

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL



TRIBUNAL CANADIEN
DU COMMERCE
EXTÉRIEUR

**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
BECO INDUSTRIES LTD.
REGARDING
CERTAIN NYLON AND POLYESTER-COTTON
FABRICS**

MARCH 20, 2002

BECO INDUSTRIES LTD.

REQUEST NO. TR-2001-002

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INTRODUCTION

On July 14, 1994, the Canadian International Trade Tribunal (the Tribunal) received terms of reference¹ from the Minister of Finance (the Minister) pursuant to section 19 of the *Canadian International Trade Tribunal Act*.² 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 July 10, 2001, pursuant to the Minister's reference, the Tribunal received a request from Beco Industries Ltd. (Beco), of Ville D'Anjou, Quebec, for the removal, for an indeterminate period of time, of the customs duty on importations, from all countries, of woven fabrics of 100 percent nylon and polyester-cotton, for use in the manufacture of sleeping bags or sleeping bag carrying sacks. Beco also sought tariff relief retroactive to July 1, 2001.

On September 10, 2001, the Tribunal received a preliminary submission from Consoltex Inc. (Consoltex) opposing the initiation of an investigation concerning the part of Beco's request for tariff relief regarding woven nylon fabrics. Consoltex indicated that this request was similar to one filed by Woods Canada Ltd. (Woods) in 1995³ and that the conclusion reached by the Tribunal in 1995 (i.e. not to recommend tariff relief) remains applicable today. Consoltex further argued that granting tariff relief on imported nylon fabrics, which are widely produced in Canada, would have an adverse effect on employment stability. In its response submission of September 28, 2001, Beco indicated that market conditions have changed substantially and that imports of low-priced sleeping bags from the People's Republic of China (China) have increased considerably since Woods' request for tariff relief in 1995. Beco submitted that, to remain competitive, it invested in state-of-the-art machinery, which has made a significant improvement in the manufacturing processes. However, in light of the ever-increasing imports from China over the past two years, these improvements have not provided the relief that Beco requires in order to remain competitive. The purchase of domestic fabrics increases manufacturing costs and makes it difficult to compete with low-priced imports. According to Beco, the Tribunal should, therefore, accept its request for a tariff investigation.

On October 25, 2001, after reviewing the submissions and being satisfied that the request was properly documented, the Tribunal issued a notice of commencement of investigation,⁴ which was distributed to known interested parties. The fabrics under investigation were described in the notice as "woven fabrics, solely of nylon filament yarn, dyed, plain weave, of a weight not exceeding 70 g/m², of tariff item No. 5407.42.90, for use in the manufacture of sleeping bags or sleeping bag carrying sacks of the same material; and woven fabrics of polyester staple fibres, containing less than 85 percent by weight of polyester, mixed solely with cotton, printed, plain weave, of a weight not exceeding 100 g/m², of tariff item No. 5513.41.90, for use in the manufacture of sleeping bags (the subject fabrics)."

As part of the investigation, the Tribunal's research staff sent questionnaires to potential producers of fabrics identical to or substitutable for the subject fabrics. A request for information was also sent to

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1. The terms of reference were last modified in 1999.
 2. R.S.C. 1985 (4th Supp.), c. 47.
 3. *Re Request for Tariff Relief by Woods Canada* (6 July 1995), TR-94-007 (CITT). The textile input was described as "dyed nylon fabric of either plain weave or ripstop construction with a calendered finish, having a fabric weight of 68 g/m² or more, but not exceeding 170 g/m², and having a thread count of 67 dtex". In a subsequent submission, Woods indicated that the warp yarn count was 67 dtex, while the weft yarn count was 133 dtex, and that the fabric construction was 42.0 threads/cm² in the warp and 29.5 threads/cm² in the weft.
 4. C. Gaz. 2001.I.4069.

potential users and 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 Beco, an opinion on whether the tariff relief is administrable and suggested wording should tariff relief be recommended. Prior to filing its request, Beco obtained a National Customs Ruling covering the subject fabrics. Letters were also sent to a number of other government departments requesting information and advice.

A staff investigation report summarizing the information received from these departments, Beco, questionnaire respondents and other interested parties was provided to those who had become parties to the proceedings by filing notices of appearance in the investigation. Following distribution of the staff investigation report, Beco and Doubletex Inc. (Doubletex) filed submissions with the Tribunal.

A public hearing was not held for this investigation.

