted strand of straightened manmade fiber staple fibers made directly from tow.

Tow—A strand of continuous filaments or fibers without definite twist, collected in a loose, rope-like form. Tow is a common intermediate form that most manufactured fiber reaches before it is further processed, for example, into staple fiber or flock.

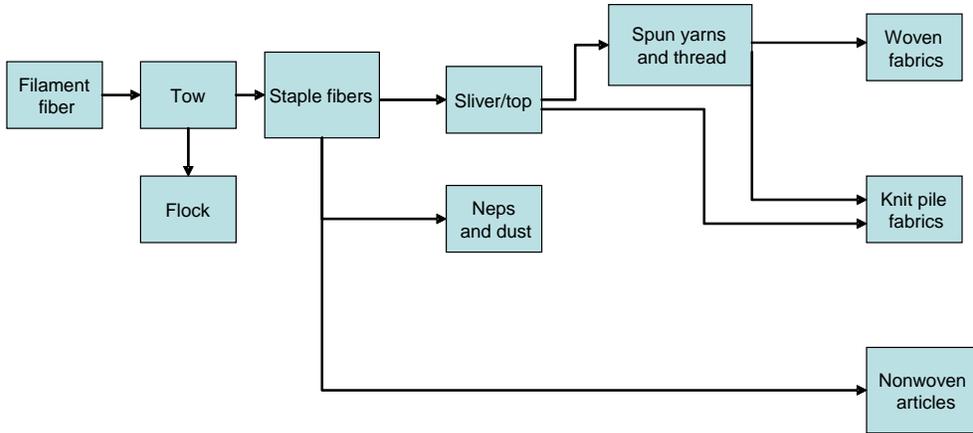
Wet spinning—One of several methods of manufacturing a manmade fiber filament. A fiber-forming solution is extruded through a spinneret into a liquid coagulating bath to form filaments. The filaments are then drawn, dried, and processed. Rayon filament is made using the wet spinning process.

Woven fabric—Fabric composed of two sets of yarns, warp yarns that run the length of the fabric, and filling yarns that run across the warp. The two sets of yarns are interlaced with each other at right angles to form woven fabric.

Woven warp pile fabric—A woven fabric in which an additional set of warp yarns appears on the surface and is cut to form pile.

Sources: Celanese Corporation, *Man-Made Fiber and Textile Dictionary*, 1974; Hoechst Celanese, *Dictionary of Fiber & Textile Technology*, 1990; Collier and Tortora, *Understanding Textiles*, 1997; Dan River, Inc., *A Dictionary of Textile Terms*, 1980; *TextileGlossary.com*, “Open End Spinning Explained,” n.d. (accessed April 1, 2009); Marjory L. Joseph, *Introductory Textile Science*, 1972; U.S. Federal Trade Commission (FTC), *Rules and Regulations Under the Textile Fiber Products Identification Act*, 16 CFT Part 303; and industry sources.

Figure G-1 Product flow diagram for textile articles subject to these investigations



Note: This figure represents a product flow for articles affected by the proposed rule changes in these investigations.

Introduction

This report provides advice in two investigations, inv. nos. NAFTA-103-023 and NAFTA 103-024,¹ on the probable effects of proposed modifications to rules of origin under the North American Free Trade Agreement (NAFTA) for certain textile articles. The Commission instituted the investigations following receipt of a request from the United States Trade Representative (USTR),² to provide advice on the probable effects of the proposed modifications on U.S. trade under NAFTA, total U.S. trade, and domestic producers of the affected articles.³ In his letter, the USTR noted that U.S. negotiators have reached agreement in principle with representatives of the governments of Canada and Mexico concerning proposed modifications to NAFTA rules of origin for two groups of textile articles (the subject of inv. no. NAFTA-103-023) and with the government of Canada only concerning proposed modifications to the NAFTA rules of origin for a third group of textile articles (the subject of inv. no. NAFTA-103-024).

According to the letter, the proposed changes for the first two groups of textile articles result from determinations that North American producers are not able to produce certain rayon fibers in commercial quantities in a timely manner, and are not able to produce certain manmade fibers used in the production of textile flock in commercial quantities in a timely manner. The proposed changes for the third group of textile articles result from determinations that U.S. and Canadian producers are not able to produce certain acrylic fibers in commercial quantities in a timely manner.

The Commission did not hold a public hearing in connection with these investigations but invited written submissions from the public. The data and analysis presented herein draw on these submissions, as well as information collected by the Commission from publicly available sources and telephone interviews with industry representatives.

The Commission's report is divided into two parts. Part I contains the advice and related information for the two groups of textile articles covered by inv. no. NAFTA-103-023, for which there is agreement on the proposed rules of origin changes with both Canada and Mexico: (1) certain rayon fibers⁴ (covering yarn, fabric, and other textile articles of chapters 52, 54, 55, 56, and 60 of the Harmonized Tariff Schedule of the United States (HTS)); and (2) textile flock, dust, and mill neps of acrylic or modacrylic fibers (HTS subheading 5601.30). Part I also contains the views of interested parties concerning inv. no. NAFTA-103-023. Part II contains the advice and related information for the third group of textile articles covered by inv. no. NAFTA-103-024, for which there is agreement only with Canada: (1) yarns and thread containing acrylic or modacrylic fiber (HTS headings 5508-5511), (2) woven warp pile fabrics, cut, containing acrylic or

¹ Inv. nos. NAFTA-103-023, *Certain Textile Articles Containing Rayon and Other Manmade Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico*, and NAFTA-103-024, *Certain Textile Articles Containing Acrylic and Modacrylic Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada*.

² See the USTR request letter in app. A.

³ Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) (19 U.S.C. 3332(q)) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act (19 U.S.C. 3313), to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission.

⁴ The proposed modification for a change in the rules of origin for the certain rayon fibers specifically excludes lyocell, which is also a manmade, cellulosic-based fiber.

modacrylic staple fibers (HTS subheading 5801.35), and (3) knit long pile fabrics containing acrylic or modacrylic staple fibers (HTS subheading 6001.10). Part II also contains the views of interested parties concerning inv. no. NAFTA-103-024. Appendix A contains the request letter from the USTR and the attachment containing the specific product descriptions. Appendices B and C contain the Commission's notices of institution of investigation and request for public comments for inv. nos. NAFTA-103-023 and NAFTA-103-024, respectively. Appendix D contains the current rules of origin for the textile articles that are subject to these investigations.

**PART I: CERTAIN TEXTILE ARTICLES
CONTAINING RAYON AND OTHER
MANMADE FIBERS: EFFECT OF
MODIFICATIONS OF NAFTA RULES OF
ORIGIN FOR GOODS OF CANADA AND
MEXICO (INV. NO. NAFTA-103-023)**

CHAPTER 1

Certain Textile Articles Containing Rayon Fibers, Other Than Lyocell

Summary of Advice

The Commission's analysis indicates that the proposed modification to the NAFTA rules of origin relative to certain textile articles containing non-originating rayon filament tow and certain rayon staple fibers could result in a small increase in U.S. imports and exports of such articles between the United States and its NAFTA partners. Extending duty-free eligibility to such products, including yarns, fabrics, and nonwoven textile articles, could facilitate cross-border cooperation and manufacturing among NAFTA producers. In addition, U.S. producers of such articles may become more cost competitive in the NAFTA markets as their exports become eligible for duty-free treatment.

The Commission's analysis indicates that the proposed modification of the NAFTA rules of origin relative to non-originating rayon filament tow and certain rayon staple fibers would likely have no effect on U.S. imports and exports of the subject fibers under NAFTA but could result in a small increase in total U.S. imports of the subject fibers. The subject fibers are not made in NAFTA countries. Therefore, increased trade in such fibers would come from other suppliers, such as Austria, Germany, and China. Because there is no U.S. production of the subject rayon fibers, there would be no effect on the U.S. fiber industry.

Description of the Affected Articles

Articles affected by the proposed modifications to the NAFTA rules of origin include yarns and fabrics classified in chapters 52, 54, 55, and 60 of the Harmonized Tariff Schedule of the United States (HTS) and nonwoven fabrics, as well as hygienic and industrial products, such as sanitary towels, tampons, and wipes, classified in chapter 56. These products are made of the subject rayon fibers discussed below.

Rayon Fibers

The proposed modifications to the NAFTA rules of origin apply to (1) rayon fibers in various forms, including rayon filament tow; (2) rayon staple fibers, not carded and/or not combed (unprocessed); and (3) rayon staple fibers, carded and/or combed and processed for spinning. The rayon tow and staple fibers that are subject to this investigation are made of rayon and/or viscose. The terms rayon and viscose are largely used interchangeably by the global industry and refer to the same fiber.¹ The basic manufacturing process for rayon involves chemically changing a cellulosic material,

¹ According to industry sources, the term "rayon" is used primarily in the United States, while "viscose" is largely used in Europe. Frank Horn (Fiber Economics Bureau), telephone interview by Commission staff, September 11, 2009; Scott Grey (Jagger Brothers, Inc.), telephone interview by Commission staff, September 21, 2009.

primarily wood pulp, into a soluble compound.² This solution is then passed through a spinneret³ to form soft, continuous strands or filaments as they pass through a coagulating sulfuric acid bath.⁴ Making rayon has traditionally been an environmentally polluting process, as noxious or toxic gases are released into the environment during production. A primary producer of all types of rayon, Lenzing AG of Austria, developed an environmentally friendly process that it uses to produce rayon in Austria and Germany.⁵

The subject rayon filament tow⁶ is classified as artificial filament tow under HTS heading 5502.00.00 (statistical reporting number 5502.00.0090) and is subject to a normal trade relations (NTR)⁷ duty rate of 7.5 percent ad valorem in the United States. Currently U.S. imports of the subject tow are subject to a temporary duty suspension through December 31, 2009.⁸ Imports of this tow into Canada and Mexico enter free of duty.⁹

Rayon staple fibers that are not carded, combed, and/or otherwise processed for spinning are classified in HTS subheading 5504.10.00. The NTR rate of duty for U.S. imports is 4.3 percent ad valorem. There is currently one temporary duty suspension and one temporary duty reduction on subsets of U.S. imports under HTS subheading 5504.10.00, both of which expire December 31, 2009.¹⁰ Imports of these fibers into Canada and Mexico enter free of duty.¹¹

The subject rayon staple fibers that have been carded, combed and/or further processed for spinning are classified in HTS heading 5507.00.00, which provides for all artificial staple fibers that have been processed. The NTR rate of duty on all the artificial fibers classified in this heading is 5 percent ad valorem in the United States. However, the subject rayon staple fibers classified in HTS heading 5507.00.00 are subject to a temporary duty suspension through December 31, 2009.¹² Imports of these rayon staple

² Bamboo is a relatively new cellulosic material increasingly used to produce rayon. Scott Grey (Jagger Brothers, Inc.), telephone interview by Commission staff, September 21, 2009. Beechwood is used to produce a rayon fiber, known as modal. The properties of rayon are closer to those of natural cellulosic fibers such as cotton or linen than to those of thermoplastic, petroleum-based, synthetic fibers such as nylon and polyester. Swicofil AG Textile Services, "Rayon Viscose," n.d. (accessed May 14, 2009).

³ The spinneret is an extrusion device that resembles a shower head.

⁴ Fiber Source, "Rayon Fiber (Viscose)," updated (accessed August 8, 2005).

⁵ Frank Horn (Fiber Economics Bureau), telephone interview by Commission staff, September 2, 2008.

⁶ Tow is a large strand of continuous manmade cellulosic-based fiber filaments without definite twist, collected in a loose rope-like form (Hoescht Celanese, *Dictionary of Fiber & Textile Technology*, 1990, 165). The subject rayon filament tow classified in HTS heading 5502 consists of parallel filaments of a uniform length equal to the length of the tow, which must be greater than 2 meters. Moreover, the tow twist must be less than 5 turns per meter, the individual filaments composing the tow must measure less than 67 decitex, the tow must be incapable of being stretched by more than 100 percent of its length, and total measurement of the tow must be more than 20,000 decitex. See Note 1 of Chapter 55 of the HTS.

