

UNITED STATES COURT OF INTERNATIONAL TRADE

BEST KEY TEXTILES CO., LTD.,	:	
	:	
	:	
Plaintiff,	:	
	:	
v.	:	Before: R. Kenton Musgrave, Senior Judge
	:	Court No. 13-00367
UNITED STATES,	:	
	:	
	:	
Defendant,	:	
	:	
	:	

OPINION

[Denying plaintiff’s motion for unredacted versions of defendant’s confidential third and final supplement to the administrative record.]

Dated: December 4, 2013

John M. Peterson, Maria E. Celis, Richard F. O’Neill, George W. Thompson, and Russell A. Semmel, Neville Peterson LLP of New York, NY, for the plaintiff.

Amy M. Rubin, Acting Assistant Director, Commercial Litigation Branch, U.S. Department of Justice, of New York, NY, for the defendant.

Musgrave, Senior Judge: The plaintiff, Best Key Textile, Inc., invoked the court’s jurisdiction under 28 U.S.C. §1581(h), or alternatively 28 U.S.C. § 1581(i)(4), to seek pre-importation judicial review of U.S. Customs and Border Protection’s (“Customs”) Headquarters Ruling Letter HQ H202560, 47 Cust. Bull. & Dec. 41 (Sep. 17, 2013) (“Revocation Ruling”) revoking New York Customs Ruling N187601 (Oct. 25, 2011) (the “Yarn Ruling”). Certain procedural background leading up to the filing of this matter is set forth in *Best Key Textiles, Inc. v. United States*, Slip Op. 13-135 (Nov. 4, 2013) (holding the Revocation Ruling, which becomes

effective 60 days after publication, deemed published October 17, 2013), familiarity with which is presumed. As in that case, this matter is attempting to adhere to an expedited litigation schedule. *See* ECF No. 23 (Nov. 6, 2013).

This opinion addresses only the plaintiff's motion to compel the defendant to provide the plaintiff with un-redacted versions of the defendant's confidential third and final supplement to the administrative record. *See* ECF No. 44 (motion for leave to file public version of final supplement to the administrative record); ECF No. 46 (granting motion for leave); ECF No. 49 (confidential version of final supplement). The precise motion was raised during the in-person emergency status conference convened yesterday, also upon motion therefor from the plaintiff.

At the conclusion of the conference, the court agreed to inspection and evaluation, *in camera*, of the un-redacted portions of the administrative record documents over which the defendant asserted privilege of attorney-client or pursuant to the inter-agency exemption of 5 U.S.C. §552(b)(5). The court has done so and also considered the law upon which the plaintiff claims entitlement. *See Brennan Center for Justice at New York University School of Law v. U.S. Department of Justice*, 697 F.3d 184 (2nd Cir. 2012); *Fund for Animals v. Williams*, 391 F. Supp. 2d 191 (D.D.C. 2005); *see also NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *National Council of La Raza v. Department of Justice*, 411 F.3d 350 (2nd Cir. 2005); *Grand Central Partnership, Inc. v. Cuomo*, 166 F.3d 473 (2nd Cir. 1999); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854 (D.C. Cir. 1980); 81 *Am. Jur. 2d*, Witnesses §517; Charles Alan Wright, Kenneth W. Graham, Jr., Victor James Gold, Michael H. Graham, 26A *Fed. Prac. & Proc. Evid.*

