



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Textiles

RECOMMENDATION

Request No. TR-2007-007

Le Château Inc.

(Woven Polyester Fabric)

*Recommendation issued
Tuesday, December 2, 2008*

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REPORT TO THE MINISTER OF FINANCE

INTRODUCTION

1. 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.

2. On March 14, 2008, pursuant to the Minister's reference, the Tribunal received a request from Le Château Inc. (Le Château) of Montréal, Quebec, for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of woven dyed fabric, consisting of 97 percent non-textured and textured polyester filaments mixed with 3 percent elastomeric filaments, with a satin weave, used in the manufacture of dresses, skirts, vests, blouses, tops and scarves.

3. On September 24, 2008, being satisfied that the request was properly documented, the Tribunal issued a notice of commencement of investigation,³ which was distributed to those who might have an interest. The fabric under investigation is woven fabric, satin weave, dyed, of yarns of non-textured polyester filaments in the warp and of textured polyester filaments and elastomeric yarn in the weft, of a weight not exceeding 132 g/m², of tariff item No. 5407.69.90 of the schedule to the *Customs Tariff*,⁴ for use in the manufacture of dresses, skirts, vests, blouses, tops and scarves (the subject fabric).

4. As part of the investigation, the Tribunal's research staff sent questionnaires to potential domestic producers of fabric identical to or substitutable for the subject fabric and a request for information to potential users and importers of the subject fabric. It also requested the Canada Border Services Agency (CBSA) to provide a complete description of the physical characteristics of the fabric sample submitted by Le Château, an opinion on whether the requested tariff relief would be administrable and suggested wording to describe the subject fabric should tariff relief be recommended. The CBSA indicated that there would be no additional costs, over and above those that it normally incurs, to administer the tariff relief should it be granted.

5. Letters were also sent to the Department of Foreign Affairs and International Trade and the Department of Industry, requesting information that could assist the Tribunal in its investigation.

6. A staff investigation report was not necessary for the purposes of this investigation, since there was no opposition to the request.

7. On October 29, 2008, the Tribunal indicated that it intended to issue a report to the Minister concerning the request based on the information on the record.

8. A public hearing was not held for this investigation.⁵

1. The terms of reference were last modified on October 27, 2005.

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

3. C. Gaz. 2008.I.2739.

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

5. Pursuant to rule 25 of the *Canadian International Trade Tribunal Rules*, S.O.R./91-499, the Tribunal has the authority to proceed by way of written submissions.

PRODUCT INFORMATION

9. Le Château imports the subject fabric from the People's Republic of China and the Republic of Korea. It submitted one fabric sample with its request for tariff relief. The sample was a dyed fabric, satin weave, consisting of non-textured polyester yarns in the warp and textured polyester yarns and elastomeric yarns in the weft. The fabric weighed 126 g/m².

10. As of January 1, 2008, the subject fabric is classified for customs purposes under tariff item No. 5407.69.90 and is dutiable at 14 percent *ad valorem* under the Most-Favoured-Nation Tariff and the Costa Rica Tariff, and is 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

Le Château

11. Le Château, one of Canada's largest apparel manufacturers, first opened its production facilities in Montreal in 1984. Garments manufactured by Le Château are cut in these facilities and then sent out to be assembled and sewn by independent contractors in Quebec and Ontario.

12. Le Château claimed that no Canadian textile manufacturers were able to produce fabric that is identical to or substitutable for the subject fabric.

13. Le Château uses the subject fabric in the manufacture of dresses, skirts, vests, blouses, tops and scarves. Le Château indicated that the subject fabric is readily available in multiple colours from its overseas suppliers at competitive prices that help Le Château maintain its Canadian production. Le Château stated that the subject fabric is very light, yet resistant to tearing or ripping, and has an elegant look, feel and style.

14. As for the anticipated benefits of tariff relief, Le Château stated that, to remain competitive in the retail market, it has had to continuously increase its imports of finished garments, while scaling back on its local production. Eliminating the customs duty on imports of the subject fabric would provide Le Château an additional reason to continue manufacturing garments at its Montreal production facilities.

15. Le Château requested that tariff relief be retroactive to January 1, 2005.

Position of the Textile Industry

16. Domestic fabric producers did not oppose the request for tariff relief.

ANALYSIS

17. 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.

18. Le Château claimed that there is no domestic production of fabric identical to or substitutable for the subject fabric. This claim was not contested by any domestic fabric producers. 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 fabric. On the basis of the information available to the Tribunal, tariff relief would result in yearly benefits to users of the subject fabric in excess of \$45,000. In summary, the Tribunal finds that the tariff relief requested by Le Château would provide net economic gains for Canada.

19. As for Le Château'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. Le Château has provided no evidence to warrant such a recommendation. However, it is the Tribunal's view that the commencement of tariff relief as soon as possible is warranted.

RECOMMENDATION

20. In light of the foregoing, the Tribunal hereby recommends to the Minister that tariff relief be granted as soon as possible, for an indeterminate period of time, on importations from all countries of woven fabric, satin weave, dyed, of yarns of non-textured polyester filaments in the warp and of textured polyester filaments and elastomeric yarn in the weft, of a weight not exceeding 132 g/m², of tariff item No. 5407.69.90, for use in the manufacture of dresses, skirts, vests, blouses, tops and scarves.

Pasquale Michaele Saroli

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Presiding Member

Diane Vincent

Diane Vincent
Member

André F. Scott

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Member

Hélène Nadeau

Hélène Nadeau
Secretary