PRODUCT INFORMATION

The subject fabrics are imported from Pakistan. Beco submitted two samples with its request for tariff relief. The nylon fabric (plain weave and weighing approximately 54 g/m²) is used for the shell of the sleeping bag and/or sleeping bag carrying sack. The polyester-cotton fabric (75 percent polyester and 25 percent cotton, printed, plain weave and weighing approximately 92 g/m²) is used for the lining. During the production process, a polyester filling is placed between the two fabrics. Quilting and cutting are then performed prior to sewing zippers on each sleeping bag. No operations are subcontracted.

As of January 1, 2002, the subject fabrics, classified for customs purposes under tariff item Nos. 5407.42.90 and 5513.41.90 of the schedule to the *Customs Tariff*,⁵ are dutiable under the MFN tariff at 16 percent *ad valorem* and are duty free under the United States tariff, the Mexico Tariff, the Canada-Israel Agreement Tariff and the Chile Tariff. Fabrics classified under tariff item No. 5513.41.90 are presently dutiable at 10 percent *ad valorem* under the Australia Tariff and the New Zealand Tariff. The MFN tariff will remain at 16 percent *ad valorem* until December 31, 2002, and then will be reduced to 15 percent *ad valorem* and 14 percent *ad valorem* on January 1, 2003, and January 1, 2004, respectively.

REPRESENTATIONS

Submissions

Manufacturers of Sleeping Bags and Sleeping Bag Carrying Sacks

- Beco

Beco manufactures home furnishings. Its principal products are adult bedding products and related products, such as comforters, comforter sets, pillow shams, dust ruffles, duvet covers, decorative pillows and complete bed ensembles. Beco also manufactures and sells sleeping bags to major retailers in Canada.

In its request for tariff relief, Beco claimed that it has been unable to obtain identical or substitutable fabrics from Canadian textile producers. Beco stated that tariff relief would enable it to compete against rising imports of sleeping bags from China, as well as enhance its competitiveness in the U.S. market. In this regard, Beco indicated that, if it cannot maintain a competitive price point, it will not be able to meet the demand for sleeping bags, which, in turn, will be supplied by imports.

5. S.C. 1997, c. 36.

Beco also stated that tariff relief would help it offset some of the negative effects associated with the amendments to the duty drawback program⁶ and assist it in maintaining or expanding its export profile in the United States. Should tariff relief be granted, Beco expects to hire an additional 15 to 25 people and make further investments in machinery and equipment.

- Canadian Recreational Products Inc. (CRP)

CRP, a sleeping bag manufacturer located in Montréal, Quebec, no longer imports or uses nylon fabrics in the production of sleeping bags. The company now uses imported polyester fabrics as its shell material.⁷

- Woods

Woods, of Toronto, Ontario, is a major producer of sleeping bags that employs 58 people. Woods supported the request for tariff relief, provided all Canadian sleeping bag manufacturers are treated equally. Woods indicated that the removal of duties on the subject fabrics would improve the competitiveness of Canadian manufacturers and assist them in competing against the large number of imported sleeping bags from China. In this respect, Woods stated that, regardless of the relief received from the duty on imported finished fabrics, the real solution for competitiveness and protection of the industry would be an increase in the rate of duty for finished or semi-finished sleeping bags entering Canada. Woods also indicated that the number of persons employed at its company could be reduced as a result of pressure from imported sleeping bags.

Woods expressed concern about Beco's request for retroactive tariff relief to July 1, 2001, because it would not be able to take advantage of such relief due to the seasonal nature of the business. Woods stated that the purchase of its fabrics from Doubletex is booked some 6 to 12 months in advance of shipping. Woods stated that it issues Doubletex a blanket purchase order for the season, according to its requirements. Woods indicated that this arrangement works well for the company, as there is not a high premium in price for this flexibility and service. Woods stated that, should tariff relief be granted, it would strongly consider the importation of fabrics from a new source.

Woods also indicated that it currently issues a blanket purchase order for dyed polyester-cotton fabrics to Montreal Fabrics Corp. Ltd., which sources the fabrics and imports them into Canada. Woods submitted that polyester fabrics, as well as dyed polyester-cotton fabrics, should be given the same consideration as the subject fabrics.⁸

6. Under the *North American Free Trade Agreement* (NAFTA), a duty refund system called "the lesser-of concept" replaced the drawback regulations for Canada-United States trade. Under this concept, the refund is equal to one of the following amounts, whichever is less:

- (a) the duties paid on the goods imported into Canada; or
- (b) the duties paid on the finished goods when exported to the United States.

