



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
CHÂTEAU STORES OF CANADA LTD.
REGARDING
BOUCLÉ AND MOHAIR KNITTED FABRICS**

FEBRUARY 13, 1996

CHÂTEAU STORES OF CANADA LTD.

REQUEST NO.: TR-94-008

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Tribunal Members:	Raynald Guay, Presiding Member Robert C. Coates, Q.C., Member Desmond Hallissey, Member
Research Director:	Marcel J.W. Brazeau
Research Manager:	John Gibberd
Counsel for the Tribunal:	David M. Attwater
Registration and Distribution Officer:	Claudette Friesen

Address all communications to:

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

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*.¹ 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 February 15, 1995, the Tribunal received a request from Château Stores of Canada Ltd. (Le Château) of Montréal, Quebec, for the removal of the customs duty on importations, from all countries, of bouclé and mohair knitted fabrics for use in the production of ladies' tops, jackets, dresses and skirts (the subject fabrics). Le Château requested that the customs duty be removed for an indefinite period of time or until domestic producers could supply the subject fabrics in a timely and competitive fashion.

On April 7, 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 the April 22, 1995, edition of the Canada Gazette, Part I.²

As part of the investigation, the Tribunal's research staff sent questionnaires to 25 potential producers of the subject fabrics and of identical or substitutable fabrics. Also, questionnaires were sent to 6 potential users of the subject fabrics for use in the manufacture of ladies' tops, jackets, dresses and skirts and to a number of potential importers of the subject fabrics. Two letters were sent to the Department of National Revenue (Revenue Canada), one requesting advice as to the tariff classification of the subject fabrics and another asking for advice on the tariff classification of fabrics produced by Cannon Knitting Mills Limited (Cannon), a domestic producer. Samples of the subject fabrics and domestically produced fabrics were provided to assist in the laboratory analyses. Letters were also sent to a number of other government departments requesting information and advice.

On June 5, 1995, the staff investigation report, summarizing the information received from these departments, Le Château and other firms that responded to requests for information, was provided to the parties that had filed notices of appearance for this investigation. The parties to the investigation are Le Château, Paris Star Knitting Mills Inc. (Paris Star), Cannon and the Canadian Textiles Institute (CTI). The CTI filed a submission with the Tribunal, to which Le Château filed a response.

On June 23, 1995, the Tribunal received a request from the CTI asking that the investigation be held in abeyance for 60 days in order to allow the CTI the possibility of defining with the parties one or two classes of goods that cover, at least, some portion of the subject fabrics and that are acceptable to textile producers, administrable by Revenue Canada and beneficial to users. The Tribunal, after having received Le Château's concurrence, wrote to the CTI on July 13, 1995, to indicate that it had decided to hold the

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

2. Vol. 129, No. 16 at 1210.

investigation in abeyance for 60 days so that the CTI might seek a resolution covering some portion of the request.

The CTI's proposals for tariff relief were received by the Tribunal on October 27, 1995. Comments on these proposals were received from Le Château on November 8, 1995, and from Cannon on November 9, 1995. Subsequently, Cannon, at the request of the Tribunal, further clarified its position on November 15, 16 and 24, 1995. Paris Star did not provide comments on the proposals.

A public hearing was not held for this investigation.

PRODUCT INFORMATION

Le Château's request covered imports of all bouclé and mohair fabrics classified under tariff item No. 6002.93.00 of Schedule I to the *Customs Tariff*.³ However, it only submitted four samples of the subject fabrics that it intended to import. The following table presents a summary of Revenue Canada's analyses of the subject fabrics. Three of the samples contain bouclé yarns, two of which contain more than 50 percent by weight of bouclé yarns. Two of the samples contain mohair, one of which contains more than 25 percent by weight of mohair. The samples range in weight from 260 to 362 g/m².

SUMMARY OF REVENUE CANADA'S ANALYSES OF FOUR SAMPLES OF THE SUBJECT FABRICS			
Sample No.	<u>Percentage Composition by Weight</u>		Weight (g/m²)
	Bouclé Yarns	Mohair	
PO 22329	66	0	286
PO 22330	86	0	260
PO 22332	28	8	362
PO 22333	0	29	338

Source: Revenue Canada laboratory reports.