⁷ The United States uses the term NTR to refer to countries to which it accords most favored nation (MFN) status under the World Trade Organization. For the purposes of this report, when referencing NTR for Canada and Mexico, NTR denotes these countries' MFN rates of duty.

⁸ See heading 9902.23.27 of the HTS.

⁹ CBSA, Customs Tariff (accessed November 17, 2009), and Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), e-mail message to Commission staff, September 30, 2009.

¹⁰ Heading 9902.23.33 of the HTS provides a temporary duty suspension on fibers that measure 1.67 to 16.67 decitex and have a fiber length each of 20 mm through 150 mm. Heading 9902.25.59 of the HTS provides a temporary duty reduction to 3.4 percent ad valorem for staple fibers of viscose rayon.

¹¹ CBSA, Customs Tariff (accessed November 17, 2009), and Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), e-mail message to Commission staff, September 30, 2009.

¹² See heading 9902.55.04 of the HTS.

fibers enter free of duty into Canada and are subject to a 5 percent ad valorem MFN duty in Mexico.¹³

Textile Articles Containing Certain Rayon Fibers

The subject rayon filament tow is largely used in the production of industrial products, nonwoven wipes, flock, staple fibers, and yarns for apparel and other textile articles.¹⁴ ***¹⁵ ***¹⁶ Lyocell, another manmade cellulosic fiber, is specifically excluded from the proposed rules of origin amendments. Lyocell's manufacturing process and inherent physical and chemical properties are very different from those of rayon.¹⁷

Explanation of Existing Rules of Origin and Proposed Rule Modifications

Under the current rules of origin in the NAFTA, the subject rayon filament tow and rayon staple fibers must be formed in the United States, Canada, or Mexico in order for any textile article made from these inputs to be considered an originating good from a NAFTA country and thus qualify for NAFTA preferences. The proposed rule change consists of adding to NAFTA Annex 401 a "chapter note" to the rules of origin for chapters 52, 54, 55, 56, and 60 of the Harmonized System (HS) (reflected as "chapter rules" in general note 12(t) to the HTS) to allow articles made from the subject inputs that are formed outside of NAFTA countries (non-originating inputs) to be considered originating goods and thereby qualify for NAFTA preferences, including duty-free treatment. The proposed modification to the NAFTA rules of origin regarding the rayon filament tow and the subject rayon staple fibers is in response to a petition received by the Committee for the Implementation of Textile Agreements (CITA) on October 16, 2007, from the National Textile Association (NTA), on behalf of its member companies that produce textile articles of rayon fibers in the United States.¹⁸

¹³ CBSA, Customs Tariff (accessed November 17, 2009), and Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), e-mail message to Commission staff, September 30, 2009.

¹⁴ Frank Horn (Fiber Economics Bureau), telephone interview by Commission staff, September 11, 2009.

¹⁵ ***

¹⁶ ***

¹⁷ ***, telephone interview by Commission staff, September 24, 2009. Lyocell differs from rayon. Lyocell is a much cleaner fiber than rayon; it leaves no residue on end-use products and is free of the chemical contaminants that in the case of rayon may cause a chemical odor and yellow coloring. In addition, lyocell is much stronger than rayon, especially when wet, and is often used to produce the more upscale wipes used in makeup application and removal.

¹⁸ Karl Spilhaus, NTA, petition to Mr. Matthew Priest, CITA, October 16, 2007.

U.S. Trade, Industry, and Market Conditions for the Affected Articles

The United States has not produced rayon filament fibers, including the subject rayon filament tow, since Avtex, Inc. of Front Royal, Virginia, closed in the early 1990s,¹⁹ and has not produced rayon staple fibers since Liberty Fibers Corp. of Lowland, Tennessee, the last North American producer of these rayon fibers, terminated all U.S. manufacturing operations in 2005.²⁰ Industry sources also reported that there is no production of rayon filament tow or rayon staple fibers in Canada or Mexico.²¹

U.S. imports of rayon filament tow are not specifically provided for in the HTS, but are believed to account for a large part of imports reported under HTS statistical reporting number 5502.00.0090, artificial filament tow other than cellulose acetate. U.S. imports in this HTS provision totaled almost \$2.2 million in 2008, and imports from Germany accounted for 97 percent of the total value.²²

U.S. imports of rayon staple fibers that are not carded and/or combed (unprocessed rayon staple fibers of HTS subheading 5504.10.00) totaled \$233.2 million in 2008.²³ The two largest supplier countries were Austria and Germany, together accounting for 37 percent of the total value in 2008. The next largest supplier was China, accounting for an additional 14 percent of the total value. Lenzing AG of Austria, a major global producer of rayon staple fibers for both the apparel and industrial markets, produces the subject rayon staple fibers in Austria, Germany, and China.²⁴ ***²⁵ ***²⁶

U.S. imports of rayon staple fibers that are carded and/or combed and processed for spinning into yarns (HTS heading 5507.00.00) were considerably less than for the two other subject rayon fibers, totaling \$437,193 in 2008.²⁷ ***²⁸

Specific trade data are not available for the many textile articles made from the subject rayon filament tow and staple fibers. Examples of such products include nonwoven materials for consumer and industrial use, feminine hygiene products, nonwoven wipes for cosmetic application and removal, industrial wipes, flocking for industrial use, and fibers for spinning into yarn for use in apparel and other textile products. Although trade data are not available on U.S. imports of rayon spun yarns, such data are available for the

¹⁹ Frank Horn (Fiber Economics Bureau), telephone interview by Commission staff, May 4, 2009; *** telephone interview by Commission staff, June 30, 2009.

²⁰ Tom Montgomery (Liberty Fibers), telephone interview by Commission staff, May 4, 2007.

²¹ Karl Spilhaus, NTA, petition to Mr. Matthew Priest, CITA, October 16, 2007; Michael S. Hubbard, NCTO, submission to Mr. Matthew Priest, CITA, re: Short Supply Petition for Rayon Fibers for Use in NAFTA, January 10, 2008; Peter G. Mayberry, Association of the Nonwoven Fabrics Industry (INDA), submission to Mr. Matthew Priest, CITA, RE: Comment Request from Committee for the Implementation of Textile Agreements Regarding Short Supply Petition Under the North American Free Trade Agreement (72 FR 240, pp 71123 –71124), January 14, 2008; J. Brand, director, Brand Felt of Canada Limited, submission to Chairman, CITA, Re: Rayon Fiber—NAFTA Modification, January 7, 2008. USITC, Woven Fabrics of Viscose Rayon Filament Yarns, Investigation no. NAFTA-103-7-002, 2–3. ***, telephone interview by Commission staff, September 2, 2008.

²² Compiled from official statistics of the U.S. Department of Commerce.

²³ Compiled from official statistics of the U.S. Department of Commerce.

²⁴ See <http://www.lenzing.com/en/index.jsp>.

²⁵ ***, telephone interview by Commission staff, September 24, 2009.

²⁶ ***

²⁷ Compiled from official statistics of the U.S. Department of Commerce.

²⁸ ***

broader category of spun yarns made of artificial manmade fibers.²⁹ U.S. imports of these yarns totaled \$59.6 million in 2008.³⁰ Indonesia was the largest supplier, exporting \$23.1 million to the United States. Thailand and China were the next largest suppliers, together exporting \$16.3 million to the United States in 2008. These three countries together accounted for two-thirds of the total value of imports in 2008. Canada and Mexico were small suppliers of these yarns to the U.S. market, accounting for 3 percent and 1 percent of the total value of U.S imports, respectively.

*** and Tuscarora Yarns, Inc. (Tuscarora), import the subject rayon fibers for use in their production of spun yarns for production of apparel. These companies strongly support the proposed change in the rules of origin for the subject rayon fibers. An official of Tuscarora stated that all of the rayon fibers he uses must be imported from non-NAFTA countries as there is no production of such fibers in the United States, Mexico, or Canada.³¹ A change in the NAFTA rules of origin would allow Tuscarora greater flexibility by increasing the supply of originating rayon fibers available to them to produce yarn to export to the NAFTA countries. The Association of the Nonwoven Fabrics Industry (INDA), the National Council of Textile Organizations (NCTO), and Cellusuede Products, Inc. (Cellusuede) expressed support for the proposed modification of the rules of origin regarding the subject rayon fibers.³²

Probable Effect of the Proposed Modifications on U.S. Trade under NAFTA, Total U.S. Trade, and Domestic Producers of the Affected Articles³³

The Commission's analysis indicates that the proposed modifications of the NAFTA rules of origin relative to certain textile articles containing non-originating rayon filament tow and certain rayon staple fibers could result in a small increase in imports and exports of such articles, including yarns, fabrics, and nonwoven products, between the United States and its NAFTA partners. Any increase in imports and exports between the NAFTA partners could also likely result in a negligible increase in total U.S. imports and exports. Extending duty-free eligibility to such articles could facilitate cross-border cooperation and manufacturing among producers in the NAFTA countries.

U.S. yarn producers expressed support for the proposed modifications to the rules of origin. They indicated that the rule changes would allow them access to NAFTA markets where they are currently not cost competitive due to tariffs on non-originating yarns containing rayon.³⁴ In addition, domestic producers of fabrics and nonwoven materials, such as hygienic and industrial wipes, could become more cost competitive in the Canadian and Mexican markets vis-à-vis producers in non-NAFTA partner countries. In

²⁹ U.S. imports of spun yarns made of artificial manmade fibers, including yarns made of the subject rayon fibers, are classified in HTS subheadings 5510.11.00 and 5510.12.00.

³⁰ Compiled from official statistics of the U.S. Department of Commerce.

³¹ Tuscarora Yarns, Inc., written submission to the Commission, September 2, 2009.

³² See Chapter 3, "Summary of Positions of Interested Parties," in part 1 of this report.

³³ The Commission's advice is based on information currently available to the Commission.

³⁴ The current MFN rate of duty on imports of the rayon staple yarns into Mexico is 15 percent ad valorem; the rates of duty on imports of such yarns into Canada are free and 8 percent ad valorem, depending on the intended end use of the yarn. The U.S. NTR rates of duty on imports of these yarns are 9 percent and 10.6 percent ad valorem. Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), e-mail message to Commission staff, November 18, 2009, and CBSA, Customs Tariff (accessed November 18, 2009).

its submission to the Commission, INDA stated that the proposed modifications to the rules of origin would improve “regional economic integration and manufacturing” and open up markets for U.S. companies.³⁵

Further supporting the possibility of increased cross-border integration as a result of the rule changes, there is reported demand by U.S. downstream apparel manufacturers for rayon yarns produced in Mexico; however, these rayon yarns are not eligible for duty-free treatment under NAFTA since they are made from non-originating rayon fibers. Under the proposed modifications to the rules of origin, Mexican yarn producers might be able to improve their cost competitiveness vis-à-vis Asian yarn suppliers in the U.S. market and increase their exports.³⁶

The Commission’s analysis also indicates that the proposed modifications to the NAFTA rules of origin for certain rayon textile articles would have no effect on U.S. imports and exports of rayon filament tow or staple fibers under NAFTA, but may result in a small increase in total U.S. imports of the subject fibers. These fibers are not produced in NAFTA countries so any increase would come from other suppliers, such as Austria, Germany, and China. Because there is no U.S. production of the subject rayon fibers, there would be no effect on U.S. fiber producers.

³⁵ INDA, written submission to the USITC, September 29, 2009.

³⁶ ***, telephone interview by Commission staff, September 29, 2009.