However, under Canadian tariff preference levels, formerly known as tariff rate quotas under the *Canada-United States Free Trade Agreement*, items may, under certain conditions, receive preferential NAFTA tariff treatment despite their incorporation of non-North-American (i.e. non-originating) fabric.

- 7. Telephone conversation of December 18, 2001, between a member of the Tribunal staff and Mr. Pierre Massé of CRP.
- 8. By letter dated December 5, 2001, the Tribunal advised Woods that it could not, at that stage of the process, expand the scope of the investigation.

Textile Industry

- C.S. Brooks Canada Inc. (Brooks)

Brooks, of Magog, Quebec, is a vertically integrated manufacturer of polyester-cotton and cotton-polyester fabrics and home furnishings, such as comforters, bed sheets, pillow cases, duvet covers, shams, bed skirts, flannel sheets and bedding ensembles. Brooks produces greige fabrics at its manufacturing facility in Sherbrooke, Quebec. These fabrics are then bleached, finished, dyed or printed and cut at its production facility in Magog. Brooks indicated that it produces approximately 28 million square metres of fabric a year, 70 percent of which is destined for the home furnishings industry in Canada.

Brooks opposed Beco's request with respect to the polyester-cotton fabrics, on the grounds that it produces substitutable fabrics and that the removal of the customs duty on fabrics imported under tariff item No. 5513.41.90, coupled with ever-growing NAFTA pressures, would compromise close to 30 percent of its total output, specifically the production of low-priced bedding products. In this regard, Brooks stated that tariff relief would jeopardize its ability to maintain jobs at its weaving facility in Sherbrooke and affect the profitability of its finishing and sewing operations in Magog, as lower prices for its fabrics would lead to reduced prices for finished products. According to Brooks, tariff relief would also lead to lost sales of finished products, as competitors of finished goods would switch to cheaper imported fabrics, thereby bringing its operations to below break-even point. Brooks also indicated that idle facilities would lead existing customers to look elsewhere for finished products, mainly in the United States. Brooks stated that tariff relief would eventually erode its Canadian market share of low-priced bedding products, from 50 to 35 percent, and bring about the total elimination of its export markets.

Brooks alleged that, especially with low-priced products, consumers cannot see any appreciable difference between various blended fabrics, such as 70/30, 60/40 or 50/50 polyester-cotton blends. As for the end-use provision, Brooks claimed that it is impossible for anyone to ascertain whether the subject fabrics will be used solely for sleeping bags.

- Consoltex

Consoltex, of Ville Saint-Laurent, Quebec, is a major producer of fabrics of man-made woven fibres and the largest producer of 100 percent nylon fabrics in Canada. The company is vertically integrated from the weaving to the dyeing, printing, coating and finishing of a fabric and employs some 1,000 people in its five manufacturing facilities (three weaving and two converting operations).

Consoltex opposed the request for tariff relief, submitting that it produces and sells 100 percent nylon fabrics to manufacturers of sleeping bags. Consoltex stated that Canadian textile producers are not and will not be the lowest-price producers in the world and that removing tariffs based solely on price differences will adversely affect Canadian fabric producers in terms of lost sales, margins, production and employment.

Consoltex indicated that it considers its 100 percent nylon fabrics to be identical to the fabric samples submitted by Beco. Consoltex stated that its nylon fabrics are used as linings or shells for various applications, such as apparel, quilting and made-up articles (e.g. sleeping bags, umbrellas, flags, kites, sails, ribbons, etc.).

With respect to the anticipated benefits described by Beco if tariff relief were granted on the nylon fabrics, Consoltex submitted that: (1) imports of sleeping bags, mainly from China, would still continue to

increase; (2) it is not possible that the removal of duties amounting to \$0.25 per sleeping bag would lead to the creation of 15 to 25 jobs at Beco; (3) Beco's objective to enhance its competitiveness in the U.S. market would also have to take into consideration China's ever-increasing share of the sleeping bag market (85 percent of all U.S. imports); and (4) Beco's stated intention to invest in machinery and equipment so as to increase sales in the Canadian and U.S. markets that are already flooded by sleeping bags from China is questionable.

- Doubletex

Doubletex, of Montréal, Quebec, is Canada's largest fabric-converting mill and employs over 470 people. The company imports greige fabrics, including nylon, polyester, polyester-rayon, polyester-viscose, polyester-cotton and cotton, from around the world for conversion at its three plants in Montréal, Toronto, Ontario and Winnipeg, Manitoba. It produces a wide range of products, often customized to the specific needs of apparel and home furnishings customers across Canada and the United States.

