



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
PEERLESS CLOTHING INC.
REGARDING
WOVEN FABRICS OF POLYESTER/COTTON**

SEPTEMBER 30, 2003

PEERLESS CLOTHING INC.

REQUEST NO. TR-2002-005

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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 December 12, 2002, pursuant to the Minister's reference, the Tribunal received a request from Peerless Clothing Inc. (Peerless), of Montréal, Quebec, for the removal, for an indeterminate period of time, of the customs duty on importations, from all countries, of certain woven fabrics of polyester/cotton, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers. Peerless also sought immediate tariff relief.

On February 25, 2003, being satisfied that the request was properly documented, the Tribunal issued a notice of commencement of investigation,³ which was distributed to known interested parties. The fabrics under investigation were described in the notice as "dyed, woven fabrics of polyester filament yarns, mixed with single yarns of polyester and cotton, of a weight not exceeding 170 g/m², of subheading No. 5407.82, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers; and dyed, woven fabrics of polyester staple fibres, mixed solely with cotton, of a weight not exceeding 170 g/m², of subheading No. 5513.21, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers" (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 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 Peerless, an opinion on whether the requested tariff relief would be administrable and suggested wording to describe the fabrics, should tariff relief be recommended. Letters were also sent to the Department of Foreign Affairs and International Trade (DFAIT) and the Department of Industry (Industry Canada) requesting information that could assist the Tribunal in its investigation.

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

Given that there was sufficient information on the record, the Tribunal decided that a public hearing was not required for this investigation.

PRODUCT INFORMATION

Although the request for tariff relief covers fabrics imported from all countries, Peerless currently imports the subject fabrics from the People's Republic of China (China). Peerless submitted two fabric samples with its request for tariff relief. The first sample consisted of a dyed, three-thread twill,⁴ woven

1. The terms of reference were last modified in 2002.

2. R.S.C. 1985 (4th Supp.), c. 47.

3. C. Gaz. 2003.I.688.

4. "Twill weave" is a basic weave characterized by a diagonal rib, or twill line, generally running upward from left to right.

fabric, made of 70 percent polyester and 30 percent cotton. It weighed approximately 112 g/m². The second sample consisted of a dyed, plain-weave fabric, composed of 52 percent polyester and 48 percent cotton. It weighed approximately 110 g/m².

The subject fabrics are used as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers. During the production process, the subject fabrics are spread, cut, sewn and pressed to result in their use as pocketing for men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers. No operations are subcontracted.

As of January 1, 2003, the subject fabrics, classified for customs purposes under classification No. 5407.82.90.11 or 5513.21.00.10 of the schedule to the *Customs Tariff*,⁵ are dutiable at 15 percent *ad valorem* under the most-favoured-nation (MFN) Tariff and the Costa Rica Tariff and are duty free under the United States Tariff, the Least Developed Country Tariff, the Mexico Tariff, the Canada-Israel Agreement Tariff and the Chile Tariff. The MFN tariff will be reduced to 14 percent *ad valorem* on January 1, 2004.

REPRESENTATIONS

Clothing Industry

Peerless

Peerless has been manufacturing men's apparel since 1919. The company is privately owned and employs in excess of 2,000 people. Following the *Canada-United States Free Trade Agreement (FTA)*, Peerless established itself as an international manufacturing and marketing company with a significant presence in the U.S. market. In this respect, Peerless has signed exclusive licence agreements to manufacture and market well-known brand names, such as Chaps by Ralph Lauren, Ralph by Ralph Lauren and DKNY (Donna Karan New York).

Peerless claimed that no Canadian manufacturer produces and supplies fabrics that are identical to or substitutable for the subject fabrics for use as pocketing. Peerless alleged that no one in Canada makes fabrics that weigh 170 g/m² or less for use as pocketing in fine men's wear. Peerless stated that it is the lower weight of the fabric and the range of fibres and blends that distinguish the imported fabrics from the ones commercially available from Canadian textile manufacturers. Peerless indicated that the subject fabrics are specifically produced as pocketing for fine tailored clothing and that they are available in varying quantities, depending upon its needs. Peerless also indicated that the prices of the subject fabrics are globally competitive.