CHAPTER 2

Textile Flock, Dust, and Mill Neps

Summary of Advice

The Commission's analysis indicates that the proposed modification of the NAFTA rule of origin for textile flock, dust, and mill neps containing non-originating acrylic and modacrylic fibers would likely have no effect on the level of U.S. imports of such products from Canada or Mexico under NAFTA. The Commission's analysis also indicates that the proposed change could lead to a small increase in U.S. exports of textile flock to Canada and Mexico, resulting in a negligible increase in total U.S. exports. To the extent that exports increase, there would likely be a beneficial effect on U.S. producers of flock. Finally, the Commission's analysis indicates that the proposed change would have no effect on the U.S. fiber producers, because there is only limited, specialized production of acrylic fibers in the United States.

Description of the Affected Articles

The subject textile flock, dust, and mill neps (neps) are made of acrylic or modacrylic tow classified in HTS subheading 5501.30.00.¹ The 2009 NTR rate of duty on acrylic or modacrylic tow is 7.5 percent ad valorem in the United States. However, acrylic or modacrylic tow is subject to a temporary duty suspension through December 31, 2009.² Imports of acrylic or modacrylic tow enter free of duty in Canada, and are subject to a 5 percent ad valorem MFN duty in Mexico.³ Tow is a common intermediate form that most manufactured fiber reaches before it is further processed, for example, into staple fibers or flock. Acrylic and modacrylic fibers are manufactured fibers composed of acrylonitrile units.⁴ The fibers are produced using either dry or wet extrusion methods.⁵ Acrylic fibers generally are soft, resist the degrading effects of ultraviolet rays, and have low moisture absorbency, which allows for quick drying. They are also dimensionally stable, resulting in shape retention and wrinkle resistance. Acrylic fibers are used in fabric for home furnishings and apparel and also in industrial applications. Modacrylic fibers have similar characteristics to acrylic fibers; however, modacrylic fibers have superior resistance to chemicals and combustion. Modacrylic fibers commonly are used in flame-retardant garments, fleece or knit pile fabrics, home textiles, and industrial applications.

¹ See discussion of tow in Chapter 1.

² Heading 9902.10.21 of the HTS provides a temporary duty reduction to 6.8 percent ad valorem for acrylic and modacrylic tow.

³ CBSA, Customs Tariff (accessed November 17, 2009), and Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), telephone interview by Commission staff, September 2, 2009.

⁴ Acrylic fiber contains at least 85 percent by weight of acrylonitrile units; modacrylic fiber is composed of less than 85 percent, but at least 35 percent by weight of acrylonitrile units. Information on the fiber production processes, characteristics, and applications is based on Hoechst Celanese, *Dictionary of Fiber & Textile Technology*, 1990, 2–3 and 98; Fiber Source, "Acrylic Fiber," <http://www.fibersource.com/f-tutor/Acrylic.htm> (accessed August 25, 2009); and Fiber Source, "Modacrylic Fiber," <http://www.fibersource.com/f-tutor/Modacrylic.htm> (accessed August 25, 2009).

⁵ For a more detailed description of the acrylic and modacrylic fiber production processes, please see the glossary.

Textile flock consists of fibers that have been either cut or ground to short fragments not exceeding 5 millimeters in length. There are two main types of flock—namely, precision cut flock, where all fiber lengths are approximately equal, and random cut flock, where the fibers are ground or chopped to produce varied lengths.⁶ Textile flock is used in industrial applications and in methods of ornamentation such as flocking or flock printing, in which adhesive is printed or coated on a surface and finely chopped fibers are applied by means of dusting, air-blasting, or electrostatic attraction.⁷ Flocking is used in applications such as upholstery, packaging, automotive, or apparel.⁸ The subject textile flock, dust, and neps are classified in subheading 5601.30.00 of the HTS, which covers these and similar articles of all textile fibers. The 2009 NTR rate of duty on textile flock, dust, and neps is free in the United States and Canada, and 5 percent ad valorem in Mexico.⁹

Textile dust is obtained as a waste during the manufacture of staple fibers or textile flock; it may also be produced by grinding fibers into a powder. Textile dust has varied uses, including spun yarn production (dust is blended with other fibers) and cosmetic applications (face powder).¹⁰ Neps are small knots of entangled fibers removed by wired teeth during the carding process; such fibers usually will not straighten to a parallel position during carding.¹¹ Neps are used in the manufacture of fancy yarns.¹² Though neps appear to be waste or byproducts of the carding process, industry sources report that neps for fancy yarns are manufactured specifically for that purpose.¹³

Explanation of Existing Rule of Origin and Proposed Rule Modification

Under the current rules in the NAFTA, the subject textile flock, dust, and neps must be made from synthetic tow formed in the United States, Canada, or Mexico in order for the articles to be considered originating goods and thus qualify for NAFTA preferences. The proposed rule change would be implemented by all NAFTA parties and would allow textile flock, dust, and neps to be made in any party from tow formed outside the United States, Canada, and Mexico (non-originating tow), so that upon importation into another party, the textile flock, dust, and neps would be considered originating goods and thus qualify for NAFTA preferences, including duty-free treatment. The proposed modification to the NAFTA rule of origin for textile flock, dust, and mill neps is in response to a petition received by CITA on December 21, 2005, from Cellusuede, a U.S. producer of textile flock.¹⁴

⁶ Hoechst Celanese, Dictionary of Fiber & Textile Technology, 1990, 67.

⁷ Hoechst Celanese, Dictionary of Fiber & Textile Technology, 1990, 67.

⁸ American Flock Association Web Site, “What Is Flocking?” <http://www.flocking.org/what.php> (accessed September 1, 2009).

⁹ CBSA, Customs Tariff (accessed November 17, 2009), and Moises Zavaleta (NAFTA and Trade Office, Embassy of Mexico to the United States), telephone interview by Commission staff, September 2, 2009.

¹⁰ World Customs Organization, Explanatory Notes to the Harmonized System, 2007, XI-5601-2.

¹¹ Hoechst Celanese, Dictionary of Fiber & Textile Technology, 1990, 102.

¹² World Customs Organization, Explanatory Notes to the Harmonized System, 2007, XI-5601-3.

¹³ ***, telephone interview by Commission staff, September 2, 2009.

¹⁴ U.S. Department of Commerce, OTEXA, “NAFTA Commercial Availability.”

U.S. Trade, Industry, and Market Conditions for the Affected Articles

There is limited production of acrylic or modacrylic tow in NAFTA countries. Commission staff identified one U.S. producer, Sterling Fibers, Inc., of Pensacola, Florida, that produces acrylic fibers for use in industrial and technical applications; it does not produce acrylic or modacrylic fiber for use in yarns or fabrics for apparel or home furnishings.¹⁵ ***¹⁶ In April 2005, Solutia, formerly a large U.S. producer of acrylic fibers, discontinued production of these products.¹⁷ Industry sources reported that there is no production of acrylic or modacrylic fibers in Canada.¹⁸ However, one firm in Mexico, Kaltex Fibers, produces acrylic tow.¹⁹ As a result, most of the subject tow comes from non-NAFTA suppliers. U.S. imports of acrylic and modacrylic tow under HTS subheading 5501.30.00 totaled \$84.9 million in 2008, down from \$88.7 million in 2006.²⁰ Japan was the largest U.S. supplier in 2008, accounting for 39.4 percent of total U.S. imports, followed by Hungary (15.3 percent) and the United Kingdom (14.7 percent). Mexico was the seventh largest supplier of the subject tow, accounting for 3.8 percent of total U.S. imports, or \$3.3 million in 2008.

There are several U.S. producers of flock for industrial and ornamental applications.²¹ The petitioner, Cellusuede, produces precision cut flock for industrial use, specifically for the automotive industry.²² ***²³ Commission staff could not identify any U.S. producers of dust or neps.

U.S. domestic exports of textile flock of all fiber types under Schedule B heading 5601.30.00 totaled \$51.4 million in 2008, up from \$49.2 million in 2006.²⁴ Japan was the largest export market, accounting for 27.7 percent of total U.S. exports, or \$14.3 million. Mexico and Canada were the fourth and eighth largest export markets, accounting for \$4.5 million and \$2.2 million of total U.S. exports, respectively. U.S. imports of textile flock, dust, and neps of all fiber types under HTS subheading 5601.30.00 totaled \$27.5 million in 2008, increasing from \$21.7 million in 2006. The Netherlands and Japan were the largest U.S. suppliers in 2008, accounting for 44.6 and 32.3 percent of total U.S. imports, respectively.

¹⁵ ***; Sterling Fibers, Inc. Web site. <http://www.sterlingfibers.com/> (accessed August 25, 2009).

¹⁶ ***, telephone interview by Commission staff, September 3, 2009.

¹⁷ Solutia stated that it exited acrylic production in the second quarter of 2005. Solutia 10-Q, submission to the Securities and Exchange Commission, August 1, 2005, <http://www.sec.gov> (accessed November 3, 2009).

¹⁸ ***, telephone interview by Commission staff, August 27, 2009.

¹⁹ Kaltex Fibers Web site. <http://www.kaltex.com/kaltexfibers/productos.html> (accessed September 28, 2009).

²⁰ Compiled from official statistics of the U.S. Department of Commerce.

²¹ American Flock Association Web site. <http://www.flocking.org/members.php> (accessed September 28, 2009).

²² U.S. Department of Commerce, OTEXA, "NAFTA Commercial Availability."

²³ ***, telephone interview by Commission staff, August 27, 2009.

²⁴ Compiled from official statistics of the U.S. Department of Commerce.

Probable Effect of the Proposed Modification on U.S. Trade under NAFTA, Total U.S. Trade, and Domestic Producers of the Affected Articles²⁵

The Commission's analysis indicates that the proposed modification of the NAFTA rule of origin relative to non-originating textile flock, dust, and neps of acrylic and modacrylic fibers would likely have no effect on U.S. imports of such products under NAFTA and no effect on total U.S. imports, as the current NTR rate of duty for the subject products is free.

The Commission's analysis also indicates that the proposed change could lead to a small increase in U.S. exports of flock made from acrylic or modacrylic fibers under NAFTA (there is no known U.S. production of dust or neps), as the proposed change would make such exports more cost competitive in these markets. Such an increase in U.S. exports under NAFTA could result in a negligible increase in total U.S. exports. To the extent that U.S. exports increase, there could be a beneficial effect on U.S. producers of flock; ***²⁶

Finally, the Commission's analysis indicates that the proposed change would have no effect on the U.S. textile industry or fiber producers because there is only limited, specialized production of acrylic fibers in the United States. ***²⁷ Therefore, an increase in U.S. exports of flock could possibly result in a small increase in U.S. imports of acrylic or modacrylic tow.

²⁵ The Commission's advice is based on information currently available to the Commission.

²⁶ ***, telephone interview by Commission staff, August 27, 2009.

²⁷ ***, telephone interview by Commission staff, September 3, 2009.

CHAPTER 3

Summary of Positions of Interested Parties¹

The Commission received written submissions concerning the proposed rule of origin changes for rayon fibers (other than lyocell) from INDA, NCTO, and Tuscarora. All three submissions expressed support for the proposed changes under NAFTA for rayon fibers (other than lyocell). The Commission received a fourth submission from Cellusuede that expressed support for the proposed rule of origin changes for textile flock, dust, and mill neps of acrylic or modacrylic fibers.

Association of the Nonwoven Fabrics Industry²

According to its Web site, INDA is the trade association that represents U.S. nonwoven fabrics producers.³ It expressed support for the proposed changes to NAFTA rules of origin for certain textile articles containing rayon fibers, other than lyocell. INDA also stated that such modifications are necessary, because there has been no commercially significant production of rayon in the United States since 2005. As a result, U.S. textile firms must import rayon, thereby making their products ineligible for duty-free access under NAFTA. INDA said that the proposed changes will enhance regional economic integration as well as manufacturing and trade opportunities for U.S. firms. It urged expedient implementation of the proposed changes to NAFTA rules of origin.