Doubletex opposed the request for tariff relief, submitting that it produces identical or substitutable fabrics.⁹ In this regard, Doubletex pointed out that, over the past 10 years, it has sold nylon and polyester fabrics to sleeping bag manufacturers including Beco, Radisson Sports, CRP and Woods. Doubletex submitted that the quality and specifications of its fabrics have never been questioned, but that price has been an issue.

Doubletex indicated that Beco recently purchased a certain quantity of identical or substitutable fabrics from its company. Moreover, Doubletex stated that it has sold significant quantities of such fabrics to Woods, a domestic producer of sleeping bags.

Response Submissions

Beco

In its response submission of January 25, 2002, Beco indicated that the polyester-cotton fabrics produced and finished at Brooks's facilities are destined for the production of its home furnishings and are not available for open market sales. In addition, Beco pointed out that Brooks does not produce sleeping bags and, therefore, does not compete with Beco in this market. Beco submitted that Brooks's opposition to this request for tariff relief is not relevant and, as such, Brooks will not suffer any financial loss and employment reduction. With respect to any potential abuse of the end-use provision should tariff relief be granted, Beco stated that it would be required, through current customs legislation and regulations, to "account for and substantiate" the fact that the subject fabrics have been used in the manufacture of sleeping bags.

As far as Consoltex is concerned, Beco stated that it does not deny the fact that Consoltex sells 100 percent nylon fabrics to manufacturers of sleeping bags. Beco, however, questioned the projected losses that Consoltex would suffer, should tariff relief be granted. In this regard, Beco argued that the potential benefits to Beco and the economy far outweigh the costs to Consoltex, should tariff relief be granted. According to Beco, duty relief would assist it in meeting its stated objectives of investing in additional machinery and equipment. Beco indicated that it fails to see, based on the evidence, how Consoltex would be forced to stop its total production of nylon linings, should tariff relief be granted, since the request is

9. Doubletex provided three nylon samples and one polyester sample.

limited to the production of sleeping bags. Beco was of the view that Consoltex's projected losses are overstated.

In response to comments made by Doubletex, Beco indicated that it made a one-time purchase of nylon fabric from Doubletex when its inventory of imported fabric was low. According to Beco, this purchase was necessary to maintain production runs. Beco stated that the fabric supplied by Doubletex was of inferior quality, as it did not have the water repellency or special coating to prevent fibre seepage. Beco submitted that, based on the facts presented, it is of the view that Doubletex's projected losses are overstated and not comparable to the losses that Beco would suffer, should tariff relief be denied on the 100 percent nylon fabric.

Doubletex

In its response submission of January 16, 2002, Doubletex indicated that Beco is under pressure by large-scale retailers to drive down the price of sleeping bags. Doubletex stated that, because of the devaluation of the Canadian dollar vis-à-vis the U.S. dollar, a slight benefit in the wholesale selling price of sleeping bags is of no consequence within the context of intense competition from imports of sleeping bags from China. Moreover, Doubletex indicated that fabric costs, as a percentage of total product costs, are extremely low so that, even with tariff relief, costs to Doubletex and Consoltex would outweigh any benefits to Beco.

Doubletex submitted that, in the sleeping bag business, basic fabric categories are completely substitutable. Therefore, Canadian-made fabrics are entirely substitutable for the subject fabrics. In this regard, Doubletex made reference to the statement made by Woods to the effect that the fabrics that Woods buys from Doubletex are completely substitutable for the subject fabrics. Doubletex indicated that, should tariff relief be granted, Doubletex would suffer serious injury, since Woods implied that it would discontinue its relationship with Doubletex. Doubletex stated that the landed costs of the subject fabrics are lower than domestic fabric prices. Doubletex submitted that the tariff currently imposed on the subject fabrics is protecting jobs at Doubletex and Consoltex.

OTHER INFORMATION

The Department of Foreign Affairs and International Trade (DFAIT) informed the Tribunal that Canada maintains quota restraints on woven fabrics of nylon (category 34.0), imported from the Republic of Poland, the Republic of Korea (Korea), Chinese Taipei and Thailand. Accordingly, this coverage includes the subject fabrics of tariff item No. 5407.42.90. DFAIT also informed the Tribunal that Canada maintains quota restraints on woven fabrics of polyester-cotton (category 36.0), imported from China, Korea and Chinese Taipei. Accordingly, this coverage includes the subject fabrics of tariff item No. 5513.41.90.

