CANADIAN INTERNATIONAL TRADE TRIBUNAL

TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

REPORT TO THE MINISTER OF FINANCE

REQUESTS FOR TARIFF RELIEF BY SCAPA TAPES NORTH AMERICA LTD. REGARDING CERTAIN WOVEN FABRICS OF 100 PERCENT COTTON

SEPTEMBER 13, 2001

REQUEST NOS. TR-2000-007 AND TR-2000-008

SCAPA TAPES NORTH AMERICA LTD.

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INTRODUCTION

On July 14, 1994, the Canadian International Trade Tribunal (the Tribunal) received terms of reference from the Minister of Finance (the Minister) pursuant to section 19 of the *Canadian International Trade Tribunal Act.*[1] The Minister directed the Tribunal to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and to make recommendations in respect of those requests to the Minister.

On March 12, 2001, pursuant to the Minister's reference, the Tribunal received two separate requests from Scapa Tapes North America Ltd. (Scapa), of Renfrew, Ontario, for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of: (1) certain dyed woven fabrics of 100 percent cotton (TR-2000-007); and (2) certain bleached woven fabrics of 100 percent cotton (TR-2000-008), for use in the manufacture of pressure-sensitive adhesive tape. Scapa also sought tariff relief retroactive to October 1, 2000.

On June 26, 2001, being satisfied that the requests were properly documented and similar in nature, the Tribunal issued one notice of commencement of investigation covering both requests,[2] which was distributed to known interested parties. The fabrics under investigation were described in the notice as "woven fabrics, solely of cotton, bleached or dyed, plain weave, ring-spun, weighing not more than 100 g/m², of subheading No. 5208.21 or 5208.31, for use in the manufacture of pressure-sensitive adhesive tape (the subject fabrics)".

As part of the investigation, the Tribunal informed key industry associations of the requests and sent questionnaires to potential producers of fabrics identical to or substitutable for the subject fabrics. A request for information was also sent to potential users/importers of the subject fabrics. A letter was sent to the Canada Customs and Revenue Agency (CCRA) requesting a complete description of the physical characteristics of the samples submitted by Scapa, an opinion on whether the tariff relief would be administrable, as well as suggested wording should tariff relief be recommended. Letters were also sent to a number of other government departments requesting information and advice.

A staff investigation report was not necessary for the purposes of this investigation, since potential producers of fabrics identical to or substitutable for the subject fabrics did not oppose the requests.

A public hearing was not held for this investigation.

PRODUCT INFORMATION

Scapa imports most of the subject fabrics from India, Indonesia and Thailand, for use in the production of pressure-sensitive adhesive tape such as hockey tape, athletic and medical tapes, and automotive wire harness tape. The manufacturing process begins with the mixing of adhesives that are applied to a cloth substrate[3] via a three-roll calender.[4] The coated product is then slit on conventional rewind slitting equipment into narrow width rolls. Scapa runs a fully integrated operation and also produces all of its adhesive requirements. For its U.S. customers, Scapa has a warehousing and distribution centre located in Syracuse, New York.

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1. R.S.C. 1985 (4th Supp.), c. 47.
2. C. Gaz. 2001.I.2461.
3. Substrate: a material to which dyes and chemicals may be applied.
4. Calender: a machine in which heavy rollers rotate in contact under mechanical or hydraulic pressure.

As of January 1, 2001, the subject fabrics, classified for customs purposes under classification Nos. 5208.21.90.90 (bleached) and 5208.31.90.00 (dyed) of the schedule to the *Customs Tariff*,[5] are dutiable at 13.5 percent *ad valorem* under the MFN tariff and are duty free under the U.S. tariff, the Mexico tariff, the Canada-Israel Agreement tariff and the Chile tariff. The MFN tariff, according to Uruguay Round commitments, will be reduced to 13 percent *ad valorem*, 12.5 percent *ad valorem* and 12 percent *ad valorem* on January 1, 2002, January 1, 2003, and January 1, 2004, respectively.

REPRESENTATIONS

Scapa

Scapa[6] commenced operations in 1980. By 1990, Scapa had expanded its production of athletic tape to include industrial, medical, duct and pipeline tapes. In 1992, Scapa opened a 43,000-square-foot production facility in Watertown, New York, to improve the distribution of its products into the expanding U.S. market. In 2000, Scapa added automotive wire harness tape as well as polyvinyl chloride tape to its product line. Its 140,000- square-foot plant in Renfrew employs 190 people. This summer, operations from the Watertown facility will be transferred to Renfrew, resulting in the creation of about 40 local jobs and the production of more product stock-keeping units in Renfrew. Distribution of products for the U.S. market will take place in Syracuse, New York.

While recognizing that DIFCO Performance Fabrics Inc. (DIFCO), a Canadian textile producer, has a limited capability to produce a substitutable greige fabric, Scapa claimed that DIFCO does not have the ability to bleach or dye fabric, nor the production capacity to produce identical or substitutable fabrics in the desired quantities. Scapa also pointed out that the use of third-party finishers, as well as the resulting additional handling and transportation costs, makes the use of DIFCO fabric uncompetitive in the athletic and medical tape marketplace. Scapa indicated that, over the past two years, it has been able to purchase only 372,000 square metres of fabric from DIFCO, which represents less than 3 percent of its annual requirements.