Cellusuede Products, Inc.⁴

Cellusuede is a textile flock manufacturer located in Rockford, Illinois. In its submission, it stated that there is no domestic production of rayon, acrylic, or modacrylic fiber. Cellusuede also stated that the proposed modification would eliminate duties on its exports in NAFTA markets, thereby making the firm more competitive. Cellusuede maintained that implementation of the change could result in increased profitability and employment.

National Council of Textile Organizations⁵

According to its Web site, NCTO is an advocacy association representing the U.S. textile industry, including fiber, fabric, and yarn manufacturers, as well as machinery manufacturers and suppliers.⁶ NCTO said that it supports the proposed modification to allow the use of non-originating rayon fiber in the NAFTA region, because there is no

¹ The views summarized are those of the submitting parties and not the Commission. Commission staff did not undertake to confirm the accuracy of, or otherwise correct, the information described. For the full text of the written submissions, see entries associated with investigation no. NAFTA-103-023 at the Commission's Electronic Docket Information System (<https://edis.usitc.gov/edis3-internal/app>).

² INDA, written submission to the USITC, September 29, 2009.

³ INDA Web site. <http://www.inda.org/about/index.html> (accessed October 6, 2009).

⁴ Cellusuede Products, Inc., written submission to the USITC, October 2, 2009.

⁵ NCTO, written submission to the USITC, October 2, 2009.

⁶ NCTO Web site. <http://www.ncto.org/about/index.asp> (accessed October 6, 2009).

domestic or regional source of rayon. NCTO stated that the current rules put the U.S. textile industry at a competitive disadvantage.

Tuscarora Yarns, Inc.⁷

Tuscarora is a domestic yarn spinner with plants in North and South Carolina. Currently, it spins yarns from imported rayon staple fibers. Tuscarora stated that adoption of the proposed modifications would give U.S. producers more flexibility to use non-NAFTA rayon while permitting them to remain eligible for duty-free treatment under NAFTA. Tuscarora maintained that the rule changes would result in the opening of new markets to U.S. exports that are currently not available due to existing tariffs that render U.S. yarn exports too costly.

⁷ Tuscarora Yarns, Inc., written submission to the USITC, September 2, 2009.

**PART II: CERTAIN TEXTILE ARTICLES
CONTAINING ACRYLIC AND
MODACRYLIC STAPLE FIBERS:
EFFECT OF MODIFICATIONS OF
NAFTA RULES OF ORIGIN FOR
GOODS FROM CANADA
(INV. NO. NAFTA-103-024)**

CHAPTER 4

Certain Yarns and Thread Containing Acrylic or Modacrylic Staple Fibers

Summary of Advice

The Commission's analysis indicates that the proposed modifications to NAFTA rules of origin for trade between the United States and Canada¹ for yarns and thread containing non-originating acrylic or modacrylic staple fibers could result in a small increase in imports of the subject yarns and thread from Canada, resulting in a negligible increase in total U.S. imports. Acrylic and modacrylic spun yarns made from non-originating fibers are currently eligible to enter free of duty under NAFTA tariff preference levels (TPLs),² which have been underutilized for the last several years. Nevertheless, there are certain added costs associated with using the TPLs, which wouldn't be applicable under the proposed changes to the rules of origin. To the extent that U.S. imports of the subject yarns increase, the Commission's analysis indicates there could be some adverse effect on U.S. producers of such yarns, which would likely be concentrated on U.S. producers making craft yarns for retail sale. Yarns intended for retail sale account for the vast majority of U.S. acrylic yarn imports from Canada. Because any increase in U.S. acrylic yarn imports would likely be concentrated in yarns intended for retail sale, it is unlikely there would be an effect on U.S. producers of downstream products, such as knit and woven fabrics.

The Commission's analysis also indicates that the proposed modifications to the rules of origin for the subject yarns likely would not result in any change in U.S. exports of such yarns to Canada or the world. U.S. producers indicated that they do not anticipate an increase in exports of the subject yarns to Canada if the proposed rules are implemented, because Canada has a cost advantage over U.S. producers.

The Commission's analysis indicates that the proposed modifications to NAFTA rules of origin for yarns and thread of acrylic staple fibers would likely not result in any change in U.S. imports of acrylic staple fibers from NAFTA countries or the world. Since there are no known U.S. producers of acrylic staple fibers intended for use in yarns and threads, there would be no effect on the U.S. fiber producers.

Description of the Affected Articles

The subject yarns and thread contain acrylic or modacrylic staple fibers. Acrylic fibers can be produced to have specific end-use characteristics, such as wool-like or cotton-like aesthetics. They are dyeable in bright shades, and products made with these fibers can be

¹ The proposed modifications to NAFTA rules of origin do not apply to Mexico.

² TPLs allow duty-free access for specified quantities of yarns, fabrics, apparel, and other textile articles that do not meet NAFTA rules of origin because they contain non-originating inputs. Imports in excess of the TPLs are subject to NTR rates of duty. Both Canada and the United States have NAFTA yarn TPLs. OTEXA, *Summary of North American Free Trade Agreement*.

easily washed and retain their shape.³ Modacrylic fibers share many similar properties with acrylic fibers; they are soft and often used in fleece or knit pile fabrics. Acrylic and modacrylic staple fibers (unless otherwise specified, both acrylic and modacrylic fibers are hereafter referred to as “acrylic fibers”) are classified in HTS subheading 5503.30.00. The NTR rate of duty for these fibers is normally 4.3 percent ad valorem in the United States, but is currently reduced to 3.7 percent ad valorem under a temporary duty reduction through December 31, 2009.⁴ The NTR rate of duty for acrylic fibers in Canada is free.⁵ Acrylic yarns are often sold at retail and used for hand knitting or other crafts, as well as for downstream production of finished apparel, industrial products, upholstery fabrics, and fabrics for awnings and outdoor furniture. The subject yarns and thread are classified in HS headings 5508 through 5511, which cover yarns and thread of all types of manmade staple fibers, including acrylic.⁶ The U.S. NTR duty rates for the subject yarns and thread range from 7.5 percent ad valorem to 13.2 percent ad valorem, while for Canada they range from free to 8.0 percent ad valorem.⁷ Under NAFTA, U.S. imports from Canada of acrylic spun yarns containing fibers produced outside of the United States, Canada, or Mexico may still receive duty-free treatment under a TPL for cotton and manmade fiber spun yarns.⁸ A similar TPL exists for U.S. exports of acrylic yarns to Canada.⁹

Explanation of Existing Rules of Origin and Proposed Rule Modifications

Under the current NAFTA rules, acrylic staple fibers must be formed in the United States, Canada, or Mexico in order for the subject yarns and thread to be considered an originating good from a NAFTA country and thus qualify for NAFTA preferences. The proposed rule change, which would be implemented only by Canada and the United States for trade between the two partners, would allow such articles to be made with acrylic or modacrylic staple fibers formed outside of Canada or the United States (non-originating fibers), so that upon importation into the other party, the articles containing the subject non-originating fibers would be considered originating goods and qualify for NAFTA preferences, including duty-free treatment. Goods from Mexico would continue to be subject to the current rules upon importation into Canada or the United States.¹⁰

³ Fiber Source, “Acrylic Fiber,” American Fiber Manufacturers Association (accessed August 19, 2009).

⁴ Heading 9902.25.62 of the HTS.

⁵ CBSA, Customs Tariff (accessed November 17, 2009). The United States uses the term NTR to refer to countries to which it accords most favored nation (MFN) status under the World Trade Organization. For the purposes of this report, when referencing NTR for Canada, NTR refers to this country’s MFN rate of duty.

⁶ The HTS provisions that specifically apply to acrylic yarns are as follows: HTS subheadings 5509.31.00, 5509.32.00, 5509.61.00, 5509.62.00, and 5509.69.20-5509.69.60; and statistical reporting number 5511.10.0030. In addition, acrylic thread is covered under the basket HTS subheading 5508.10.00.

⁷ CBSA, Customs Tariff (accessed November 17, 2009).

⁸ The U.S. TPL for imports of cotton and manmade fiber spun yarns from Canada is 11,813,665 kilograms. In 2008 it was 32 percent utilized. U.S. Customs and Border Patrol, http://www.cbp.gov/xp/cgov/trade/trade_programs/textiles_and_quotas/commodity/ (accessed September 22, 2009).

⁹ The Canadian TPL for imports of cotton and manmade fiber spun yarns from the United States was 28 percent utilized in 2008. Foreign Affairs and International Trade Canada, 2009 Tariff Preference Level Utilization.

¹⁰ The current rules are provided in appendix D.

U.S. Trade, Industry, and Market Conditions for the Affected Articles

*Staple Fibers*¹¹

The United States does not produce acrylic staple fibers for use in textile applications, such as yarns and fabrics. As noted in chapter 3, Solutia, the last U.S. producer of acrylic fibers for use in textile applications, discontinued production of such fibers in 2005.¹² The sole remaining U.S. producer of acrylic fibers, Sterling Fibers, Inc., of Pensacola, Florida, produces acrylic fibers for specialized use in certain industrial and technical applications.¹³ Acrylic staple fibers are produced by one Mexican producer in the NAFTA region; however, Mexico is not covered by the proposed rule of origin changes. While it appears this producer does supply the U.S. textile industry, based on trade data presented below, U.S. textile firms allege that this Mexican producer is unable to meet all the needs of the U.S. industry in terms of quantity and end-use fiber characteristics.¹⁴

U.S. imports of acrylic staple fibers have declined in recent years. Such imports totaled \$74.7 million (20.6 million kilograms) in 2008, down from in \$97.4 million (30.0 million kilograms) in 2007. In January–June 2009, U.S. imports of acrylic staple fibers were lower by an additional 53 percent compared with the same period in 2008. After Turkey, Mexico is the second largest supplier of acrylic fibers to the United States, accounting for 15 percent of the volume of total imports in 2008.

Yarns and Thread

Commission staff interviewed four firms that produce acrylic yarns in the United States, ***,¹⁵ *** firms¹⁶ expressed opposition to the proposed rule changes, which were initiated by a petition from the Government of Canada.¹⁷ These firms indicated that the proposed changes to the rules of origin would make it even more difficult to compete with Canadian yarn spinners. These firms indicated the Canadian manufacturers currently have an advantage over U.S. producers in that they can import acrylic staple fibers free of duty from any source. One firm also indicated that there are costs associated with using the TPL for U.S. imports from Canada that would cease to exist if the proposed changes

¹¹ The information in this section on staple fibers also pertains to the discussions of woven warp pile fabrics containing acrylic staple fibers (chapter 5) and knit long pile fabrics containing acrylic staple fibers (chapter 6).

¹² Solutia stated that it exited acrylic production in the second quarter of 2005. Solutia 10-Q, submission to the Securities and Exchange Commission, August 1, 2005, <http://www.sec.gov> (accessed November 3, 2009).

¹³ ***, Sterling Fibers, Inc. Web site, <http://www.sterlingfibers.com/> (accessed August 25, 2009).

¹⁴ Glen Raven Custom Fabrics, letters to the Committee on the Implementation of Textile Agreements, March 17, 2008, and March 30, 2008; Monterey Mills, “Commercial Availability Request under the North America Free Trade Agreement,” October 29, 2007; ***, telephone interview by Commission staff, September 3, 2009; ***, telephone interview by Commission staff, August 26, 2009; ***, telephone interview by Commission staff, September 21, 2009.

¹⁵ ***, telephone interview by Commission staff, August 31, 2009; ***, telephone interview by Commission staff, September 2, 2009; ***, telephone interview by Commission staff, August 27, 2009; ***, telephone interview by Commission staff, September 2, 2009.