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 normally incurred by it, to administer the tariff relief should it be granted.

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, to take into account all relevant economic 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 maximize net economic gains for Canada.

The request for tariff relief filed by Beco covers two types of fabrics, namely, woven fabrics of 100 percent nylon, classified under tariff item No. 5407.42.90, and woven fabrics of polyester-cotton, classified under tariff item No. 5513.41.90. In essence, Beco submitted that there are no identical or substitutable fabrics available from Canadian textile producers and that, if it cannot maintain a competitive price point, it will not be able to meet the demand for sleeping bags. However, two Canadian producers, Consoltex and Doubletex, claimed that they produce identical or substitutable fabrics of nylon and polyester that are used as shells for the sleeping bags and/or sleeping bag carrying sacks and are sold to manufacturers of sleeping bags. Moreover, Brooks indicated that it produces substitutable fabrics of polyester-cotton that could be used as linings in the sleeping bags.

With respect to Beco's request for tariff relief on importations of woven fabrics of nylon, the Tribunal notes that Consoltex and Doubletex are producers of such fabrics and that both companies have produced and sold nylon fabrics to a number of Canadian manufacturers of sleeping bags¹⁰ and still count, among their customers, some of the largest domestic producers of sleeping bags. This is clear evidence that the domestic textile industry has the ability to supply nylon fabrics for the production of sleeping bags and sleeping bag carrying sacks.

In the course of this investigation, Consoltex and Doubletex provided samples of 100 percent nylon fabrics and alleged that these fabrics were identical to or substitutable for the subject fabrics. The Tribunal asked the CCRA to carry out an analysis of these samples. On the basis of the results of this analysis,¹¹ the Tribunal has determined that the characteristics of the nylon fabrics produced by Consoltex and Doubletex are comparable to the characteristics of the subject fabrics. Moreover, because the sleeping bags made from the subject fabrics compete in the same market with sleeping bags made from domestic nylon fabrics, the latter fabrics are substitutable for the subject fabrics.

Doubletex also indicated that it produces and sells to manufacturers of sleeping bags 100 percent polyester fabrics that are substitutable for the nylon fabrics.¹² In this regard, Doubletex provided one sample of a 100 percent polyester fabric.¹³ The Tribunal notes that none of the parties to these proceedings disputed the assertion that polyester fabrics are substitutable for nylon fabrics. In light of the foregoing, it is the Tribunal's view that nylon fabrics and polyester fabrics are substitutable in this case.

The Tribunal notes that Beco confirmed that it made a one-time purchase of nylon fabric from Doubletex when its imported fabric inventory was low. According to Beco, this purchase was necessary to maintain production runs. However, Beco stated that the fabric supplied by Doubletex was inferior, as it did not have the water repellency or special coating to prevent fibre seepage. On this issue, the Tribunal notes

10. *Staff Report*, Tribunal Exhibit TR-2001-002-25A (protected) at 9, Administrative Record, Vol. 2.

11. Tribunal Exhibit TR-2001-002-23A, Administrative Record, Vol. 1.

12. Tribunal Exhibit TR-2001-002-16.1 (protected) at 8, Administrative Record, Vol. 4.

13. Physical Exhibit TR-2001-002-15.1B.

that water-repellent fabrics generally are finished with various degrees of repellency. Given that Doubletex is a large converter that produces a wide range of finished fabrics, the Tribunal is of the view that Doubletex has the expertise and technical capabilities to produce water-repellent nylon fabrics that would meet Beco's specific requirements.

The evidence before the Tribunal indicates that the difference between the domestic and import prices of nylon fabrics is, for the most part, significant.¹⁴ Nevertheless, the Tribunal believes that the existing tariff on imports of nylon fabrics is a contributing factor in the ability of Consoltex and Doubletex to maintain existing and future sales of competing nylon fabrics. The Tribunal is of the view that the removal of the tariff would lead to a serious decrease in sales or significant price concessions on domestic nylon fabrics and polyester fabrics, which, in turn, would seriously threaten the production of domestic fabrics. In this regard, the Tribunal notes that Woods currently purchases finished nylon fabrics from Doubletex for use in the production of sleeping bags. In its submission of November 22, 2001, Woods indicated that, should tariff relief be granted, it would strongly consider using imported nylon fabrics.¹⁵

Beco and Woods submitted that the removal of duties on the subject fabrics would improve the competitiveness of Canadian manufacturers of sleeping bags and assist them in competing against the large number of imported sleeping bags. In this regard, however, no specific information was provided to indicate the extent to which Beco and Woods would lose sales in the future, if any, in the absence of tariff relief.