Peerless stated that, all other things being equal, if the pocketing that it uses were of poor quality, men's fashion buyers from national and local retail stores would purchase apparel from its competitors that use quality fabrics. According to Peerless, consumer tastes are moving towards higher-quality garments, and all the fabrics used in a garment, including pocketing fabrics, have an effect on the quality of the garment.

Peerless indicated that the removal of the customs duty on imports of the subject fabrics would allow it to reduce costs, which, in turn, would allow it to stay competitive in the market and possibly increase its market share in the highly competitive domestic and foreign markets.

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

Peerless indicated that the market drives its business decisions. Peerless stated that, if the market demands garments with quality pocketing, it must produce such garments or face a decline in sales. Peerless stated that it has certain cost and mark-up parameters that must be obtained to allow it to remain at its ultimate price point. Peerless also indicated that, if it were unable to satisfy the market demand for such apparel, this demand would be supplied by foreign imports of finished goods.

Peerless indicated that, because of the *North American Free Trade Agreement*,⁶ it no longer gets a drawback⁷ for the imported inputs that it uses for its apparel exported, under Canadian TPLs, to the United States and that, as such, the provisions seriously damage its export business. According to Peerless, tariff relief would assist the company in overcoming the elimination of duty drawback.

In its reply submission, Peerless submitted that, in light of the fact that Doubletex does not weave identical or substitutable fabrics, it has no standing to oppose the request for tariff relief. According to Peerless, converters are not domestic textile producers because they do not produce textile products, such as woven fabrics. Therefore, the evidence and submissions of Doubletex should be disregarded as the terms of reference, properly interpreted, do not give a converter, such as Doubletex, any standing or right to oppose this request for tariff relief.

Peerless submitted that the CCRA laboratory reports established that the samples provided by Consoltex Inc. (Consoltex), DIFCO Performance Fabrics Inc. (DIFCO) and Doubletex are not identical to the subject fabrics. Peerless also submitted that Consoltex does not produce fabrics that are substitutable because there is only very minor production and sales of Consoltex's "Classique" sample for pocketing. Moreover, there is no evidence that this fabric has ever been sold to manufacturers of men's and boys' fine tailored clothing for use as pocketing. Peerless submitted that the samples provided by DIFCO are not, in any manner, substitutable for the subject fabrics because they are too coarse for use as pocketing. In addition, there is no evidence of any domestic sales of any purported substitutable fabrics, other than some sales information for a sample fabric that does not contain polyester and is therefore not substitutable. Peerless submitted that Doubletex does not have standing before the Tribunal, given that it is a converter and not a textile producer. Notwithstanding this fact, Doubletex has not established that the fabrics that it produces are substitutable and available in commercially reasonable quantities. Peerless submitted that Doubletex has not sold pocketing to major Canadian apparel manufacturers, such as Peerless, Ballin Inc. (Ballin) and Weston Apparel Manufacturing Inc. (Weston), and has not pursued potential sales to these significant purchasers. According to Peerless, this establishes that the Doubletex fabrics are not substitutable, either in a physical or commercial sense.

Peerless submitted that the granting of tariff relief would have no adverse economic effect on Consoltex, DIFCO or Doubletex and would provide substantial benefits to Peerless and other Canadian men's and boys' fine tailored clothing manufacturers.

6. 32 I.L.M. 289 (entered into force 1 January 1994) [*NAFTA*].

7. *NAFTA* provides preferential tariff treatment for certain quantities of apparel despite their incorporation of non-North American (i.e. non-originating) fabric. This preferential tariff treatment takes the form of Canadian tariff preference levels (TPLs). TPLs permit the import of a fixed quantity of certain apparel into Canada, the United States and Mexico at the *NAFTA* rate of duty. Goods entering a *NAFTA* country in quantities above the TPLs are subject to the higher MFN rate of duty. A new method of determining duty drawback called "the lesser-of concept" was introduced in *NAFTA*. Under this new scheme, the duty drawback, or 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.

Ballin

Founded in 1946, Ballin manufactures men's trousers and shorts, as well as women's sportswear (jackets, pants, shorts and skirts). The company is privately owned and employs in excess of 450 people in Canada. Since the early 1990s, Ballin has established itself as a producer of high-end trousers and shorts with a significant presence in the U.S. market, and it has signed licence agreements to manufacture and market well-known brands, such as Pierre Cardin, Van Heusen and Bill Blass.

