



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Textiles

---

## RECOMMENDATION

Request No. TR-2003-004

Peerless Clothing Inc.

(Certain Woven Fabrics of  
Textured Polyester Filament Yarns)

*Recommendation issued  
Wednesday, August 25, 2004*

TABLE OF CONTENTS

REPORT TO THE MINISTER OF FINANCE ..... 1

INTRODUCTION ..... 1

PRODUCT INFORMATION ..... 1

REPRESENTATIONS..... 2

    Position of the Clothing Industry ..... 2

    Positions of the Textile Industry ..... 3

OTHER INFORMATION ..... 4

ANALYSIS ..... 4

RECOMMENDATION ..... 5

Tribunal Members:	Richard Lafontaine, Presiding Member Ellen Fry, Member Meriel V. M. Bradford, Member
Research Director:	Réal Roy
Research Manager:	Paul R. Berlinguette
Counsel for the Tribunal:	Roger Nassrallah
Assistant Registrar:	Gillian E. Burnett

Please address all communications to:

The Secretary  
Canadian International Trade Tribunal  
Standard Life Centre  
333 Laurier Avenue West  
15th Floor  
Ottawa, Ontario  
K1A 0G7

Telephone: (613) 993-3595  
Fax: (613) 990-2439  
E-mail: [secretary@citt-tcce.gc.ca](mailto:secretary@citt-tcce.gc.ca)

## REPORT TO THE MINISTER OF FINANCE

### INTRODUCTION

1. On July 14, 1994, the Canadian International Trade Tribunal (the Tribunal) received terms of reference<sup>1</sup> from the Minister of Finance (the Minister) pursuant to section 19 of the *Canadian International Trade Tribunal Act*.<sup>2</sup> 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.

2. On February 20, 2004, 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 textured polyester filament yarns for use in the manufacture of men's and boys' jackets (including suit jackets), blazers and vests (waistcoats). Peerless also sought immediate tariff relief.

3. On June 8, 2004, being satisfied that the request was properly documented, the Tribunal issued a notice of commencement of investigation,<sup>3</sup> which was distributed to known interested parties. The fabrics under investigation were described in the notice as "woven fabrics of textured polyester filament yarns, partially coated with hot-melt adhesive, with a 4 percent minimum stretch in the warp and a 12 percent minimum stretch in the weft as measured by specification ASTM D3107-75, of a weight not exceeding 70 g/m<sup>2</sup>, of subheading No. 5903.90, for use in the manufacture of men's and boys' jackets (including suit jackets), blazers and vests (waistcoats)" (the subject fabrics).

4. 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 Border Services Agency (CBSA), requesting a complete description of the physical characteristics of the sample submitted by Peerless, an opinion on whether the requested tariff relief would be administrable and suggested wording to describe the subject fabrics, should tariff relief be recommended. Letters were also sent to the Department of International Trade (DIT) and the Department of Industry requesting information that could assist the Tribunal in its investigation.

5. 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 request.

### PRODUCT INFORMATION

6. Peerless imports the subject fabrics from Germany. The sample submitted with Peerless's request for tariff relief was a woven fabric made of polyester filament yarns and partially coated on one side with clear colourless flecks of hot-melt plastic-based adhesive (a polyamide). The fabric consisted of 81 percent polyester and 19 percent hot-melt polyamide. The warp and the weft contained a stretch of 6 and 14 percent respectively. The fabric weighed 54 g/m<sup>2</sup>.

---

1. The terms of reference were last modified on January 13, 2004.

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

3. C. Gaz. 2004.I.1769.

7. The subject fabrics are used as fusible interlinings in the manufacture of men's and boys' fine tailored clothing.

8. Peerless's production process entails the spreading, cutting, sewing and pressing of different textile inputs for use in the manufacture of men's and boys' jackets (including suit jackets), blazers and vests (waistcoats). No operations are subcontracted.