With respect to the issue of the net economic impact, Beco submitted that tariff relief would result in reduced input costs for sleeping bag manufacturers and help alleviate some of the competitive pressures faced by Beco and other sleeping bag manufacturers from imported sleeping bags. Beco also argued that the losses projected by Consoltex and Doubletex were overstated and that the potential benefits to Beco and the economy far outweigh the costs to the domestic textile industry, should tariff relief be granted. The Tribunal disagrees with this assessment, and it is of the view that the potential savings from tariff relief are, in this case, more than offset by the potential harm to Consoltex and Doubletex. The Tribunal acknowledges that it is difficult to evaluate the exact injury to the domestic textile industry, should tariff relief be granted. The substitutable fabrics are low margin products, and reducing their market prices by the equivalent duty savings, should tariff relief be granted, may put Consoltex and Doubletex in an untenable financial situation. Alternatively, these companies may attempt to keep their prices and forego sales. Either way, the Tribunal believes that, were tariff relief granted, there would be a significant possibility that Consoltex and Doubletex would considerably reduce production of the substitutable fabrics in the near future and, given the magnitude of the sales involved, put a significant number of jobs at risk. The Tribunal acknowledges Beco's indication that, if tariff relief were granted, it would expect to hire an additional 15 to 25 people. However, the Tribunal fails to see how an estimated tariff saving on nylon fabrics of less than \$0.50 per sleeping bag would lead to such a positive outcome. Consequently, the Tribunal concludes that tariff relief on importations of nylon fabrics would harm Consoltex and Doubletex more than it would help domestic sleeping bag producers.

Turning to woven fabrics of polyester-cotton, Brooks alleged that it produces substitutable fabrics and that the removal of the customs duty on polyester-cotton fabrics would compromise the production of its low-priced bedding products. The Tribunal notes that the polyester-cotton fabrics produced and finished at Brooks's facilities are destined for the production of its home furnishings and are not available for open-market sales. In addition, Brooks does not produce sleeping bags and, therefore, does not compete

14. *Staff Report*, Tribunal Exhibit TR-2001-002-25 (protected) at 8, Table 3, Administrative Record, Vol. 2.

15. Tribunal Exhibit TR-2001-002-18.2 at 1, Administrative Record, Vol. 3.

with Beco or other producers of sleeping bags in this market. Given the foregoing, the Tribunal is of the view that Brooks will not suffer any financial loss and employment reduction, should tariff relief be granted.

Brooks also claimed that, since the majority of Beco's business is done on bedding products, it would be impossible for anybody to prove that the subject fabrics are to be used for the manufacture of sleeping bags only. On this issue, the Tribunal notes that the CCRA did not raise any concerns with respect to the administrability of tariff relief, should it be granted on the subject fabrics.

With regard to the issue of net economic impact, the Tribunal sees no cost as a result of the tariff relief on polyester-cotton fabrics requested by Beco. On the basis of the information available to the Tribunal, tariff relief would provide yearly benefits to Beco in the form of reduced input costs of over \$50,000.

As for Beco'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.¹⁶ Beco 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 of polyester staple fibres, containing less than 85 percent by weight of polyester, mixed solely with cotton, printed, plain weave, of a weight not exceeding 100 g/m², of subheading No. 5513.41, for use in the manufacture of sleeping bags. The Tribunal does not recommend that tariff relief be granted on woven fabrics, solely of nylon filament yarn, dyed, plain weave, of a weight not exceeding 70 g/m², of subheading No. 5407.42, for use in the manufacture of sleeping bags or sleeping bag carrying sacks of the same material.

Zdenek Kvarda

Zdenek Kvarda
Presiding Member

Richard Lafontaine

Richard Lafontaine
Member

Ellen Fry

Ellen Fry
Member

16. See, for example, *Re Request for Tariff Relief by Peerless Clothing* (1 October 2001), TR-2000-005 at 15 (CITT); *Re Request for Tariff Relief by Ballin* (9 March 2001), TR-2000-004 at 6 (CITT); *Re Request for Tariff Relief by Tantalum Mining* (21 March 2001), TR-2000-003 at 4 (CITT); *Re Request for Tariff Relief by Majestic Industries* (12 January 2001), TR-2000-002 at 4 (CITT).