¹⁶ Chris Smith (Coats North America), written submission to the Commission, October 2, 2009; ***, telephone interview by Commission staff, August 31, 2009; ***, telephone interview by Commission staff, September 2, 2009.

¹⁷ U.S. Department of Commerce, OTEXA, “NAFTA Commercial Availability Petitions.”

to the rules of origin were implemented.¹⁸ Unlike imports that are entered as originating goods under NAFTA, U.S. imports under NAFTA TPLs are subject to a merchandise processing fee,¹⁹ and there reportedly is an additional administrative cost for Canadian exporters to use the TPL.²⁰ Although the TPL for cotton and manmade fiber spun yarns is currently underutilized, *** indicated that U.S. imports of cotton and manmade fiber yarns, including acrylic yarns, could increase to levels beyond the TPL limit if the economy improves.²¹

U.S. producers supplied most of the U.S. market for acrylic yarns in 2008, supplying 43.9 million kilograms, or about 83 percent of the total volume.²² U.S. imports of spun yarns containing acrylic or modacrylic fibers²³ totaled \$63.5 million in 2008 (9.9 million kilograms).²⁴ Canada was the second largest foreign supplier (after Turkey), accounting for 32 percent of the value of total U.S. imports, or \$20.5 million. Most (83 percent) U.S. imports of the subject yarns from Canada consisted of acrylic yarns intended for retail sale (rather than yarns intended for use in downstream production of fabrics). Virtually all of the U.S. acrylic yarn imports from Canada entered duty-free under NAFTA.

Probable Effect of the Proposed Modifications on U.S. Trade under NAFTA, Total U.S. Trade, and Domestic Producers of the Affected Articles

The Commission's analysis indicates that the proposed modifications to NAFTA rules of origin for yarns and thread containing acrylic staple fibers could result in a small increase in imports of the subject yarns and thread from Canada, a negligible increase in total U.S. imports, and a potential adverse effect on U.S. producers of the subject yarns. Acrylic spun yarns made from non-originating fibers are currently eligible to enter free of duty under NAFTA TPLs, which have been underutilized for the last several years.²⁵ However, it is possible that U.S. imports of acrylic yarns from Canada could increase slightly with the elimination of the fees and administrative costs associated with using the TPLs. In addition, the proposed changes to the rules of origin could provide greater certainty that imports would receive duty-free treatment, which could also encourage a slight increase in imports. Any increase in acrylic yarns imports from Canada could result in an adverse effect on U.S. producers, particularly for producers of craft yarns sold at retail, which account for the vast majority of U.S. acrylic yarn imports from Canada. Because any increase in U.S. acrylic yarn imports from Canada would likely be

¹⁸ Hogan & Hartson, on behalf of Coats North America, written submission to the Commission, October 2, 2009.

¹⁹ The merchandise processing fee is 0.21 percent ad valorem. For additional information, see CBP, *Importing into the United States*.

²⁰ Chandri Navarro (Hogan & Hartson), on behalf of Coats North America, written submission to the Commission, October 2, 2009.

²¹ ***, telephone interview by Commission staff, September 28, 2009.

²² Calculated by Commission staff based on data from the Census, Current Industrial Reports, MQ313A—Textiles, 2008 Summary, Table 6a, "Production, Exports, Imports, and Apparent Consumption of Yarn: 2008." Note the data are for spun yarns and include yarns that contain 85 percent or more by weight of acrylic fibers, and blended yarns of chiefly acrylic fibers.

²³ Includes HTS subheadings 5509.31.00, 5509.32.00, 5509.61.00, 5509.62.00, and 5509.69.20-5509.69.60, and statistical reporting number 5511.10.0030.

²⁴ Compiled from official statistics of the U.S. Department of Commerce.

²⁵ The United States did not import any acrylic thread from Canada during 2006–2008.

concentrated in yarns intended for retail sale, it is unlikely there would be an effect on U.S. producers of downstream products, such as knit and woven fabrics.

The Commission's analysis also indicates that the proposed modifications to the rules of origin for the subject yarns likely would not result in any change to U.S. exports of such yarns to Canada or the world. U.S. producers indicated that they do not anticipate increasing exports of the subject yarns to Canada if the proposed rules are implemented, because Canada has a cost advantage over U.S. producers. U.S. producers pay a duty on imports of acrylic staple fibers used to produce these yarns, whereas Canadian yarn producers are able to import the acrylic staple fibers free of duty.

The Commission's analysis indicates that the proposed modifications to NAFTA rules of origin for yarns and thread of acrylic staple fibers would likely result in no change in U.S. imports of acrylic staple fibers from NAFTA partners or the world. U.S. firms that produce the subject yarns for export indicated that they do not anticipate increasing their production or exports of the subject yarns as a result of the proposed rule of origin modifications, and hence, would not increase their imports of acrylic fibers. Finally, there could be no effect on the U.S. fiber producers because there are no known producers of the subject fibers.

CHAPTER 5

Woven Warp Pile Fabrics, Cut, Containing Acrylic or Modacrylic Staple Fibers

Summary of Advice

The Commission's analysis indicates that the proposed modification of NAFTA rule of origin for trade between the United States and Canada¹ for woven warp pile fabrics, cut, containing non-originating acrylic and modacrylic staple fibers could result in a small increase in U.S. exports to Canada, resulting in a negligible increase in total U.S. exports. To the extent that exports increase, there could be a beneficial effect on the U.S. industry making woven warp pile fabrics. There are no known producers of the subject fabrics in Canada, so the proposed rule change is unlikely to affect U.S. imports of the subject fabrics from Canada or total U.S. imports.

The Commission's analysis also indicates that this proposed modification would likely result in no change in NAFTA trade in acrylic staple fibers, and a small increase in the level of total U.S. imports of such fibers. There are no known U.S. producers of acrylic staple fibers intended for use in fabrics, and thus, there would be no effect on U.S. fiber producers.

Description of the Affected Articles

The subject woven warp pile acrylic fabrics, such as velvet, are used for a variety of end uses, including upholstery, draperies, and apparel. These fabrics (hereafter referred to as woven pile acrylic fabrics) are classified in HTS subheading 5801.35.00, which covers woven, warp pile, cut, fabrics of all types of manmade fibers.² NTR duty rates for the subject fabrics are 17.2 percent ad valorem in the United States; NTR duty rates range from free to 14 percent ad valorem in Canada.³ These fabrics are eligible for entry under NAFTA TPLs that allow for duty-free treatment for trade between the United States and Canada of cotton and manmade fiber knit and woven fabrics and made-up articles. For woven pile fabrics, the TPLs are applicable only if the fabrics are made from non-originating yarns. If the yarns are spun in the NAFTA region from non-originating fibers, then the TPLs do not apply.

¹ The proposed modification to the rule of origin does not apply to Mexico.

² The subject fabrics are made of acrylic or modacrylic staple fibers, classified in HTS subheading 5503.30.00. For further information on these fibers, see chapter 4 of this report.

³ Canadian imports of woven pile fabrics intended for use in apparel and/or fabrics made with dry-spun acrylic fibers are free of duty. All other acrylic pile fabrics, including fabrics intended for nonapparel end-uses and fabrics made with wet-spun acrylic fibers, are subject to NTR rate of duty of 14 percent ad valorem. CBSA, Customs Tariff (accessed November 17, 2009).

Explanation of Existing Rule of Origin and Proposed Rule Modification

Under the current rules in NAFTA, acrylic or modacrylic staple fibers must be formed in the United States, Canada, or Mexico in order for the subject woven pile acrylic fabrics to be considered originating and thus qualify for NAFTA preferences.⁴ The proposed rule change, which would be implemented only by Canada and the United States, would allow such articles to be made with acrylic or modacrylic staple fibers formed outside of Canada or the United States (non-originating fiber), so that upon importation into the other party, the articles containing the subject non-originating fibers would be considered an originating good and qualify for NAFTA preferences, including duty-free treatment. Goods from Mexico would continue to be subject to the current rule upon importation into Canada or the United States.⁵

U.S. Trade, Industry, and Market Conditions for the Affected Articles

Glen Raven, Inc. (Glen Raven) was the petitioner for the rule of origin change for the subject woven pile acrylic fabrics.⁶ ***⁷ ***⁸

Canada is the second largest U.S. export market for all types of manmade fiber woven warp pile fabrics, including woven pile acrylic fabrics,⁹ accounting for 15 percent of the value of U.S. exports of these fabrics. Mexico was the largest market, accounting for 80 percent of the value of exports of these fabrics.

Probable Effect of the Proposed Modification on U.S. Trade under NAFTA, Total U.S. Trade, and Domestic Producers of the Affected Articles

The Commission's analysis indicates that the proposed modification of the NAFTA rule of origin for woven pile acrylic fabrics could result in a small increase in U.S. exports to Canada, resulting in a negligible increase in total U.S. exports. To the extent that exports increase, there could be a beneficial effect on the U.S. industry making such fabrics. The current TPLs in place for cotton and manmade fiber woven and knit fabrics and made-up articles do not apply to woven pile fabrics made with yarns spun in the NAFTA region from non-NAFTA fibers ***. ***, so the proposed rule changes are not likely to affect U.S. imports of the subject fabrics from Canada or total U.S. imports.

⁴ There is one exception to this rule. Woven pile fabrics under HTS subheading 5801.35 that are dyed in the piece in a single uniform color (i.e., the fabrics are dyed after they are woven), and are made from dry-spun acrylic fibers of HTS subheading 5503.30 are allowed to use non-originating fibers.

⁵ The current rule is provided in appendix D.

⁶ U.S. Department of Commerce, OTEXA, "NAFTA Commercial Availability."

⁷ ***

⁸ ***

⁹ Includes all fabrics covered under Schedule B 5801.35.0000, which covers woven pile fabrics and chenille fabrics, other than terry toweling and narrow woven fabrics. Compiled from official statistics of the U.S. Department of Commerce.

The Commission's analysis indicates that the proposed modification to the NAFTA rule of origin for woven pile acrylic fabrics would likely result in no change in NAFTA trade in acrylic staple fibers, and could result in a small increase in the level of U.S. imports of such fibers. The only known NAFTA producer is based in Mexico, and according to U.S. industry sources, is unable to meet all of the U.S. industry's needs in terms of quantity and fiber characteristics.¹⁰ Because there are no known U.S. producers of acrylic staple fibers intended for use in yarns and threads, there would be no effect on the U.S. fiber producers.

¹⁰ Glen Raven Custom Fabrics, letters to the Committee on the Implementation of Textile Agreements, March 17, 2008, and March 30, 2008; ***.

CHAPTER 6

Knit Warp Pile Fabrics Containing Acrylic or Modacrylic Staple Fibers¹

Summary of Advice

The proposed modification to the NAFTA rule of origin for trade between the United States and Canada² for knit warp pile fabrics containing non-originating acrylic or modacrylic staple fibers could result in a small increase in U.S. exports of such fabrics, and therefore could result in a negligible increase in total U.S. exports. To the extent that exports increase, there could be a beneficial effect on U.S. producers of such fabrics. Knit warp pile fabrics made from non-originating acrylic and modacrylic staple fibers are currently eligible for duty-free entry under the NAFTA TPLs, which have been underutilized for the last several years, as already noted. However, there are certain costs associated with using the TPLs for trade between the United States and Canada, which industry sources indicate wouldn't be applicable under the proposed change to the rule of origin. There are no other known producers of the subject fabrics in Canada, so the proposed rule change is unlikely to affect U.S. imports of the subject fabrics from Canada or total U.S. imports.

The Commission's analysis indicates that the proposed modification to the NAFTA rule of origin for the subject fabrics would likely result in no change in NAFTA trade in acrylic staple fibers, and could result in a small increase in the level of total U.S. imports of such fibers. Because there are no known U.S. producers of acrylic staple fibers intended for use in fabrics, there would be no effect on U.S. fiber producers.