Scapa stated that it requested a quote on 3.9 million square metres of bleached fabric and 3.9 million square metres of dyed fabric from DIFCO, but that DIFCO declined because it was unable to meet Scapa's specifications. Scapa also stated that DIFCO management has recently indicated that it is essentially not interested in producing such fabrics.

Moreover, Scapa indicated that it requires fabric made from ring-spun yarn in order to provide the following three essential characteristics in the end product: (1) linear tensile strength[7]; (2) the ability to tear across the final product; and (3) the desired thickness.

Scapa submitted that the tariff imposed on imports of non-NAFTA cloth into Canada threatens the future of cloth-based tapes as North American competitors introduce customers to lower-cost alternatives. Scapa indicated that consolidation within the retail, distribution and industrial markets for tape has created large-scale customers, i.e. automotive customers, 3M Canada, Wal-Mart Canada Inc., Price Costco Canada Inc. and Canadian Tire Corporation Limited, that expect or demand year-over-year reductions in price and

5. R.S.C. 1985 (3d Supp.), c. 41.
6. Formerly Renfrew Tapes Limited.
7. Tensile strength refers to the strength shown by a specimen subjected to tension as distinct from torsion, compression or shear.

increases in service levels. Scapa pointed out that the present tariff on imported fabric continues to inflate the price at which cloth tape products can be marketed and that demand for these products is price sensitive.

Scapa stated that tariff relief would restore the cost competitiveness of cloth-based tapes and permit aggressive pricing in the market. According to Scapa, this, in turn, is expected to yield a 15 percent or greater increase in demand for these products within a year. Scapa indicated that production and domestic employment from the new business are expected to increase in similar proportion and that further investment in productive capacity would become necessary to match the demand.

Lowry Sales BC Ltd.

Lowry Sales BC Ltd. (Lowry), of Richmond, British Columbia, a wholesale-distributor of adhesive products since 1969, supported Scapa's requests. Lowry stated that tariff relief on the subject fabrics would translate into cost savings and enable it to maintain its present market share.

Textile Industry

Domestic fabric producers did not participate in the investigation.

OTHER INFORMATION

The Department of Foreign Affairs and International Trade (DFAIT) informed the Tribunal that Canada maintains quota restraints on woven fabrics, solely of cotton, bleached or dyed (subcategory 32.2), imported from China, Hong Kong and Chinese Taipei. Accordingly, this coverage includes the subject fabrics classified in subheading Nos. 5208.21 and 5208.31. Bilateral agreements, which provide for these restrictions, between the Government of Canada and the Government of Hong Kong and the Taiwan Textile Federation, have been in place since 1979. A bilateral agreement between the Government of Canada and the People's Republic of China has been in place since 1987.

DFAIT also indicated that it would consider requests for ex-quota entry on textile inputs where a recommendation has been made by the Tribunal to remove customs duties on the basis of non-availability. Ex-quota treatment will only be granted in cases where it can be demonstrated that there is an extra charge for using products under quota or where goods are not otherwise available in Canada.

The CCRA indicated that there would be no additional costs over and above those incurred by it to administer the tariff relief, should it be granted.

The Canadian Textiles Institute filed a notice of appearance with the Tribunal, but did not make any representations regarding the requests.

ANALYSIS

The Minister's terms of reference direct the Tribunal to assess the economic impact on domestic textile and downstream producers of reducing or removing a tariff and, in so doing, take into account all relevant factors, including the substitutability of an imported fabric for a domestic fabric and the ability of domestic producers to serve the Canadian downstream industries. Consequently, the Tribunal's decision on whether to recommend tariff relief is based on the extent to which it considers that such tariff relief would provide net economic gains for Canada.

Scapa claimed that there are no domestic textile producers capable of producing, in the desired quantities, fabrics identical to or substitutable for the subject fabrics. Domestic fabric producers did not contest this claim. Therefore, other than the corresponding duty revenues forgone by the government, the Tribunal does not believe that there will be any direct commercial costs associated with the removal of the customs duty on the importation of the subject fabrics. On the basis of the information available to the Tribunal, tariff relief would result in yearly benefits to Scapa in excess of $500,000. In addition, tariff relief would provide benefits to users in the form of cost reductions, which could translate into the hiring of new employees, the purchase of new equipment and the provision of further spin-off benefits for local support industries. In summary, the Tribunal finds that the tariff relief requested by Scapa would provide net economic gains to Canada.

As for Scapa's request for retroactive tariff relief, the Tribunal has stated in previous cases that it will not consider recommending such relief other than in exceptional circumstances.[8] Scapa has provided no evidence to warrant such a recommendation.

RECOMMENDATION

In light of the foregoing, the Tribunal hereby recommends to the Minister that tariff relief be granted, for an indeterminate period of time, on importations from all countries of woven fabrics, solely of cotton, bleached or dyed, plain weave, ring-spun, weighing not more than 100 g/m², of subheading No. 5208.21 or 5208.31, for use in the manufacture of pressure-sensitive adhesive tape.

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8. See, for example, *Re Request for Tariff Relief by Ballin* (9 March 2001), TR-2000-004 at 6; *Re Request for Tariff Relief by Tantalum Mining Corporation of Canada* (21 March 2001), TR-2000-003 at 4; and *Re Request for Tariff Relief by Majestic Industries (Canada)* (12 January 2001), TR-2000-002 at 4.