Revenue Canada noted that the notice of commencement of investigation indicated bouclé and mohair knitted fabrics and went on to caution about the use of the terms "bouclé" and "mohair" in the event that a tariff relief provision is created for each of the subject fabrics. The term "bouclé" should not be used in the wording of a tariff relief provision for the fabric that does not contain bouclé yarns, and the term "mohair" should be omitted from a tariff relief provision for the fabrics that do not contain mohair. Also, the two fabrics that do contain mohair are more appropriately referred to as "fabrics containing mohair" rather than "mohair fabrics." To be described as mohair fabrics, they would have to contain predominately mohair. Revenue Canada also indicated that there would be no additional costs, over and above those already incurred by it, to administer the tariff relief should it be granted.

3. R.S.C. 1985, c. 41 (3rd Supp.).

Revenue Canada advised the Tribunal that the subject fabrics are classified under tariff item No. 6002.93.00. They were dutiable, in 1995, at 20.5 percent *ad valorem* under the MFN tariff and the GPT; at 18.0 percent *ad valorem* under the BPT; at 7.5 percent *ad valorem* under the U.S. tariff; and at 20.0 percent *ad valorem* under the Mexico tariff. Under the recently concluded Multilateral Trade Negotiations, the MFN rate is scheduled to be reduced to 14.0 percent on January 1, 2004.

Revenue Canada also performed analyses of three samples of bouclé fabrics submitted by Cannon. The laboratory report indicated that, while the samples were not identical to those of Le Château, the fabrics, if imported into Canada, would also be classified under tariff item No. 6002.93.00.

Le Château intends to use the subject fabrics to produce ladies' tops, jackets, dresses and skirts. Le Château designs the garments, makes the patterns, cuts the fabric according to the patterns, purchases the required trimmings and supplies, and prepares labels and size and price tags. Sewing contractors pick up the cut lots and other materials from Le Château and return the finished garments to Le Château's warehouse. The garments are then inspected and distributed to Le Château's stores in Canada and the United States. Le Château also sells garments in Sears Canada Inc. stores in Canada and exports a small volume of garments to stores outside the Le Château chain in the United States.

The apparent market for bouclé and mohair fabrics for use in the production of ladies' tops, jackets, dresses and skirts in 1995 consists of the 88,000 metres of imports by Le Château and Paris Star, and the domestic production of Cannon, Knitronics International Inc. (Knitronics) and Les Tissus A&G (1982) Inc. (A&G). As well, Tiger Brand Knitting Company Limited (Tiger Brand) produced an undisclosed amount of the subject fabrics for its own consumption.

Three of the samples of the subject fabrics that Le Château submitted have a 3 gauge construction, while one has a 7 gauge construction. The bulk of Paris Star's imports of bouclé and mohair fabrics have a construction in the 3-to-5 gauge range. In the case of domestic production, the three samples submitted by Cannon from its family of bouclé fabrics were reported to have a finer gauge construction than Le Château's four samples of the subject fabrics. Knitronics, a converter that contracts with others to produce its fabrics, claimed that the bouclé-like fabric (a bouclé effect is created mechanically rather than through the use of bouclé yarns), which it recently produced, had a finer gauge construction than Le Château's samples of the subject fabrics, as did a bouclé fabric made by Knitronics five years ago. The bouclé fabric produced by A&G was reported to have an 18 gauge construction.

REPRESENTATIONS

Le Château requested that the MFN tariff be removed for an indefinite period of time or until domestic producers could supply the subject fabrics in a timely and competitive fashion. Le Château is supported in this request by Paris Star. The estimated duty saving for these two companies, for 1995, is \$138,000.

Le Château's request applies to all bouclé and mohair fabrics; however, its case in support of tariff relief is directed towards the importation of the subject fabrics for which four samples were provided.

Le Château claims that the subject fabrics are not readily available from the domestic pool of supply and that no substitutable fabrics with the required characteristics and proven quality standards are available domestically.

