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Unexploited Benefits of the U.S.-Singapore FTA: Fabrics In Short Supply

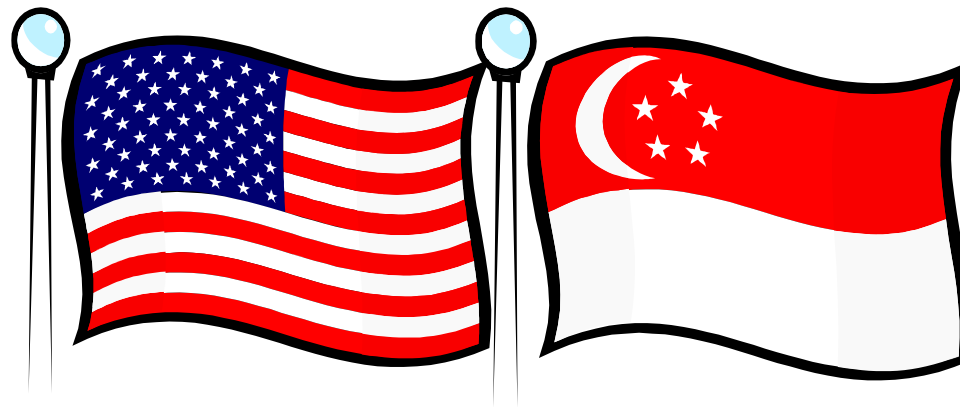
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Overview

- US-Singapore Free Trade Agreement: The Big Picture
 - Reached in 2002, it came into force on January 1, 2004, providing immediate duty-free access to the U.S. market for Singapore-made apparel meeting stringent origin rules
 - “Yarn forward” origin rules



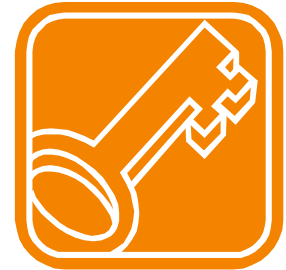
Overview

- Tariff Preference Levels

- A temporary (8 year) exception: annual tariff preference levels for cotton and manmade fiber apparel that does not meet the origin rules
 - In other words, apparel cut and sewn in Singapore from fabrics knit or woven elsewhere
- Duties gradually go down to zero (over five years) as the volume permitted under the TPL approaches zero
 - Started at 25 million SME, reduced by 3.125 million SME annually



Overview



- The Key Exception: Short Supply
 - One provision identifies specific products for which foreign origin (third country) fabric or yarns could be used without sacrificing duty-free benefits and without quantitative limits
 - The “NAFTA list” plus any fabric or yarn already designated by the U.S. Government as being in short supply as of November 15, 2002 (when the FTA negotiations were completed)
 - E.g., Harris Tweed, velveteen, corduroy plus 18 fabrics identified under U.S. preference programs (Caribbean, Andean, Africa)
 - Second provision created a separate process for identifying additional yarns and fabrics that could be sourced outside Singapore and the U.S. to make apparel in Singapore without forfeiting duty-free benefits

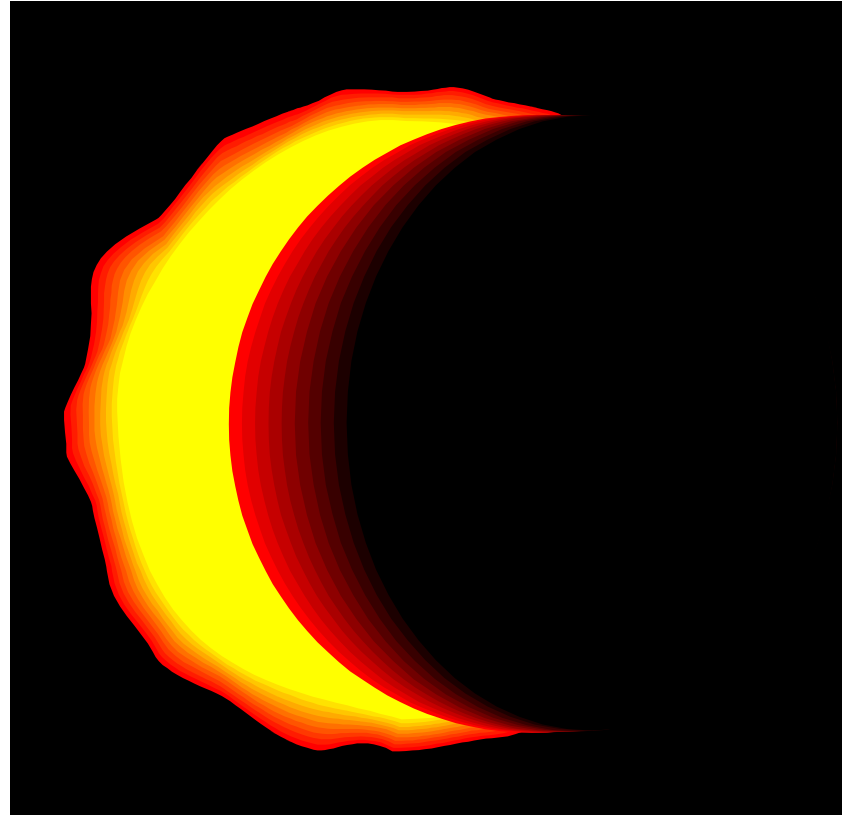
Overview

- Where we are today:
 - TPLs are shrinking, along with Singapore's apparel trade
 - In 2002, U.S. imports of cotton and manmade fiber apparel made in Singapore were 66.4 million SME
 - As of July 2007, U.S. imports of cotton and manmade fiber apparel made in Singapore are 17.7 million SME.
 - A U.S. International Trade Commission study conducted in 2003 had projected that Singapore's textile and apparel exports would expand by 57 percent, even after accounting for the tough rules of origin.