Ballin supported the request for tariff relief because no one in Canada makes pocketing that weighs 170 g/m² or less, for use in fine men's wear, and because paying duty puts it at an unfair disadvantage to compete internationally.

Ballin stated that it is the lower weight of the fabric and the range of fibres and blends that distinguish the imported fabrics from the ones commercially available from Canadian textile manufacturers. Ballin also stated that there are other commercial factors that distinguish the subject fabrics from fabrics available domestically, including: (1) the subject fabrics are specifically produced as pocketing for men's and boys' fine tailored clothing; (2) a variety of imports are readily available in varying quantities, depending upon its needs; and (3) prices of imports are globally competitive.

Ballin submitted that competition in the apparel industry is fierce and that, therefore, the benefits anticipated from tariff relief would permit the company to stay competitive and maybe even increase its market share in foreign and domestic markets. Ballin also stated that such relief would enable it to save and maintain jobs in Canada.

Weston

Weston, of Toronto, Ontario, a manufacturer of men's suits, jackets, blazers, trousers and vests, supported Peerless's request for tariff relief. Weston indicated that importations of quality pocketing are an important element in men's fine tailored clothing. Weston stated that the benefits anticipated from such relief, i.e. reduced costs, would allow the company to stay competitive in the market.

Weston stated that there are no identical or substitutable fabrics available from Canadian sources, i.e. no producer in Canada makes pocketing for use in fine men's wear that weighs 170 g/m² or less. Weston stated that it is the lower weight of the fabric and the range of fibres and blends that distinguish the imported fabrics from the ones commercially available from Canadian textile manufacturers. Weston also stated that there are other commercial factors that distinguish the subject fabrics from fabrics available domestically, including: (1) prices of imports are globally competitive; (2) the subject fabrics are specifically produced as pocketing; and (3) the imports are readily available in varying quantities, depending upon its needs.

Weston indicated that the benefits anticipated from tariff relief would allow it to stay competitive in the market and perhaps even increase its market share in the highly competitive foreign and domestic marketplaces. Weston also stated that cost reductions would offer it a potential advantage and that any cost savings would be passed on to the customer.

Textile Industry

Consoltex

Consoltex, of Ville Saint-Laurent, Quebec, is a major producer of fabrics of man-made 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 it employs some 1,000 people in its five manufacturing facilities (three weaving and two converting operations).

Consoltex opposed the request for tariff relief on the basis that the description of the subject fabrics is too broad and could affect its sales of polyester/cotton fabrics, of a weight less than 170 g/m², to Canadian apparel manufacturers. Moreover, Consoltex stated that it produces and sells a polyester/cotton fabric (Classique) that is used by apparel manufacturers as lining and pocketing. Consoltex also stated that it produces and sells polyester/cotton fabrics (polyester-rich or cotton-rich in all weights) as a complement to the wide range of man-made fabrics that it offers to its customers.⁸

Consoltex indicated that fabrics imported from China and Pakistan, regardless of their quality level, are cheaper (including duties) than Canadian-made pocketing. Consoltex stated that this is not an acceptable reason to eliminate duties. Consoltex submitted that a narrower description of the subject fabrics would protect Canadian-produced polyester/cotton fabrics. It suggested that the weight of the subject fabrics should be narrowed to a range of 100 g/m² to 120 g/m² and that the construction with yarn sizes and yarn counts should reflect the two fabric samples submitted by Peerless.

DIFCO

DIFCO, of Magog, Quebec, is a vertically integrated manufacturer, i.e. spinning, weaving, dyeing and finishing. DIFCO stated that it produces and sells a variety of fabrics made of polyester/cotton, cotton, polyester and aramids, in weights ranging from 70 g/m² to 500 g/m².

DIFCO opposed the request for tariff relief because it currently produces identical or substitutable fabrics not exceeding 170 g/m² for the same application. In this regard, it provided two fabric samples made of polyester/cotton and one sample of 100 percent cotton,⁹ which it considered identical to or substitutable for the subject fabrics. DIFCO stated that these samples are only some of the many fabrics that it sells for the same end use, all under 170 g/m². DIFCO stated that, if these fabrics are not identical to the subject fabrics, it could easily produce whatever Peerless requires. DIFCO indicated that, within three to six months, it could produce fabrics to the quality required by Peerless.