Le Château states that domestic knitters that claim that they are able to produce identical or substitutable fabrics are not able to deliver the fabrics within the required delivery times, as the specialty yarns used in the manufacture of the fabrics are not available in Canada. Le Château claims that the quantity of each design of fabric is not large enough for domestic producers to knit the fabrics at a viable cost and states that the prices quoted for domestically produced acceptable and substitutable fabrics are much higher than the landed cost of imports.

Le Château claims that tariff relief will lower the cost of Canadian-made garments and, as a consequence, it expects to export more to the United States. In turn, increased exports will bring about a higher volume of Canadian production. Le Château claims that importing the subject fabrics and producing garments in Canada gives it a competitive edge by being able to react quickly to changing market conditions.

Le Château claims that tariff relief on the subject fabrics for which four samples were provided will lower retail prices on garments and result in benefits of close to \$280,000 for consumers of the end products. Le Château states that imports of the subject fabrics will create almost 30,000 equivalent person-hours of work. It contends that tariff relief will facilitate and favourably influence future decisions to import fabrics rather than import garments.

Paris Star, which supports the request and imports the subject fabrics for use in the manufacture of ladies' apparel, claims that bouclé and mohair fabrics are not a viable proposition for domestic knitters. Paris Star, which is also a knitter, states that it could never compete economically with the fashion-oriented producers of bouclé fabrics in Europe and the Orient.

Le Château submitted the names of five domestic knitters that had been approached to quote on the subject fabrics and that had declined to do so. A sixth company, Knitrama Fabrics Inc. (Knitrama), supplied quotations on the subject fabrics. The quotations for the four samples were higher than Le Château's landed cost of the subject fabrics, and only one of the quoted prices was close to the landed cost of one of the subject fabrics. Knitrama did not participate in the Tribunal's investigation.

One of the companies that declined Le Château's request for quotations was Silver Knitting Mills Ltd. (Silver Knitting). In a letter submitted to the Tribunal, Silver Knitting stated that it did not produce bouclé and mohair fabrics. It stated that, if Le Château sources the subject fabrics elsewhere, it had no objection and that it was of the opinion that tariffs on unusual items do not affect the demand for, or supply of, those items.

Le Château claims that Knitronics also declined its request for quotations. Knitronics opposes Le Château's request for tariff relief because tariff relief would allow the duty-free entry of finer gauge bouclé and bouclé-like fabrics. Knitronics also stated that the possibility of misclassification of fabrics as bouclé and mohair fabrics is a big problem.

Cannon states that it produces the subject fabrics and opposes Le Château's request for tariff relief. Cannon points out that the textile industry is very competitive and that purchasers can be influenced by a very small price differential. Tariff relief could significantly diminish Cannon's sales volume depending on the importance of the subject fabrics in the market for any particular season. This, in turn, would result in a significant layoff of staff, with a consequential loss of wages.

A&G does not oppose the request for tariff relief on imports of the four samples of the subject fabrics, but does oppose the blanket application of tariff relief on bouclé fabrics. However, A&G said that the sales of its bouclé acrylic and cotton fabrics have not been substantial enough to justify opposition on the basis of lost sales or profits.

In its submission of June 26, 1995, the CTI opposed the request on the grounds that the scope of the request had not been defined in terms which textile producers could meaningfully address and which Revenue Canada could reliably administer. Because the request is so vaguely defined, the Tribunal has not elicited the information required to assess the damage that would be caused to producers as a result of granting tariff relief. In examining the scope of the request, the CTI questions whether the terms "bouclé" and "mohair" are conjunctive or disjunctive, pointing out that one of the samples of the subject fabrics contains no bouclé yarns and that two contain no mohair. The CTI assumes that the request covers two classes of fabrics: bouclé knitted fabrics and mohair knitted fabrics. The CTI also points to the need to define terms such as "mohair," "mohair knitted fabric," "bouclé yarn" and "bouclé knitted fabric" and to specify the mohair content required for a fabric to qualify as a mohair fabric and the bouclé yarn content necessary for a fabric to qualify as a bouclé fabric.

