

**REPORT TO  
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY  
ELITE COUNTER & SUPPLIES  
REGARDING  
LINEA T-80 AND LINEA T-69 AD/2  
NONWOVEN TEXTILE FABRICS**

**AUGUST 31, 1995**

**ELITE COUNTER & SUPPLIES**

**REQUEST NOS.: TR-94-017  
AND TR-94-018**

**Request Nos. TR-94-017 and TR-94-018**

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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*.<sup>1</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.

Pursuant to the Minister's reference, on March 17, 1995, the Tribunal received two requests from Elite Counter & Supplies (Elite) of Concord, Ontario, for the permanent removal of the customs duty on importations of Linea T-80 (Request No. TR-94-017) and Linea T-69 AD/2 (Request No. TR-94-018) nonwoven textile fabrics for use in the production of box toes and counters, which are used in the production of shoes and boots (the subject fabrics).

Elite requested the permanent removal of the customs duty in respect of the subject fabrics imported from all countries benefiting from the MFN tariff. Elite identified the following three tariff items under which the subject fabrics are classified in Schedule I to the *Customs Tariff*:<sup>2</sup> tariff item Nos. 5602.10.10, 5603.00.99 and 3921.90.21.90.

On May 5, 1995, the Tribunal, being satisfied that the request was properly documented, issued a notice of commencement of investigation, which was widely distributed and published in Part I of the May 13, 1995, edition of the Canada Gazette.<sup>3</sup>

As part of the investigation, the Tribunal's research staff sent questionnaires to potential domestic producers of fabrics identical to or substitutable for the subject fabrics, that is, Texel Inc. of Saint-Elzéar-de-Beauce, Quebec, The Rumpel Felt Co. Ltd. of Kitchener, Ontario, and Beckwith-Bemis Inc. of Sherbrooke, Quebec. Questionnaires were also sent to importers and users of fabrics identical to or substitutable for the subject fabrics. In addition, letters were sent to a number of government departments requesting information and advice.

A staff investigation report was not necessary in this case because the Canadian Textiles Institute (CTI) informed the Tribunal that it did not oppose the requests, and no domestic producers of identical or substitutable fabrics were identified by the Tribunal. The CTI suggested that the tariff relief be granted by means of an amendment to Code 4495 of Schedule II to the *Customs Tariff* that used to cover the importation of the subject fabrics up to August 1994. Elite agreed to the proposal submitted by the CTI. A public hearing was not held for this investigation.

## **PRODUCT INFORMATION**

Linea T-80 is made from a nonwoven substrate (100 percent polyester), styrene-butadiene (synthetic rubber) and an ethylene-vinyl acetate (EVA) coating (synthetic resin coating). The percentage contents of these raw materials are as follows: nonwoven substrate, 18 percent; styrene-butadiene, 64 percent; and

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1. R.S.C. 1985, c. 47 (4th Supp.).  
2. R.S.C. 1985, c. 41 (3rd Supp.).  
3. Vol. 129, No. 19 at 1619.

EVA coating, 18 percent. The synthetic resin coating is composed of 50 percent ethylene-vinyl acetate resins, 25 percent terphene-phenolic resins, 20 percent ester-rosin resins and 5 percent hydrocarbonic resins.

The formulation of Linea T-69 AD/2 is identical to that of Linea T-80, except for the percentage contents of the raw materials, which are as follows: nonwoven substrate, 20 percent; styrene-butadiene, 58 percent; and EVA coating, 22 percent. On the other hand, the composition formula of the synthetic resin coating of Linea T-69 AD/2 is identical to that of Linea T-80.

According to the Department of National Revenue (Revenue Canada), the subject fabrics are classified for customs purposes under tariff item No. 3921.90.21.90. They are dutiable at 23.2 percent ad valorem under the MFN tariff; at 16.5 percent ad valorem under the GPT; at 7.5 percent ad valorem under the U.S. tariff; and at 13.2 percent ad valorem under the Mexico tariff.

### **REPRESENTATIONS**

Elite submitted that there is no domestic production of fabrics identical to or substitutable for Linea T-80 and Linea T-69 AD/2.

According to Elite, the requests were made because of a re-determination by Revenue Canada which retroactively assessed customs duties and the Goods and Services Tax on the subject fabrics to August 1994. Revenue Canada's re-determination was based on an analysis of the subject fabrics which determined that the bonding agent is not rubber, but plastic. The subject fabrics had previously benefited from duty-free entry into Canada by application of Code 4495.

USM Canada Limited, a major importer/distributor of the subject fabrics imported from the United States, supported Elite's request for tariff relief.