Description of the Affected Articles

Knit warp pile fabrics containing acrylic or modacrylic fibers³ (hereafter referred to as knit long pile fabrics) are used in a number of different end-use applications, including for paint rollers, industrial products, stuffed toys, apparel, medical pads, equestrian items, and pet beds.⁴ These fabrics are sometimes called "plush" and may have a fake fur appearance. The subject fabrics are classified in HTS subheading 6001.10.20, which covers knit long pile fabrics of all types of manmade fibers and have an NTR duty rate of 17.2 percent ad valorem in the United States and a rate of 14.0 percent ad valorem in Canada.⁵ The subject knit long pile fabrics are covered under NAFTA TPLs for cotton

¹ The term "knit" is more commonly used by industry and is used for the purposes of this report, rather than the term "knitted," which is the term used in the HTS.

² The proposed modification to the rule of origin does not apply to Mexico.

³ Acrylic or modacrylic staple fibers are classified in HTS subheading 5503.30.00. For further information on these fibers, see chapter 4 of this report.

⁴ Brent Birkhoff (Monterey Mills), petition to the Committee for the Implementation of Textile Agreements, October 29, 2007; ***.

⁵ CBSA, Customs Tariff (accessed November 17, 2009).

and manmade fiber knit and woven fabrics, and made-up articles. The TPLs, as they relate to knit long pile fabrics, apply to both fabrics made with non-originating yarns and to fabrics made with yarns spun in the NAFTA region from non-originating fibers.⁶

Explanation of Existing Rule of Origin and Proposed Rule Modification

Under the current NAFTA rules, acrylic or modacrylic staple fibers must be formed in the United States, Canada, or Mexico in order for the knit long pile fabrics to be considered originating and thus qualify for NAFTA preferences. The proposed rule change, which would be implemented by Canada and the United States only, would allow such articles to be made with acrylic or modacrylic staple fibers formed outside of Canada or the United States (non-originating fibers), so that upon importation into the other party, the articles containing the subject non-originating fibers would be considered an originating good and qualify for NAFTA preferences, including duty-free treatment. Goods from Mexico would continue to be subject to the current rule upon importation into Canada or the United States.

U.S. Trade, Industry, and Market Conditions for the Affected Articles

U.S. firms varied in their estimation of the usefulness of the proposed rule change to increasing their sales. Monterey Mills, the petitioner for the rule of origin change for knit long pile fabrics,⁷ stated that it is one of five knit long pile fabric producers in the United States.⁸ The firm produces fabrics for numerous markets, including the paint roller, industrial, toy, apparel, medical, equestrian, filtration, and pet markets.⁹ ***¹⁰ ***, another producer of the subject fabrics, indicated that it uses some acrylic fibers, but that most of its pile fabric production is made with polyester fibers. It indicated that the proposed rule of origin change would help it increase its acrylic pile fabric sales to Canada.¹¹ Another firm, ***, indicated that some of the knit long pile fabrics it produces use acrylic fibers, but that most of its fabrics are produced using polyester staple fibers.¹² *** stated that while both acrylic and polyester fibers may be used in pile fabrics, they are not interchangeable and have different characteristics, and thus it would likely not increase its use of acrylic staple fibers as a result of the rule change. *** indicated that it produces pile fabrics of numerous different fibers and fiber blends, including acrylic.¹³ ***¹⁴ ***¹⁵

⁶ This differs from the rules for woven pile fabrics, for which the TPLs are applicable only if the fabrics are made from non-originating yarn. For woven pile fabrics, if the yarns are spun in the NAFTA region from non-originating fiber, then the TPLs do not apply.

⁷ U.S. Department of Commerce, OTEXA, "NAFTA Commercial Availability Petitions."

⁸ The Commission contacted four of the five firms: ***.

⁹ U.S. Department of Commerce, OTEXA, "NAFTA Commercial Availability Petitions."

¹⁰ ***, telephone interview by Commission staff, August 26, 2009.

¹¹ ***, telephone interview by Commission staff, August 31, 2009.

¹² ***, telephone interview by Commission staff, September 14, 2009.

¹³ ***, telephone interview by Commission staff, September 21, 2009.

¹⁴ ***, telephone interview by Commission staff, September 21, 2009.

¹⁵ ***, telephone interview by Commission staff, September 21, 2009

Mexico was the largest market for U.S. exports of all types of knit long pile fabrics in 2008, accounting for 43 percent of the total value, followed by Canada at 22 percent.¹⁶ Canada accounted for less than 0.5 percent of the total value of U.S. imports of all types of knit long pile fabrics in 2008.

Probable Effect of the Proposed Modification on U.S. Trade under NAFTA, Total U.S. Trade, and Domestic Producers of the Affected Articles

The Commission's analysis indicates that the proposed modification of the NAFTA rule of origin for knit long pile fabrics containing non-originating acrylic and modacrylic staple fibers could result in a small increase in U.S. exports of the subject fabrics to Canada, even though the subject fabrics made from non-originating fibers are currently eligible for duty-free entry under NAFTA TPLs. U.S. exports of the subject knit long pile fabrics to Canada could increase as administrative costs associated with using the TPLs are avoided and because the rule of origin change could create greater certainty that U.S. exports would receive duty-free treatment in Canada. To the extent that U.S. exports of the subject fabrics increase to Canada, there would likely be a negligible increase in total U.S. exports and a potential beneficial effect on U.S. producers of such fabrics. There are no other known producers of the subject fabrics in Canada, so the proposed rule change is not likely to affect U.S. imports of the subject fabrics from Canada or total U.S. imports.

The Commission's analysis indicates that this proposed modification would not likely result in any change in NAFTA trade in acrylic staple fibers, and potentially a small increase in the level of U.S. imports of such fibers. The only known NAFTA producer is based in Mexico, and according to U.S. industry sources, is unable to meet all of the U.S. industry's needs in terms of quantity and fiber characteristics.¹⁷ As there are no known U.S. producers of acrylic staple fibers intended for use in fabrics, there would be no effect on the U.S. fiber producers.

¹⁶ Based on export data for all fabrics covered under Schedule B 6001.10.0000, long pile fabrics, knitted or crocheted of all fiber types. Compiled from official statistics of the U.S. Department of Commerce.

¹⁷ Monterey Mills, "Commercial Availability Request under the North America Free Trade Agreement," October 29, 2007; ***, telephone interview by Commission staff, August 26, 2009; and ***, interview by Commission staff, September 21, 2009.

CHAPTER 7

Summary of Positions of Interested Parties¹

The Commission received written submissions concerning the proposed rules of origin changes for yarns, thread, and pile fabrics containing acrylic staple fibers from Coats North America; Glen Raven Custom Fabrics; LLC; Kaltex Fibers S.A. de C.V.; and the NCTO. Coats North America expressed opposition to the proposed changes to the rules of origin for acrylic yarns. Glen Raven expressed support for modifying the rule of origin for woven warp pile fabrics. NCTO expressed support for all the proposed modifications listed under this investigation (NAFTA-103-024). Kaltex Fibers S.A. de C.V. expressed opposition to the proposed changes to the rules of origin for all of the products covered in the investigation.

Coats North America²

Coats North America (Coats), a division of Coats plc, filed two written submissions: one filed by the company and one by the law firm of Hogan & Hartson on behalf of the company. Coats is a producer of yarns and thread, including craft yarns. In the company's written submission, it indicated that it has made use of the existing TPL. According to Coats, the TPL accomplishes the same end result as the proposed rule changes. Coats said that since the "TPL has never been in danger of filling," Coats is more comfortable with the current policy than with the possible unintended consequences of modifying the rules of origin. Coats indicated that although there is no U.S. or Canadian production of such fibers, Canadian manufacturers may import such fibers duty free, while U.S. manufacturers must pay duty. Coats stated that it is concerned that changing the rules of origin might introduce other issues to their business, which "has been struggling to keep pace given the duty-free benefits that our Canadian competitors enjoy."

The second submission, filed by the law firm of Hogan & Hartson³ on behalf of Coats, addressed the potential effect of modifications of NAFTA rules of origin for certain yarns formed from non-originating NAFTA fibers. In that submission, Coats said that while yarns formed in Canada from non-NAFTA fibers can enter free of duty under a TPL, they are still subject to a merchandise processing fee. Goods that originate in a NAFTA country (i.e., goods that qualify as products of Canada under NAFTA rules of origin) are not subject to a merchandise processing fee. Coats explained that the proposed modifications to the rules of origin would treat yarns formed in Canada from non-NAFTA sources as "originating" and thus, such yarns would not be subject to the merchandise processing fee. In addition, Coats indicated that there are administrative costs to Canadian manufacturers to use the TPLs to export from Canada to the United States under NAFTA. Canadian exporters reportedly must pay a fee to obtain a certificate

¹ The views summarized are those of the submitting parties and not the Commission. Commission staff did not undertake to confirm the accuracy of, or otherwise correct, the information described. For the full text of the written submissions, see entries associated with investigation no. NAFTA-103-024 at the Commission's Electronic Docket Information System (<https://edis.usitc.gov/edis3-internal/app>).

² Coats North America, written submission to the Commission, October 2, 2009. Also see Coats North America Web site at <http://www.coatsandclark.com>.

³ Hogan & Hartson, on behalf of Coats North America, written submission to the Commission, October 2, 2009.

of eligibility to use the TPL. Coats stated that the proposed change to NAFTA rules of origin for yarns would disproportionately benefit Canadian yarn producers, who would no longer be subject to these fees, at the expense of U.S. producers.

Glen Raven Custom Fabrics⁴

Glen Raven Custom Fabrics is a division of Glen Raven, Inc., a firm that manufactures and distributes solution-dyed acrylic fabrics. Glen Raven stated that as the original petitioner for the proposed modifications of NAFTA rules of origin for woven warp pile fabrics of manmade fibers classified in HTS subheading 5801.35.00, it is a strong supporter of the proposed change. It stated that the type of fiber in question, a solution-dyed acrylic staple wet-spun fiber, is not made in the United States or Canada, and therefore the probable effect of the proposed modification on U.S. trade under NAFTA, on total U.S. trade, and on domestic producers, such as Glen Raven, would be positive. Glen Raven stated that the proposed rule changes would reduce the costs associated with trade of the warp pile fabrics.

Kaltex Fibers S.A. de C.V.⁵

Kaltex Fibers S.A. de C.V. (Kaltex), a Mexican-based producer of acrylic fibers and tow, filed its statement through Benchmark, Inc., a Washington, D.C.-based consulting firm. Kaltex indicated that it opposed the proposed modifications to the rules of origin for acrylic yarns, thread, and warp pile fabrics. It stated that changing the proposed rules of origin for these products would “directly undermine Kaltex’s substantial investments and the related employee and community interests.”⁶ It stated that changing the rules “would be contrary to the NAFTA’s objectives of promoting manufacturing in North America.”

Kaltex said that it is able to meet the needs of North American customers in terms of capacity and quality, and that it has been working with North American manufacturers to meet the full range of their acrylic fiber requirements. Kaltex stated that it invested \$200 million in its acrylic fiber manufacturing operations, including \$40 million in new investments over the last three years. Kaltex reported that it has an annual production capacity of 100,000 tons of acrylic tow, staple, and top, compared with estimated U.S. demand of 46,500 tons in 2007. It said that its manufacturing capacity exceeds North American demand for producer-dyed fiber, a fiber that is used in warp knit pile fabric. It also indicated that it has not experienced any technical or quality problems in meeting its customers’ demand for the subject acrylic fiber. With regard to timeliness, Kaltex stated that it has been able to deliver a first sample to customers within 2–4 weeks and to deliver the subject fiber within 4–6 weeks for the first order and 2–4 weeks for subsequent orders.