9. As of January 1, 2004, the subject fabrics, classified for customs purposes under classification No. 5903.90.29.00 of the schedule to the *Customs Tariff*,<sup>4</sup> are dutiable at 14 percent *ad valorem* under the Most-Favoured-Nation (MFN) Tariff and at 10 percent *ad valorem* under the General Preferential 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.

## REPRESENTATIONS

### Position of the Clothing Industry

#### Peerless

10. Peerless has been manufacturing men's apparel since 1919. The company is privately owned and employs in excess of 2,000 persons. Following the *Canada-United States Free Trade Agreement*, it established itself as an international manufacturing and marketing company with a significant presence in the U.S. market. In this respect, it 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).

11. Peerless claimed that no Canadian textile manufacturer produces and supplies fabrics that are identical to or substitutable for the subject fabrics and that this was established in a previous request for tariff relief.<sup>5</sup> It stated that the only difference between the subject fabrics and the fabrics considered in *Peerless* is the weight. In *Peerless*, most of the fabrics weighed more than 70 g/m<sup>2</sup>, whereas, in the present case, the subject fabrics weigh less than 70 g/m<sup>2</sup>.

---

4. S.C. 1997, c. 36.

5. *Re Request for Tariff Relief by Peerless Clothing Inc.* (29 October 1998), TR-97-006 (CITT) [*Peerless*]. On the basis of an agreement reached between Peerless and opposing parties, the Tribunal recommended that tariff relief be granted, for an indeterminate period of time, on importations from all countries, of the following fabrics for use as interlinings in the manufacture of men's apparel:

- woven fabric of textured polyester filament yarns, partially coated with hot-melt adhesive, with a 4 percent minimum stretch in the warp and a 12 percent minimum stretch in the weft as measured by ASTM specification D3107-75, the product weight exceeding 70 g/m<sup>2</sup>, but not exceeding 95 g/m<sup>2</sup>, of subheading No. 5407.51 or 5903.90;
- warp-knit fabric of textured and non-textured polyester filament yarns, partially coated with hot-melt adhesive, with a 4 percent minimum stretch in the warp and a 12 percent minimum stretch in the weft as measured by ASTM specification D3107-75, the product weight exceeding 70 g/m<sup>2</sup>, but not exceeding 95 g/m<sup>2</sup>, of subheading No. 5903.90 or 6002.43; and
- warp-knit fabric of polyester filaments and polyester staple fibres, partially coated with hot-melt adhesive, the product weight not exceeding 55 g/m<sup>2</sup>, of subheading No. 5903.90 or 6002.43.

On November 26, 1998, the Governor in Council approved Order in Council P.C. 1998-2089, which provided for duty-free entry of these fabrics.

12. Peerless indicated that, over the past years, the fashion market has constantly moved towards finer and lighter fabrics. In this regard, it stated that high-twist, ultra-fine worsted wools have become the market standard. Therefore, according to Peerless, it is necessary to use a bi-stretch (stretch in both the warp and the weft) fusible interlining that follows the movement of the outer fabric that tends to expand during exposure to steam and return to its original dimensions when dry.

13. Peerless stated that, with the fashion market demanding softer and lighter garments, the need to move to an ultra lightweight, yet voluminous, fusible interlining is necessary, especially for the facing of the jacket. It indicated that, when fused to the front of the jacket, the subject fabrics, which weigh only 50-54 g/m<sup>2</sup>, give the garment a very light feel. Moreover, the subject fabrics that are composed of textured stretch yarns in both the warp and the weft produce a clean tailored garment. Peerless also indicated that, when used for the lapel of the jacket, the subject fabrics assure a smooth and round lapel, free of rippling or wavy effect.

14. Peerless stated that competition in the men's apparel industry is global in scale and is very fierce. It indicated that the removal of the customs duty on imports of the subject fabrics would allow it to stay competitive in the market and possibly increase its market share in domestic and foreign markets. It also stated that tariff relief would help maintain current employment levels. It indicated that any cost savings would be passed on to the consumer.