The CTI does not accept the methodology used in the staff investigation report to calculate benefits and costs, noting that the methodology will turn out a net benefit in every case except where the domestic producers hold 100 percent of the market. It goes on to state that a tariff reduction will have a proportionally greater negative impact on the margins of the domestic producer than a positive effect on the gross margins of a user. The removal of the tariff drives import volumes in the same way as promotion pricing in retail drives sales. The difference between the two, however, is that the market distortion caused by tariff relief can continue indefinitely with the government paying the bill, where retail promotions are constrained by the need for retailers to be profitable. Therefore, the CTI argues that the benefit/cost analysis should take into account the artificially induced import volume or, alternatively, the tariff relief measure should be in the form of a tariff rate quota.

The CTI observes that two domestic producers, Cannon and Knitronics, oppose the request for tariff relief. As well, A&G and Tiger Brand produce fabrics that fall within the scope of the request. The CTI also notes that Borg Textiles Inc. produces bouclé sliver knit fabrics.

On October 27, 1995, the Tribunal received the following tariff relief proposals from the CTI:

1. *Knitted fabrics, containing 50% or more by weight of bouclé yarn*, valued at not less than \$15.00/kg, of tariff item No. 6002.93.00, for use in the manufacture of women's jackets, dresses, skirts, pullovers and similar articles.*

** Definition: bouclé yarn, a novelty yarn of very uneven appearance characterized by loops or curls, is made of three or more elements including two relatively fine foundation yarns and one relatively thick yarn which has been delivered at a faster rate than the foundation yarns.*

2. *Knitted fabrics, containing 25% or more by weight of mohair, valued at not less than \$17.50/kg, of tariff item No. 6002.93.00, for use in the manufacture of women's jackets, dresses, skirts, pullovers and similar articles.*

The CTI contends that these proposals will provide tariff relief on three of the four samples of the subject fabrics. The CTI is concerned that the minimum values used in the product definitions may lead to an unexpected volume of duty-free imports that compete at price levels served by domestic producers. To forestall this from happening, the CTI suggests the use of a tariff rate quota and states that the Tribunal should include the use of a tariff rate quota in its recommendation to the Minister.

On November 8, 1995, the Tribunal received a letter from Le Château indicating that it was pleased with the CTI's proposals. Le Château stated that, although the CTI's proposals only covered three of the four samples of the subject fabrics, it was more than willing to accept this limitation.

Paris Star did not respond to the CTI's proposals.

On November 9, 1995, Cannon submitted its response to the CTI's proposals to the Tribunal and, subsequently, provided further details of its position on three occasions. Cannon opposes the CTI's proposals because they would remove the tariff on imported fabrics that are identical to or substitutable for fabrics produced by Cannon. Cannon has the capability to produce bouclé fabrics that contain 50 percent or more by weight of bouclé yarns and whose average delivered wholesale price would be greater than \$15/kg. It also has the capability to knit mohair fabrics that contain 25 percent or more by weight of mohair and that would most likely have a delivered wholesale price of between \$15 and \$18/kg. Cannon has produced knitted fabrics containing mohair in the past. Moreover, Cannon produced a bouclé fabric in 1994 and 1995 that has a bouclé yarn content of greater than 50 percent and an average delivered wholesale price of greater than \$15/kg.

Cannon also states that a value per kilogram may be difficult to police, as the stated value does not always reflect the actual value. It is also of the opinion that granting the requested tariff relief is contrary to the principle that, if something is manufactured in Canada, it should be sourced in Canada. Finally, Cannon believes that it is at a competitive disadvantage in producing the subject fabrics, since the yarns are subject to a duty when imported from a non-NAFTA country.

ANALYSIS

The Tribunal is directed to conduct investigations into requests for tariff relief and to make recommendations that maximize net economic gains for Canada. The Tribunal is to assess the economic impact of tariff relief on domestic textile and downstream producers, taking into account all relevant economic factors, including the substitutability of domestically produced fabrics.