⁴ Glen Raven Custom Fabrics, written submission to the Commission, October 1, 2009.

⁵ Benchmarks, Inc., on behalf of Kaltex Fibers S.A. de C.V., written submission to the Commission, October 1, 2009.

⁶ Benchmarks, Inc., on behalf of Kaltex Fibers S.A. de C.V., written submission to the Commission, October 1, 2009, 1.

National Council of Textile Organizations⁷

According to NCTO's Web site, it is an advocacy association representing the U.S. textile industry, including fiber, fabric, and yarn manufacturers, as well as textile-related machinery manufacturers and suppliers.⁸ In its written submission, NCTO said that it supports the proposed modifications to the rules of origin for acrylic articles that are the subject of the Commission investigation no. NAFTA-103-024. NCTO indicated that it is not aware of any domestic producers of acrylic or modacrylic fibers for apparel end uses. It expressed the view that modifying the rules of origin will "enhance the competitive position of U.S. textile producers and our customers manufacturing apparel."

⁷ National Council of Textile Organizations, written submission to the Commission, October 2, 2009.

⁸ NCTO Web site. <http://www.ncto.org/about/index.asp> (accessed October 6, 2009).

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APPENDIX A

Request Letter from the United States Trade Representative

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUL 29 2009

RECEIVED
OFC OF THE SECRETARY
US INTL TRADE COMM
2009 JUL 30 PM 3:10

The Honorable Shara L. Aranoff
Chairman
U.S. International Trade Commission
500 E St., SW
Washington, DC 20436

Dear Chairman Aranoff:

Annex 300-B, Chapter Four and Annex 401 of the North American Free Trade Agreement (NAFTA) set out rules of origin for textiles and apparel for applying the tariff provisions of the NAFTA. These rules are reflected in General Note 12 of the Harmonized Tariff Schedule of the United States (HTS).

Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 is that the President obtain advice regarding the proposed action from the U.S. International Trade Commission.

Our negotiators have recently reached agreement in principle with representatives of the governments of Canada and Mexico on modifications to the NAFTA rules of origin, which are reflected in part I of the attached document. These changes are the result of determinations that North American producers are not able to produce rayon fiber in commercial quantities in a timely manner, nor are they able to produce certain man-made fibers used in the production of textile flock in commercial quantities in a timely manner. In addition, our negotiators have recently reached agreement in principle with representatives of the government of Canada, which are reflected in part II of the attached document. These changes are the result of determinations that U.S. and Canadian producers are not able to produce certain acrylic fibers in commercial quantities in a timely manner.

Under authority delegated by the President, and pursuant to section 103 of the Act, I request that the Commission provide advice on the probable effect of the modifications reflected in the enclosed proposals on U.S. trade under the NAFTA, total U.S. trade, and on domestic producers of the affected articles. I request that the Commission provide this advice at the earliest possible

The Honorable Shara L. Aranoff
Page Two

date, but not later than four months after the date of receipt of this request. The Commission should issue, as soon as possible thereafter, a public version of its report with any business confidential information deleted.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kirk". The signature is written in a cursive style with a large initial "R" and a distinct "K".

Ron Kirk

Enclosure

Part I

Trilaterally agreed rules of origin

NORTH AMERICAN FREE TRADE AGREEMENT
Textiles and Apparel Goods - Availability of Supply
Proposed Amendments to Annex 401

Rayon Fiber, Other than Lyocell:

Chapters 52, 54, 55, 56 and 60: Add the following chapter notes to Chapters 52, 54, 55, 56 and 60:

Chapter 52

Note: The origin of rayon fiber, other than lyocell, of heading 55.02, 55.04 or 55.07 shall be disregarded in determining the origin of any thread or yarn of this chapter.

Chapter 54

Note: The origin of rayon fiber, other than lyocell, of heading 55.02, 55.04 or 55.07 shall be disregarded in determining the origin of any thread or yarn of this chapter.

Chapter 55

Note: The origin of rayon fiber, other than lyocell, of heading 55.02, 55.04 or 55.07 shall be disregarded in determining the origin of any thread or yarn of this chapter.

Chapter 56

Note: The origin of rayon fiber, other than lyocell, of heading 55.02, 55.04 or 55.07 shall be disregarded in determining the origin of any good of this chapter.

Chapter 60

Note: The origin of rayon fiber, other than lyocell of heading 55.02, 55.04 or 55.07 shall be disregarded in determining the origin of any good of this chapter.

Textile flock and dust and mill neps

Chapter 56, 5601.21-5601.30: Delete subheading 5601.21-5601.30 and the rule of origin applicable thereto and replace with the following:

- | | |
|-------------------|--|
| 5601.21 – 5601.29 | A change to subheading 5601.21 through 5601.29 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11 or Chapter 54 through 55. |
| 5601.30 | A change to subheading 5601.30 from synthetic filament tow, modacrylic, of subheading 5501.30 or any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11 or Chapter 54 through 55. |

Part II:

Bilaterally agreed rules of origin

NORTH AMERICAN FREE TRADE AGREEMENT
Textiles and Apparel Goods - Availability of Supply
Proposed Amendments to Annex 300-B, Appendix 6, Special Provisions

Rule Applicable to Thread and Yarns of Chapter 55 Containing Acrylic or Modacrylic Staple Fibers

For purposes of trade between Canada and the United States, a good of either Party of heading 55.08 through 55.11 shall be treated as if it were an originating good only if any of the following changes in tariff classification is satisfied within the territory of one or both of the Parties:

a change to heading 55.08 through 55.11 from subheading 5503.30 or any other chapter, except from heading 52.01 through 52.03 or 54.01 through 54.05.

Rule Applicable to Warp Pile Fabrics, Cut, Containing Acrylic or Modacrylic Staple Fibers

For purposes of trade between Canada and the United States, a good of either Party of subheading 5801.35 shall be treated as if it were an originating good only if any of the following changes in tariff classification is satisfied within the territory of one or both of the Parties:

a change to subheading 5801.35 from any other chapter, except from heading 51.06 through 51.13, 52.04 through 52.12, 53.07 through 53.08 or 53.10 through 53.11, Chapter 54 or subheading 5501.10 through 5503.20 or 5503.40 through 5503.90 or heading 55.04 through 55.16.

Rule Applicable to Warp Pile Fabrics Containing Acrylic or Modacrylic Staple Fibers

For purposes of trade between Canada and the United States, a good of either Party of subheading 6001.10 shall be treated as if it were an originating good only if any of the following changes in tariff classification is satisfied within the territory of one or both of the Parties:

a change to subheading 6001.10 from any other chapter, except from heading 51.06 through 51.13, Chapter 52, heading 53.07 through 53.08 or 53.10 through 53.11, Chapter 54 or subheading 5501.10 through 5503.20 or 5503.40 through 5503.90 or heading 55.04 through 55.16.

APPENDIX B
***Federal Register* Notice**
Inv. No. NAFTA-103-023

Background

On June 30, 2009, a petition was filed with the Commission and Commerce by Sunbeam Products, Inc. doing business as Jarden Consumer Solutions, Boca Raton, FL, alleging that an industry in the United States is materially injured by reason of LTFV imports of woven electric blankets from China. Accordingly, effective June 30, 2009, the Commission instituted antidumping duty investigation No. 731-TA-1163 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 7, 2009 (74 FR 32192). The conference was held in Washington, DC, on July 21, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 14, 2009. The views of the Commission are contained in USITC Publication 4097 (August 2009), entitled *Woven Electric Blankets from China: Investigation No. 731-TA-1163* (Preliminary).

By order of the Commission.

Issued: August 17, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-20109 Filed 8-20-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. NAFTA-103-023]

Certain Textile Articles Containing Rayon and Other Manmade Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt of a request on July 30, 2009, from the Office of the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313), the Commission instituted investigation No. NAFTA-103-023, *Certain Textile Articles Containing Rayon and Other Manmade*

Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico.

DATES:

October 2, 2009: Deadline for filing all written submissions.

On or before November 30, 2009: Transmittal of report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov/edis3-internal/app>.

FOR FURTHER INFORMATION CONTACT:

Project Leader Andrea Boron (202-205-3433 or andrea.boron@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background: Annex 300-B, Chapter 4, and Annex 401 of the NAFTA contain the rules of origin for textiles and apparel for application of the tariff provisions of the NAFTA. These rules are set forth for the United States in general note 12 of the Harmonized Tariff Schedule (HTS). According to the USTR's request letter, U.S. negotiators have recently reached agreement in principle with representatives of the governments of Canada and Mexico on proposed modifications to the rules of origin of the NAFTA for certain textile articles containing rayon and other manmade fibers as described in part I of the attachment to the letter (for the text of the letter and attachment, see the Commission's Web site for this investigation at http://www.usitc.gov/secretary/fed_reg_notices/332/). (The USTR's letter also requested

Commission advice regarding proposed modifications to the rules of origin of the NAFTA for certain textile articles containing acrylic and modacrylic staple fibers, described in part II of the attachment to the letter. The Commission is preparing that advice on the same schedule under investigation No. NAFTA-103-024, *Certain Textile Articles Containing Acrylic and Modacrylic Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada.*)

Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission. The request letter asks that the Commission provide advice on the probable effect of the proposed modifications on U.S. trade under the NAFTA, total U.S. trade, and on domestic producers of the affected articles. The USTR asked that the Commission submit its advice to USTR by November 30, 2009, and that the Commission shortly thereafter issue a public version of the report with any confidential business information deleted.

Additional information concerning the articles and the proposed modifications, including a copy of the USTR's request letter, can be obtained by accessing the Commission's Web site at <http://www.usitc.gov>. The current NAFTA rules of origin applicable to U.S. imports can be found in general note 12 of the HTS (see "General Notes" link at <http://www.usitc.gov/tata/hts/bychapter/index.htm>).

Written Submissions: No public hearing is planned. However, interested parties are invited to file written submissions and other information concerning the matters to be addressed in this investigation. All written submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest possible date, and should be received not later than 5:15 p.m., October 2, 2009. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and*

Procedure (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize the filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook on Electronic Filing Procedures, http://www.usitc.gov/docket_services/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR and the President. As requested by the USTR, the Commission will publish a public version of the report. However, in the public version, the Commission will not publish confidential business information in a manner that would reveal the operations of the firm supplying the information.

Issued: August 17, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-20107 Filed 8-20-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-565]

In the Matter of Certain Ink Cartridges and Components Thereof; Consolidated Enforcement Proceeding and Enforcement Proceeding II; Notice of Commission Determinations on Civil Penalties; Termination of Enforcement Proceedings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to levy civil penalties in the above-captioned proceeding after finding violations of cease and desist orders and a consent order issued in the original investigation. The Commission has terminated the proceedings.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov/>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation in this matter on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan (collectively, "Epson"). 71 FR 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 ("section 337") in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957; claims 18, 81, 93, 149,

164, and 165 of U.S. Patent No. 5,622,439; claims 83 and 84 of U.S. Patent No. 5,158,377; claims 19 and 20 of U.S. Patent No. 5,221,148; claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472; claim 1 of U.S. Patent No. 5,488,401; claims 1-3 and 9 of U.S. Patent No. 6,502,917; claims 1, 31, and 34 of U.S. Patent No. 6,550,902; claims 1, 10, and 14 of U.S. Patent No. 6,955,422; claim 1 of U.S. Patent No. 7,008,053; and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 24 companies located in China, Germany, Hong Kong, Korea, and the United States. Several respondents were terminated from the investigation on the basis of settlement agreements or consent orders or were found in default.