15. Peerless indicated that the market drives its business decisions. It stated that, if the market demands garments that have the features that are created by the subject fabrics, it must produce such garments or face a decline in sales. It stated that it has certain cost and markup parameters that must be obtained to allow it to remain at its ultimate price point. It 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.

16. Peerless indicated that, because of the *North American Free Trade Agreement*,<sup>6</sup> it no longer gets a drawback<sup>7</sup> for the imported inputs that it uses for its apparel exported to the United States under Canadian TPLs and that, therefore, duties on the subject fabrics seriously affect its market position in the United States. Therefore, tariff relief would assist it in overcoming the elimination of duty drawback.

### **Positions of the Textile Industry**

#### Canada Hair Cloth Company (CHC)

17. CHC, of St. Catharines, Ontario, has been manufacturing woven canvas and fusible fabrics for the Canadian men's and boys' apparel industry for over 120 years. In response to the Tribunal's domestic producer's questionnaire, CHC supported Peerless's request for tariff relief since it does not make identical or substitutable fabrics, and stated that such relief would be beneficial to the apparel industry in terms of

---

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 goods 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.

competitiveness and lower prices for end products. CHC indicated that it had agreed to tariff relief in *Peerless* for fabrics in the 70-95 g/m<sup>2</sup> weight range and that the subject fabrics are identical but for the lesser weight.

Consoltex Inc. (Consoltex)

18. 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 750 persons in its manufacturing facilities. Consoltex indicated that it did not oppose Peerless's request for tariff relief on the basis that it would result in an amendment to classification No. 5903.90.23.00, thereby eliminating the reference to the minimum weight of 70 g/m<sup>2</sup>.

Sunshine Mills Inc. (Sunshine Mills)

19. Sunshine Mills, of Tracadie-Sheila, New Brunswick, is a producer of greige fabrics of 100 percent cotton and polyester/cotton blends. It advised the Tribunal that it currently does not produce fabrics identical to or substitutable for the subject fabrics.

## OTHER INFORMATION

20. DIT informed the Tribunal that Canada currently maintains quota restraints on woven fabrics of polyester filament yarns (category 35.0), imported from the Republic of Korea, Poland and Chinese Taipei, and that this coverage includes the subject fabrics. The CBSA indicated that there would be no additional costs, over and above those it normally incurs, to administer the tariff relief should it be granted.

## ANALYSIS

21. 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.

22. Peerless claimed that there is no domestic production of fabrics identical to or substitutable for the subject fabrics. Domestic fabric producers did not contest this claim. Moreover, it is noted that Peerless and other manufacturers of men's apparel already benefit from tariff relief on the same fabrics of a weight exceeding 70 g/m<sup>2</sup>, but not exceeding 95 g/m<sup>2</sup>. 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 users of the subject fabrics in excess of \$50,000. In addition, tariff relief would provide benefits to users in the form of potentially increased sales and stable employment, as well as reduced costs, which could translate into benefits to the consumer in terms of lower prices. In summary, the Tribunal finds that the tariff relief requested by Peerless would provide net economic gains for Canada.

23. Peerless requested that tariff relief be effective "immediately". The evidence presented to the Tribunal to justify such a request is that the subject fabrics are used, at present, in the manufacture of men's

and boys' jackets (including suit jackets), blazers and vests (waistcoats). It is the Tribunal's view that the commencement of tariff relief is warranted as soon as possible.

## RECOMMENDATION

24. 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 textured polyester filament yarns, partially coated with hot-melt adhesive, with a 4 percent minimum stretch in the warp and a 12 percent minimum stretch in the weft as measured by specification ASTM D3107-75, of a weight not exceeding 70 g/m<sup>2</sup>, of subheading No. 5903.90, for use in the manufacture of men's and boys' jackets (including suit jackets), blazers and vests (waistcoats). The tariff relief should be granted as soon as possible.

Richard Lafontaine

Richard Lafontaine  
Presiding Member

Ellen Fry

Ellen Fry  
Member

Meriel V. M. Bradford

Meriel V. M. Bradford  
Member

Hélène Nadeau

Hélène Nadeau  
Secretary