In determining that Le Château's request for tariff relief was for two separate classes of fabrics, one for bouclé knitted fabrics and the other for knitted fabrics containing mohair, the Tribunal was guided by Revenue Canada's analyses of the four samples submitted and Le Château's acceptance of the CTI's proposals. These proposals were made on the basis that Le Château had made a request for two classes of fabrics. The Tribunal will deal with each class in turn.

Le Château's request for tariff relief with regard to bouclé knitted fabrics is quite broad and is not accompanied by technical characteristics, such as yarn count, fabric weight or the percentage of bouclé yarns contained in the fabric, that would constrain the request. Given the broad scope of the request, the Tribunal considers that the bouclé fabrics produced domestically by A&G and Cannon are identical to the imported bouclé knitted fabrics on which Le Château is requesting tariff relief. The Tribunal believes that granting the tariff relief on bouclé knitted fabrics will impact adversely on these domestic producers. Therefore, in light of the information available, the Tribunal is of the view that it is not appropriate to recommend tariff relief on bouclé knitted fabrics.

The Tribunal also has before it the proposal made by the CTI for granting tariff relief on fabrics containing 50 percent or more by weight of bouclé yarns and having a value of not less than \$15/kg. Along with this proposal, the CTI submitted a definition for "bouclé yarn." The proposal and definition have been accepted by CTI members. Le Château is also satisfied with both the proposal and the definition. Le Château accepts the proposal, even though one of the samples of the subject fabrics would not be eligible for tariff relief, if the proposal were implemented, because it only contains 28 percent by weight of bouclé yarns and 8 percent by weight of mohair. Cannon does not accept the proposal. It produced bouclé knitted fabrics in 1994 and 1995 that contained more than 50 percent by weight of bouclé yarns and had a delivered wholesale price of greater than \$15/kg and, in the future, it will also produce, on demand, fabrics with these characteristics. The bouclé yarn content of these fabrics falls into the same range as that of the bouclé knitted fabrics that would be allowed duty-free entry under the CTI's proposal. Also, the price per kilogram of Cannon's fabrics would fall into the same range as that of the imported fabrics on which tariff relief was granted. The Tribunal is, therefore, of the view that these duty-free imports will have an adverse economic impact on Cannon and that this impact will outweigh any potential benefits to be derived from granting tariff relief on the basis of the CTI's proposal.

Cannon also opposes the request with regard to knitted fabrics containing mohair and does not accept the CTI's proposal for granting tariff relief on knitted fabrics containing mohair. Cannon has produced knitted fabrics containing mohair in the past and states that it will knit fabrics containing mohair in the future when required by the market. These fabrics could have a mohair content and a price per kilogram that fall into the same ranges as those of the imported fabrics containing mohair that would be allowed duty-free entry under the CTI's proposal. The Tribunal concludes, on the basis of available information, that imports of the knitted fabrics containing mohair will have a negative economic effect on Cannon that will be greater than any benefits to be generated by granting tariff relief based on the request or the CTI's proposal.

The Tribunal considers that granting tariff relief based on Le Château's request or the proposals made by the CTI will not maximize net economic gains for Canada. The Tribunal is aware that knitted fabrics containing bouclé yarns or mohair come in and go out of fashion in the marketplace rather quickly.

The Tribunal notes that, if at some time in the future Le Château has a requirement for particular knitted fabrics containing bouclé yarns or mohair for use in its apparel manufacturing operations that are not available from Canadian sources, it can make a request for tariff relief on imports of such fabrics.

RECOMMENDATION

In light of the foregoing, the Tribunal recommends to the Minister that tariff relief not be granted on imports of bouclé knitted fabrics, classified under tariff item No. 6002.93.00, for use in the manufacture of ladies' tops, jackets, dresses and skirts. The Tribunal also recommends that tariff relief not be granted on imports of knitted fabrics containing mohair, classified under tariff item No. 6002.93.00, for use in the manufacture of ladies' tops, jackets, dresses and skirts.

Raynald Guay

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Presiding Member

Robert C. Coates, Q.C.

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Member

Desmond Hallissey

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Member