The CTI, which represents the major proportion of Canadian manufacturers of nonwoven fabrics, conceded that there is no domestic production of identical or substitutable fabrics. Moreover, counsel for the CTI proposed to the Tribunal, subject to Elite's approval, that the requests for tariff relief be granted by means of an amendment to Code 4495. The proposed text is as follows:

*[F]elt and non-wovens, having a bonding agent composed entirely of rubber and/or styrene-butadiene co-polymers, of tariff item No. 5602.10.10, 5603.00.99 or 3921.90.21, for use in the manufacture of footwear.*

Elite fully supported the amendment proposed by the CTI.

Subsequently, Revenue Canada suggested that, in the event tariff relief is granted, the text of Code 4495 could be replaced by the following:

*Felts and nonwovens, having an impregnant or bonding agent composed of rubber, of tariff item No. ... , for use in the manufacture of footwear, and needleloom felt having an impregnant of plastics, coated on one or both sides with plastics, of tariff item No. ... , for use in the manufacture of counters or box toes for footwear.*

Asked for comments on Revenue Canada's proposed wording, both the CTI and Elite expressed the opinion that the subject fabrics are nonwovens and not felts. Therefore, the CTI proposed that Code 4495 be deleted and that the following codes be added:

*The following for use in the manufacture of footwear:*

4496 *Felts and nonwovens, impregnated with or having a bonding agent composed of rubber, of heading No. 40.05, 40.08 or 56.03.*

4497 *Felts and nonwovens, impregnated with or having a bonding agent of styrene-butadiene copolymer, coated on one or both sides with plastics, of heading No. 39.21 or 56.03.*

Elite agreed with the latter proposal submitted by the CTI.

## **ANALYSIS**

### **Linea T-80**

In this case, the Tribunal is concerned with the issues of, first, whether an identical or substitutable fabric is produced in Canada and, second, the impact of granting the tariff relief on domestic producers of nonwoven fabrics.

The evidence on file clearly indicates that there is no domestic production of a fabric identical to or substitutable for Linea T-80. Moreover, the Tribunal is convinced that the removal of the customs duty on importations of Linea T-80 will not have any negative consequences on the domestic industry of nonwoven fabrics.

The primary direct benefits of granting the tariff relief, based on the projected level of imports of Linea T-80, would exceed \$25,000 annually, if this fabric were dutiable under the MFN tariff. Other than the corresponding duty revenues foregone by the government, the Tribunal does not believe that there will be any direct commercial costs of granting the tariff relief. In summary, the Tribunal concludes that the net economic benefits of granting the tariff relief in this case will be positive.

### **Linea T-69 AD/2**

As in the case of Linea T-80, the Tribunal is concerned with the issues of, first, whether an identical or substitutable fabric is produced in Canada and, second, the impact of granting the tariff relief on domestic producers of nonwoven fabrics.

Again, the evidence on file clearly indicates that there is no domestic production of a fabric identical to or substitutable for Linea T-69 AD/2. Moreover, the Tribunal is convinced that the removal of the customs duty on importations of Linea T-69 AD/2 will not have any negative consequences on the domestic industry of nonwoven fabrics.

The primary direct benefits of granting the tariff relief, based on the projected level of imports of Linea T-69 AD/2, would exceed \$47,000 annually, if this fabric were dutiable under the MFN tariff. Other

than the corresponding duty revenues foregone by the government, the Tribunal does not believe that there will be any direct commercial costs of granting the tariff relief. In summary, the Tribunal concludes that the net economic benefits of granting the tariff relief in this case will be positive.

### **RECOMMENDATION**

#### **Linea T-80**

In light of the foregoing and the evidence on the record, the Tribunal hereby recommends to the Minister that the current customs duty on importations of Linea T-80 nonwoven textile fabric be permanently removed.

In this regard, the Tribunal recommends deleting Code 4495 and adding the following codes, in the manner proposed by the CTI and Elite:

*The following for use in the manufacture of footwear:*

4496 *Felts and nonwovens, impregnated with or having a bonding agent composed of rubber, of heading No. 40.05, 40.08 or 56.03.*

4497 *Felts and nonwovens, impregnated with or having a bonding agent of styrene-butadiene copolymer, coated on one or both sides with plastics, of heading No. 39.21 or 56.03.*

#### **Linea T-69 AD/2**

In light of the foregoing and the evidence on the record, the Tribunal hereby recommends to the Minister that the current customs duty on importations of Linea T-69 AD/2 nonwoven textile fabric be permanently removed. The Tribunal reiterates its recommendation set out above with respect to deleting Code 4495 and adding Codes 4496 and 4497, in the manner proposed by the CTI and Elite.

Anthony T. Eyton

Anthony T. Eyton  
Presiding Member

Lise Bergeron

Lise Bergeron  
Member

Desmond Hallissey

Desmond Hallissey  
Member