Overview

- Where we are today:
 - The process for identifying more foreign yarns and fabrics that could be used outside the TPL has been eclipsed by more modern procedures created under newer FTAS negotiated by the United States
 - The USSFTA could use some new energy.



What Is Short Supply?

- A yarn or fabric that is not available in commercial quantities in a timely manner from a producer in either FTA country
- USSFTA set up a process for designating additional yarns and fabrics.
 - Based upon the model established under NAFTA
 - Requires bilateral Government to Government consultations
 - The Parties shall *endeavor* to conclude consultations within 60 days
 - U.S. law requires that the President obtain the advice of the U.S. International Trade Commission and industry advisory committees
 - U.S. law requires submitting a report to the Congress, too, and waiting 60 days from then to proclaim a change in the origin rules

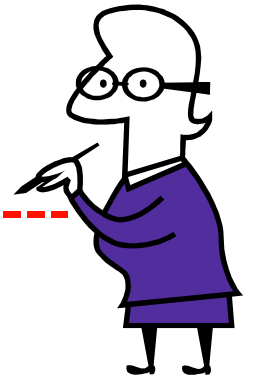


It Takes A Little Longer Than Planned



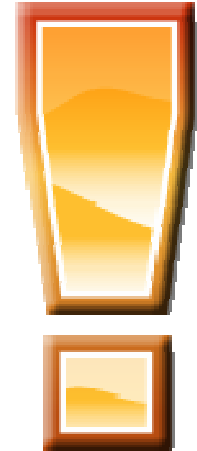
- Singapore has twice requested short supply consultations with the United States
 - March 2004 and April 2005
- To update the list of designated short supply yarns and fabrics to include those designated by the U.S. under the three preference programs since November 2002
- U.S. sought public comment; USITC prepared a report
- U.S. issued proclamation containing 4 revised rules of origin on August 1, 2006 (concurrent with Bahrain FTA)

DR-CAFTA Has A Better Deal



- Instead of government to government consultations, companies bring requests forward to the U.S.
 - Based upon the processes established under the U.S. preference programs, but faster: 30 to 44 days from start to finish
- File an application with the Committee for the Implementation of Textile Agreements
- Once accepted by CITA, opponents have 10 business days to respond with an “offer” to produce the same or comparable product
 - If no objection, request is approved
- Applicant gets 4 business days to file a rebuttal to an opposition
 - A “hearing” may be conducted where there are disputed facts

DR-CAFTA Has A Better Deal



- Better than USSFTA, better than unilateral preference programs:
 - Business driven; no bilateral negotiations
 - No Federal Register notice requirements
 - Transparent process: all filings (except business confidential information) are posted on the Commerce Department website
 - Only offers in response, no comments on whether it is a good idea or not a good idea
 - No CITA or USITC investigation or study
 - Implementation by Federal Register notice; No Presidential proclamation
 - Tight time frame for decision-making
 - One downside: opponents could seek revocation later

DR-CAFTA Has A Better Deal



- Due diligence is key

- The fast action once a short supply request is filed must be preceded by extensive homework
 - Very specific yarn/fabric descriptions are required

CITA requires the applicant to prove that it has attempted to obtain the product from mills in the FTA territories

- That means contacting all potential sources of supply and maintaining a record of those contacts
- A time-consuming, extensive process that may require reconsideration of the scope of a request
- CITA struggling with opponents asserting that they *could* make it, even if they don't currently make it

Short Supply Successes

- Under DR-CAFTA, 14+ fabric short supply requests have been approved, two have been denied
 - In just 18 months
 - And DR-CAFTA started with a longer list of short supply fabrics, yarns and fibers in the first place.



Short Supply Failures

- More recently, a less generous short supply provision was incorporated in the **US-Korea FTA**
 - No pre-negotiated list of short supply fabrics or yarns; all must be requested through bilateral government to government consultations
 - Quantitative caps are set for each short supply determination: 100 million SME
 - Short supply provision expires in 5 years unless agreed to extent



Time To Catch Up

- USSFTA recognizes 22 fabrics as short supply, allowing the use of third country origin fabrics to produce garments that qualify for duty-free access to the U.S. market
- DR-CAFTA recognizes 88 fabrics and yarns
- Singapore is missing out.



What Are the Opportunities?



- Study what has been approved under DR-CAFTA
- Focus on what the U.S. buyers are seeking
 - Are there fabrics U.S. buyers want from Asian suppliers that are not made in the United States?
- Perform due diligence to determine whether there are U.S. mills producing those or readily substitutable products
- Work through Singapore Government, for now
 - Bilateral government to government consultations could lead to negotiated revision of short supply provision later

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