On October 19, 2007, after review of the ALJ's final ID, the Commission made its final determination in the investigation, finding a violation of section 337. The Commission issued a general exclusion order, a limited exclusion order, and cease and desist orders directed to several domestic respondents. The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d), (f), and (g) did not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review would be \$13.60 per cartridge for covered ink cartridges. Certain respondents appealed the Commission's final determination to the United States Court of Appeals for the Federal Circuit ("Federal Circuit"). On January 13, 2009, the Federal Circuit affirmed the Commission's final determination without opinion pursuant to Fed. Cir. R. 36. *Ninestar Technology Co. et al. v. International Trade Commission*, Appeal No. 2008-1201.

On February 8, 2008, Epson filed two complaints for enforcement of the Commission's orders pursuant to Commission rule 210.75. Epson proposed that the Commission name five respondents as enforcement respondents. On May 1, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted consolidated enforcement proceedings, naming the five following proposed respondents as enforcement respondents: Ninestar Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Town Sky Inc. (collectively, the

APPENDIX C
***Federal Register* Notice**
Inv. No. NAFTA-103-024

Dated: July 30, 2009

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-20100 Filed 8-20-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Saint Martin's Waynick Museum, Lacey, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Saint Martin's Waynick Museum, Lacey, WA. The human remains were removed from a site near the Grand Coulee Dam, Stevens County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Saint Martin's Waynick Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington.

At an unknown date, human remains representing a minimum of one individual were removed from a site in or near Kettle Falls, located near the Grand Coulee Dam, Stevens County, WA. No known individual was identified. No associated funerary objects are present.

The remains of this individual, consisting of a cranium and mandible, are identified in an accompanying note as being from "Kettle Falls, Stevens County, Washington, near the Grand Coulee Dam." Most of the objects in the Saint Martin's Waynick Museum collection not linked to a specific donor are assumed to have been part of the original, founding collection of Mr. Lynne Waynick, and were donated to the care of Saint Martin's Abbey during the 1960s. As no other donor is identified, the human remains of this individual are assumed to be part of Mr. Waynick's collection.

Archeological and historical documentation locates the Kettle Falls

area (both before and after the construction of the Grand Coulee Dam) within the aboriginal territory of the Confederated Tribes of the Colville Reservation, Washington. Ethnographic sources associate the Kettle Falls area with the Colville and the Lakes Tribes or Bands (Kennedy and Bouchard 1998; Mooney 1896; Ray 1936; Spier 1936; Swanton 1953). Both the Colville and the Lakes became part of the 12 tribes and bands of the Confederated Tribes of the Colville Reservation, Washington. The Colville Reservation was created by Executive Order in 1872.

Officials of the Saint Martin's Waynick Museum have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Saint Martin's Waynick Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Colville Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Brother Luke Devine, Saint Martin's Waynick Museum, 5300 Pacific Ave. SE., Lacey, WA 98503, telephone (360) 438-4458, before September 21, 2009. Repatriation of the human remains to the Confederated Tribes of the Colville Reservation, Washington may proceed after that date if no additional claimants come forward.

Saint Martin's Waynick Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington that this notice has been published.

Dated: August 7, 2009

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-20105 Filed 8-20-09; 8:45 am]

BILLING CODE 4312-50-S

INTERNATIONAL TRADE COMMISSION

[Investigation No. NAFTA-103-024]

Certain Textile Articles Containing Acrylic and Modacrylic Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt of a request on July 30, 2009, from the Office of the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313), the Commission instituted investigation No. NAFTA-103-024, *Certain Textile Articles Containing Acrylic and Modacrylic Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada*.

DATES:

October 2, 2009: Deadline for filing all written submissions.

On or before November 30, 2009: Transmittal of report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov/edis3-internal/app>.

FOR FURTHER INFORMATION CONTACT: Project Leader Andrea Boron (202-205-3433 or andrea.boron@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gerhard of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's ADD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background: Annex 300-B, Chapter 4, and Annex 401 of the NAFTA contain the rules of origin for textiles and apparel for application of the tariff provisions of the NAFTA. These rules are set forth for the United States in general note 12 to the Harmonized Tariff Schedule (HTS). According to the USTR's request letter, U.S. negotiators have recently reached agreement in

principle with representatives of the government of Canada on proposed modifications to the rules of origin of the NAFTA for certain textile articles containing acrylic and modacrylic staple fibers as described in part II of the attachment to the letter (for the text of the letter and the attachment, see the Commission's Web site for this investigation at http://www.usitc.gov/secretary/fed_reg_notices/332/). (The USTR's letter also requested Commission advice regarding proposed modifications to the rules of origin of the NAFTA for certain textile articles of rayon and other manmade fibers described in part I of the attachment. The Commission is preparing that advice on the same schedule under investigation No. NAFTA-103-023, *Certain Textile Articles Containing Rayon and Other Manmade Fibers: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico.*)

Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission. The request letter asks that the Commission provide advice on the probable effect of the proposed modifications on U.S. trade under the NAFTA, total U.S. trade, and on domestic producers of the affected articles. The USTR asked that the Commission submit its advice to USTR by November 30, 2009, and that the Commission shortly thereafter issue a public version of the report with any confidential business information deleted.

Additional information concerning the articles and the proposed modifications, including a copy of the USTR's request letter, can be obtained by accessing the Commission's Web site at <http://www.usitc.gov>. The current NAFTA rules of origin applicable to U.S. imports can be found in general note 12 of the HTS (see "General Notes" link at <http://www.usitc.gov/tata/hts/bychapter/index.htm>).

Written Submissions: No public hearing is planned. However, interested parties are invited to file written submissions and other information concerning the matters to be addressed in this investigation. All written

submissions should be addressed to the Secretary. To be assured of consideration by the Commission, written submissions related to the Commission's report should be submitted at the earliest possible date, and should be received not later than 5:15 p.m., October 2, 2009. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize the filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook on Electronic Filing Procedures, http://www.usitc.gov/docket_services/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000). Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR and the President. As requested by the USTR, the Commission will publish a public version of the report. However, in the public version, the Commission will not publish confidential business information in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: August 17, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-20108 Filed 8-20-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1163
(Preliminary)]

Woven Electric Blankets From China

Determination

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of woven electric blankets, provided for in subheading 6301.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).²

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² Vice Chairman Daniel R. Pearson determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of woven electric blankets.

APPENDIX D
Current Rules of Origin under the NAFTA
for Textiles Articles Subject to Investigation
Nos. NAFTA-103-023 and NAFTA-103-024

Harmonized Tariff Schedule of the United States (2009)–Supp. 1 (Rev. 1)

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Chapter 52.

1. A change to headings 5201 through 5207 from any other chapter, except from headings 5401 through 5405 or 5501 through 5507.
2. A change to headings 5208 through 5212 from any heading outside that group, except from headings 5106 through 5110, 5205 through 5206, 5401 through 5404 or 5509 through 5510.

Chapter 53.

1. A change to headings 5301 through 5305 from any other chapter.
2. A change to headings 5306 through 5308 from any heading outside that group.
3. A change to heading 5309 from any other heading, except from headings 5307 through 5308.
4. A change to headings 5310 through 5311 from any heading outside that group, except from headings 5307 through 5308.

Chapter 54.

1. A change to headings 5401 through 5406 from any other chapter, except from headings 5201 through 5203 or 5501 through 5507.
2. A change to tariff items 5407.61.11, 5407.61.21 or 5407.61.91 from yarn, wholly of polyesters other than partially oriented, measuring not less than 75 decitex but not more than 80 decitex, and having 24 filaments per yarn, of subheadings 5402.44 or 5402.47, tariff item 5402.52.10 or any other chapter, except from headings 5106 through 5110, 5205 through 5206 or 5509 through 5510.
3. A change to heading 5407 from any other chapter, except from headings 5106 through 5110, 5205 through 5206 or 5509 through 5510.
4. A change to heading 5408 from filament yarns of viscose rayon of heading 5403 or any other chapter, except from headings 5106 through 5110, 5205 through 5206 or 5509 through 5510.

Chapter 55.

Note: The following TCR 1 applies only to goods of Canada under the terms of this note.

1. A change to subheading 5509.31 from acid-dyeable acrylic tow of subheading 5501.30 or any other chapter, except from headings 5201 through 5203 or 5401 through 5405.
- 1A. A change to headings 5501 through 5511 from any other chapter, except from headings 5201 through 5203 or 5401 through 5405.
2. A change to headings 5512 through 5516 from any heading outside that group, except from headings 5106 through 5110, 5205 through 5206, 5401 through 5404 or 5509 through 5510.

Chapter 56.

1. A change to subheading 5601.10 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, headings 5501 through 5503, subheading 5504.90 or headings 5505 through 5516.
- 1A. A change to subheadings 5601.21 through 5601.30 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.
2. A change to heading 5602 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.
- 2A. A change to subheadings 5603.11 through 5603.14 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.
- 2B. (A) A change to non-woven wipes of subheadings 5603.91 through 5603.94 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, headings 5501 through 5503, subheading 5504.90 or headings 5505 through 5516; or

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- (B) A change to any other good of subheadings 5603.91 through 5603.94 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.
- 2C. A change to headings 5604 through 5605 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

Heading Rule: For the purposes of TCR 3 to chapter 56, the term flat yarns means 7 denier/5 filament, 10 denier/7 filament or 12 denier/5 filament, all of nylon 66, untextured (flat) semi-dull yarns, multifilament, untwisted or with a twist not exceeding 50 turns per meter, of subheading 5402.45.

3. A change to heading 5606 from flat yarns of subheading 5402.45 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapters 54 through 55.
4. A change to headings 5607 through 5609 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

Chapter 57.

A change to headings 5701 through 5705 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5308 or 5311, chapter 54, or headings 5508 through 5516; provided that for purposes of trade between the United States and Mexico, a good of chapter 57 shall be treated as an originating good only if any of the following changes in tariff classification were satisfied within the territory of one or more of the parties:

- (a) A change to subheadings 5703.20 or 5703.30 or heading 5704 from any heading outside chapter 57 other than headings 5106 through 5113, 5204 through 5212, 5308, 5311 or any headings of chapters 54 or 55; or
- (b) A change to any other heading or subheading of chapter 57 from any heading outside that chapter other than headings 5106 through 5113, 5204 through 5212, 5308, 5311, any heading of chapter 54 or headings 5508 through 5516.

Chapter 58.

Note: The following TCR 1 applies only to goods of Canada under the terms of this note.

1. A change to warp pile fabrics, cut, of subheading 5801.35 (the foregoing fabrics with pile of dry-spun acrylic staple fibers of subheading 5503.30 and dyed in the piece to a single uniform color) from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, chapter 54, headings 5501 through 5502, subheadings 5503.10 through 5503.20 or 5503.40 through 5503.90 or headings 5504 through 5515.
2. A change to headings 5801 through 5811 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapters 54 through 55.

Chapter 59.

1. A change to heading 5901 from any other chapter, except from headings 5111 through 5113, 5208 through 5212, 5310 through 5311, 5407 through 5408 or 5512 through 5516.
2. A change to heading 5902 from any other heading, except from headings 5106 through 5113, 5204 through 5212, or 5306 through 5311, or chapters 54 through 55.
3. A change to headings 5903 through 5908 from any other chapter, except from headings 5111 through 5113, 5208 through 5212, 5310 through 5311, 5407 through 5408 or 5512 through 5516.
4. A change to heading 5909 from any other chapter, except from headings 5111 through 5113, 5208 through 5212 or 5310 through 5311, chapter 54, or headings 5512 through 5516.
5. A change to heading 5910 from any other heading, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311, or chapters 54 through 55.
6. A change to heading 5911 from any other chapter, except from headings 5111 through 5113, 5208 through 5212, 5310 through 5311, 5407 through 5408 or 5512 through 5516.

Chapter 60. A change to headings 6001 through 6006 from any other chapter, except from headings 5106 through 5113, chapter 52, headings 5307 through 5308, or 5310 through 5311, or chapters 54 through 55.