DIFCO stated that Peerless's business has always been based on imported fabrics and that Peerless has made no attempt to work with any domestic supplier to fulfil its needs. DIFCO submitted that Peerless's claim that tariff relief would enable it to stay competitive and increase its market share is false, as Peerless's position in the market is attributable to its marketing and sales techniques, not the reduction of pocketing costs, which are an insignificant part of the whole garment.

DIFCO indicated that the domestic market is already flooded with inexpensive and dutiable pocketing with which it must compete on a daily basis. DIFCO requested that the Tribunal assist the remaining domestic producers to keep the remaining jobs in their respective businesses. DIFCO stated that tariff relief would open the floodgates for all fabrics under 170 g/m² to come into Canada for all types of end uses. According to DIFCO, this would have a serious economic impact on all domestic fabric producers.

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8. Consoltex provided seven samples of fabrics that it considered identical to or substitutable for the subject fabrics. These fabric samples were sent to the CCRA for laboratory analysis.
 9. One DIFCO fabric sample made of polyester/cotton and the 100 percent cotton fabric sample were sent to the CCRA for laboratory analysis.

Doubletex

Doubletex, of Montréal, Quebec, is Canada's largest fabric converting mill and employs over 350 people. It imports a wide range of greige fabric from around the world for conversion at its three plants in Montréal, Quebec, Toronto, Ontario, and Winnipeg, Manitoba. Doubletex produces a range of products, often customized to the specific needs of apparel and home furnishings customers across Canada and the United States. Its main business involves the use of greige fabrics made of nylon, polyester, polyester/rayon, polyester/viscose, polyester/cotton and cotton. Doubletex indicated that an increasing part of its business is the conversion of more technical fabrics, including man-made and blended fabrics of high-twist yarns, stretch fabrics, etc. Doubletex stated that it is often asked to develop specialized fabrics or finishes for its customers.

Doubletex opposed the request for tariff relief because it produces or has produced identical or substitutable fabrics. Doubletex indicated that it is now developing a herringbone twill fabric identical to Peerless's sample No. 8264 (70 percent polyester/30 percent cotton) and one lighter polyester/cotton herringbone twill fabric for another men's wear producer. Furthermore, Doubletex indicated that it has several other fabrics in polyester/cotton and polyester/viscose that are fully substitutable for Peerless's sample No. 3560 (52 percent polyester/30 percent cotton).¹⁰

Doubletex indicated that it produces and distributes a wide variety of fabrics used as pocketing for all segments of the Canadian apparel industry and, more specifically, for the men's and boys' tailored clothing market. Doubletex stated that it has designed and developed specific fabrics and finishes to meet its customers' exact requirements of feel, appearance, weight, strength, etc. According to Doubletex, these fabrics come in a range of weaves, weights, widths and blends covering 100 percent cotton, polyester/cotton and polyester/rayon. Doubletex indicated that 6 of its 7 fabrics used as pocketing, which are currently available in a total of 21 different finishes, are well below the 170 g/m² as requested by Peerless. Doubletex stated that these fabrics weigh between 95 g/m² and 125 g/m² and are of a fine construction. In this regard, Doubletex stated that its fabrics meet Peerless's requirements in terms of physical characteristics and variety.¹¹

With respect to the commercial characteristics,¹² Doubletex stated that its wide range of pocketing was designed to meet the specific needs of all its apparel customers. In this regard, Doubletex indicated that its lighter, finer fabrics address the specific and, at times, unique requirements of the men's and boys' tailored clothing market. Doubletex stated that its fabrics are available both from in-stock and made to order programs, depending on the customer's needs. Doubletex stated that its high-quality pocketing is used by several apparel end users and, specifically, men's and boys' clothing and pant manufacturers. However, Doubletex indicated that Peerless has shown no interest in these fabrics and has not given any specific reasons for this lack of interest. Doubletex stated that, based on the volume of its business and the major customers that it supplies, it has a significant share of the market. According to Doubletex, this is due to the variety, quality and price of its fabrics, as well as its service competitiveness.

