



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Textiles

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## RECOMMENDATION

Request No. TR-2006-002

Tricots Liesse (1983) Inc.

(Single Yarn of Artificial Staple  
Fibres)

*Recommendation issued  
Monday, August 27, 2007*

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Tribunal Members:	Serge Fréchette, Presiding Member James A. Ogilvy, Member Meriel V. M. Bradford, Member
Research Director:	Rose Ritcey
Research Manager:	Paul R. Berlinguette
Counsel for the Tribunal:	Alain Xatruch
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 December 7, 2006, pursuant to the Minister's reference, the Tribunal received a request from Tricots Liesse (1983) Inc. (Liesse), of Montréal, Quebec, for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of single yarn of artificial staple fibres for use in the manufacture of circular knitted fabrics.

3. On March 21, 2007, 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 yarn under investigation was described in the notice as "single yarn solely of artificial staple fibres other than acetate fibres, or mixed solely with 15 percent or less by weight of any natural fibre, measuring less than 210 decitex, of subheading No. 5510.11, and single yarn containing 50 percent or more by weight of artificial staple fibres other than acetate fibres, mixed solely with cotton fibres, measuring less than 210 decitex, of subheading No. 5510.30, for use in the manufacture of circular knitted apparel fabrics" (the subject yarn).

4. As part of the investigation, the Tribunal sent questionnaires to potential domestic producers of yarns identical to or substitutable for the subject yarn. A request for information was also sent to potential users and importers of the subject yarn. A letter was sent to the Canada Border Services Agency (CBSA) requesting a complete description of the physical characteristics of the samples submitted by Liesse, an opinion on whether the requested tariff relief would be administrable and suggested wording to describe the subject yarn should tariff relief be recommended. 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.

5. A staff investigation report summarizing the information received from the CBSA, Liesse, Atlantic Yarns Inc. and Atlantic Fine Yarns Inc. (Atlantic), FilSpec Inc. (FilSpec), Manoir Inc. (Manoir), Régitex Inc. (Régitex) and HMH General Trading Co. Inc. (HMH) 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, Liesse filed a submission with the Tribunal.

6. No public hearing was held for this investigation.<sup>4</sup>

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

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

3. C. Gaz. 2007.I.732.

4. 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

7. The request for tariff relief covers yarns imported from all countries. Five of the six samples submitted with Liesse's request for tariff relief were composed of artificial staple fibres (bamboo,<sup>5</sup> viscose rayon or modal<sup>6</sup> rayon), measuring 120, 197, 198 or 204 decitex. Of these samples, two contained 10 percent by weight of fine animal hair or silk. As of January 1, 2007, these yarns, classified for customs purposes under classification No. 5510.11.00.11 (viscose rayon and viscose rayon/silk), 5510.11.00.19 (modal rayon/fine animal hair) or 5510.11.00.29 (bamboo) of the schedule to the *Customs Tariff*,<sup>7</sup> are dutiable at 8 percent *ad valorem* under the Most-Favoured-Nation (MFN) Tariff and the General Preferential Tariff (GPT), and at 2 percent under the Costa Rica Tariff. They are duty free under the United States Tariff, the Least Developed Country Tariff, the Mexico Tariff, the Canada-Israel Free Trade Agreement Tariff and the Chile Tariff.

8. The sixth sample was composed of a blend of approximately 50 percent by weight of artificial staple fibres (modal rayon) and 50 percent by weight of cotton, measuring 117 decitex. As of January 1, 2007, this yarn, classified for customs purposes under classification No. 5510.30.00.00, is dutiable at 8 percent *ad valorem* under the MFN Tariff and the GPT, and at 2 percent *ad valorem* under the Costa Rica Tariff. It is duty free under the United States Tariff, the Least Developed Country Tariff, the Mexico Tariff, the Canada-Israel Free Trade Agreement Tariff and the Chile Tariff.

## REPRESENTATIONS

### Knitting Industry

#### Liesse

9. Liesse has been producing knitted fabrics on circular knitting machines, in Canada, since 1964. The company specializes in the production of swimwear fabrics, but also produces fabrics for other end uses. Liesse's production consists mainly of single-knit and double-knit fabrics, and its product range includes plain, striped, jacquard and crocheted fabrics, as well as fabrics with multi-level designs and surfaces.

10. Liesse indicated that there is a growing demand for specialty yarns and that this trend is being driven by its North American customers who insist on uniqueness and novelty in fabric design.

11. Liesse stated that it produces thousands of fabric samples each year. In light of customer preferences and high turnover of styles, these fabrics increasingly call for high-priced specialty yarns made with superior variants of rayon, such as modal and lyocell, and high-value fibres, such as silk, linen, cashmere and extra-long staple cotton. These yarns are produced mainly in Western Europe.