In its submission, Doubletex stated that, of the seven fabric samples that it provided, five would conform to the description of the subject fabrics on the basis that Doubletex could bleach, dye and finish the

10. Doubletex provided nine samples of fabrics that it considered identical to or substitutable for the subject fabrics. The seven fabric samples made of polyester/cotton were sent to the CCRA for laboratory analysis.

11. See Tribunal Exhibit TR-2002-005-1, Administrative Record, Vol. 1 at 10.

12. *Ibid.*

pocketing according to a customer's requirements. As for the other two samples, Doubletex submitted that these fabrics are available for pocketing in a soft or stiff hand and according to a client's requirements.

OTHER INFORMATION

DFAIT informed the Tribunal that Canada currently maintains quota restraints on woven fabrics of polyester filament (category 35.0), imported from the Republic of Korea (Korea), Poland and Chinese Taipei. Accordingly, this coverage includes the subject fabrics of subheading No. 5407.82. Canada also maintains quota restraints on woven fabrics of polyester staple fibre/cotton (category 36.0), imported from China, Hong Kong, Korea and Chinese Taipei. Accordingly, this coverage includes the subject fabrics of subheading No. 5513.21. No information was received from Industry 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 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.

In essence, Peerless, Ballin and Weston claimed that there are no identical or substitutable fabrics available from Canadian textile producers. Moreover, Peerless submitted that Doubletex has no standing to oppose Peerless's request for tariff relief because Doubletex does not weave identical or substitutable fabrics. On the other hand, Consoltex and Doubletex alleged that they produce and sell a wide range of identical or substitutable fabrics that are used by apparel manufacturers as pocketing fabric. DIFCO indicated that it currently produces identical or substitutable fabrics not exceeding 170 g/m² for the same application.

With respect to Peerless's claim that Doubletex has no standing in this investigation, the Tribunal relies on the latest terms of reference received from the Minister, as well as the Tribunal's *Textile Reference Guide*, which includes the *Textile Reference Guidelines*. It is clear from these documents that the conduct of the Tribunal's investigations envisages the full participation of the requester and all interested parties. Although not explicitly mentioned in the terms of reference or the *Textile Reference Guide*, the Tribunal believes that a converter, such as Doubletex, is considered a producer because it exerts sufficient control over the transformation of imported textile inputs and the production of textile end products. In addition, the *Textile Reference Guide* specifies that "interested parties include domestic producers . . . who are entitled to be heard by the Tribunal because their rights or pecuniary interests may be affected by the Tribunal's recommendations." In this context, the Tribunal is of the opinion that its recommendation may affect Doubletex's "pecuniary interests" and that, therefore, Doubletex constitutes an "interested party".

In determining whether Consoltex, DIFCO and Doubletex produce identical or substitutable fabrics, the Tribunal examined the fabric samples provided to the Tribunal and was guided by factors such as technical description, quality, availability and price.

As for DIFCO's fabric samples, the Tribunal agrees with Peerless that they appear to be too coarse to be used as pocketing. DIFCO also stated that it would take three to six months to produce fabrics to the quality required by Peerless. In the Tribunal's view, DIFCO failed to provide convincing evidence that it could produce fabrics according to Peerless's requirements and in adequate commercial quantities.

As noted above, Consoltex stated that it produces and sells a wide range of polyester/cotton fabrics, including a polyester/cotton fabric (Classique), which is used by apparel manufacturers as lining and pocketing. Peerless submitted that there is only very minor production and sales of Consoltex's "Classique" fabric for pocketing and that there is no evidence that this fabric has ever been sold to manufacturers of men's and boys' fine tailored clothing for use as pocketing. In carrying out its examination of the seven fabric samples provided by Consoltex, the Tribunal took into consideration the fact that the subject fabrics are used as pocketing and do not demand the degree of sophistication required in producing fashion fabrics. In this context, the Tribunal is of the view that low volumes of production and sales of alleged identical or substitutable fabrics are not an overriding consideration in addressing the issue of the domestic textile industry's capability of producing pocketing. In assessing the substitutability of Consoltex's fabrics, the Tribunal focussed on the technical description and feel of the fabrics. The Tribunal believes that, based on its own examination of the fabrics, Consoltex has the required technology and skills to provide pocketing according to Peerless's requirements. Moreover, as noted by the CCRA in its analysis of the samples provided by Consoltex, slight changes in the composition of some of these fabric samples would result in them being classified under tariff item No. 5407.82.00.

Turning to the fabric samples provided by Doubletex, the Tribunal accepts that, based on the analysis carried out by the CCRA, most of these fabrics have a similar technical description to that of the subject fabrics. The Tribunal's own examination of these samples established that Doubletex is capable of producing an acceptable product. The Tribunal also notes that three of the fabric samples would be classified under tariff item No. 5513.21.00. Peerless submitted that Doubletex has not established that the fabrics that it produces are commercially substitutable, given that Doubletex has not sold pocketing to major Canadian apparel manufacturers such as Peerless, Ballin and Weston, and has not pursued potential sales to these significant purchasers. The Tribunal disagrees with this assessment. The Tribunal finds that Doubletex has provided sufficient evidence to demonstrate that it produces and distributes a wide variety of fabrics used as pocketing for all segments of the Canadian apparel industry, including the men's and boys' tailored clothing market. In this regard, the evidence shows that Doubletex does sell pocketing to companies that are major competitors of Peerless.¹³ Moreover, Doubletex's sales of pocketing are made at average prices that fall in the range of the average landed price of imports.¹⁴ This reinforces the Tribunal's view that Doubletex is able to offer products that are directly substitutable for the subject fabrics in commercial quantities. The Tribunal also believes that Doubletex has shown that it is capable of producing more specialized fabrics that are fully substitutable for the subject fabrics.¹⁵

Peerless stated that, in previous decisions, the Tribunal indicated that the fashion industry operates on a lower degree of substitutability. While this may be true in certain cases dealing with fashion fabrics, the Tribunal is of the view that it is less of a factor when dealing with fabrics, such as pocketing, for use in the manufacture of apparel.

13. Tribunal Exhibit TR-2002-005-13.1 (protected), Administrative Record, Vol. 4 at 2; Tribunal Exhibit TR-2002-005-1, Administrative Record, Vol. 1 at 12.

14. Tribunal Exhibit TR-2002-005-20 (protected), Administrative Record, Vol. 2 at 23.

15. Doubletex indicated that it is currently developing new products for use as pocketing. Samples of these fabrics were examined by the Tribunal.

In assessing the net economic costs/gains for Canada, the Tribunal noted that the estimated direct benefits of granting tariff relief, based on projected volumes of imports of the subject fabrics, would be in excess of \$300,000 annually. This figure is based on information reported by Peerless, Ballin and Weston for the October 1, 2002, to September 30, 2003, period. Although it is difficult to calculate with precision the potential costs to domestic producers of substitutable fabrics should tariff relief be granted, the evidence is clear that the domestic industry, principally Doubletex, would be at risk of losing significant actual and potential future sales of pocketing. These costs, as estimated by the Tribunal,¹⁶ would take the form of reduced revenues as a result of lost sales in favour of the subject fabrics sourced from offshore suppliers and would be far greater than the benefits expected for the apparel producers should tariff relief be granted.

In summary, the Tribunal finds that the domestic textile industry produces fabrics substitutable for the subject fabrics and that the economic costs of granting tariff relief would be greater than the economic benefits of granting relief to Peerless and other importers of the subject fabrics. Because the removal of duties would result in tangible costs to the domestic textile industry, the Tribunal believes that tariff relief would not provide net economic gains for Canada. Therefore, the Tribunal recommends that tariff relief not be granted.

RECOMMENDATION

In light of the foregoing, the Tribunal hereby recommends to the Minister that tariff relief not be granted on importations, from all countries, of dyed, woven fabrics of polyester filament yarns, mixed with single yarns of polyester and cotton, of a weight not exceeding 170 g/m², of subheading No. 5407.82, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers; and dyed, woven fabrics of polyester staple fibres, mixed solely with cotton, of a weight not exceeding 170 g/m², of subheading No. 5513.21, for use as pocketing in the manufacture of men's and boys' suits, jackets, blazers, vests (waistcoats) and trousers.

Patricia M. Close
Patricia M. Close
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

Meriel V.M. Bradford
Meriel V.M. Bradford
Member

16. Tribunal Exhibit TR-2002-005-20 (protected), Administrative Record, Vol. 2 at 26-27.