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5. Liesse claimed that one of the samples is made of bamboo fibres. The CBSA indicated that, microscopically, the fibres look very similar to viscose rayon fibres.

6. *Fairchild's Dictionary of Textiles*, 1996, defines modal as a British generic fibre category for manufactured fibres of cellulose having a high breaking strength and high wet modulus (rayon fibre having greater resistance to deformation when wet than does ordinary viscose rayon).

7. S.C. 1997, c. 36.

12. Liesse stated that, on average, it imports approximately \$2 million of yarns covered by heading No. 55.10 annually from Europe and Asia and that these imports consist of a few commodity yarns (e.g. single-ply viscose rayon) purchased in significant quantities and a wide variety of specialty yarns purchased in small quantities. According to Liesse, commodity yarns are priced beyond the reach of North American producers, whereas specialty yarns are priced at levels that are not high enough to attract new suppliers.

13. Liesse pointed out that, in the past, the United States was the dominant supplier of Canadian imports of the subject yarn, but that, because the U.S. spinning industry is in a state of decline, the availability of imported specialty yarns from *North American Free Trade Agreement (NAFTA)* production has dwindled. Liesse also indicated that, for reasons of delivery and service, in the past three years, it has purchased 5 to 10 percent of its spun rayon yarn requirements falling under heading No. 55.10 from FilSpec, a Canadian producer. In this regard, Liesse stated that, in the usual case where it requires a specialty yarn in very small quantities for sampling or for responding to a fabric order, the amount does not warrant the set-up costs of initiating yarn production in Canada. Liesse indicated that, in the few instances where it requires spun rayon yarn in significant quantity, it is generally not feasible for a domestic spinner to compete on price. However, Liesse indicated that, should tariff relief be granted, it does not expect to buy less rayon yarn from domestic production.

14. Liesse submitted that the U.S. market accounts for more than two thirds of its fabric sales and that its U.S. customers, that are faced with increased competition from swimwear imports from the People's Republic of China, demand unique fabric designs that are increasingly produced with specialty yarns. Liesse also indicated that, although it is exporting a high proportion of its total fabric production to the United States, the duty that it pays on the yarns is not recoverable by drawback.<sup>8</sup> Liesse claimed that tariff relief on the subject yarn would improve economic efficiencies in today's competitive environment and that the ensuing benefits would also extend to other circular knitters who use such yarn.

15. In its reply submission, Liesse submitted that it has restricted the scope of its request for tariff relief to heading No. 55.10 in order to exclude a broad variety of spun yarns and minimize the impact on domestic yarn spinners. Liesse submitted that, on the basis of the information provided, implementation of this small request would have no significant "cost" or negative consequence.

16. As to the availability of *NAFTA* yarn sources, Liesse submitted that the most recent data on the value of U.S. shipments confirms that the U.S. spinning industry is in a state of decline. Also, the small value of exports of Canadian yarns classified in subheading Nos. 5510.11 and 5510.30 indicates that the availability of the subject yarn in Canada is limited.

17. Liesse submitted that FilSpec's sales of allegedly identical yarn to certain of its customers would not be affected by tariff relief on the subject yarn, since the end-use provision of the request is restricted to circular knitted fabrics. Liesse also submitted that, if FilSpec produces a yarn that is indeed substitutable for the subject yarn and the price comparison is favourable, there is every reason to believe that it would switch its purchases to FilSpec, regardless of a tariff.

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8. Non-*NAFTA* yarns that are incorporated in fabrics exported to the United States would generally qualify for duty drawback, unless the fabrics are exported under zero duty tariff preference levels.

18. Liesse submitted that, although Régitex indicated that it is within its technical capability to produce finer yarns, the Tribunal has consistently held that a capability to produce identical or substitutable goods does not suffice to justify retaining a textile tariff. In this connection, Liesse submitted that it has never been contacted by Régitex with an offer of identical or substitutable yarns.

#### Manoir

19. Manoir, of Terrebonne, Quebec, a producer of circular knit fabrics,<sup>9</sup> supported Liesse's request for tariff relief. It stated that the subject yarn is featured prominently in its new product offering and that duties adversely affect the marketability of fabrics made with such yarn.

### **Yarn Industry**

#### Atlantic

20. Atlantic, of Mississauga, Ontario, was founded in 2000 to produce ring-spun yarns in Pokemouche, New Brunswick. Atlantic indicated that it has the capacity to produce 3,000 metric tonnes of a variety of yarns per year and the technical capability to produce yarns identical to the subject yarn.

21. Atlantic opposed Liesse's request for tariff relief on the basis of the breadth of coverage of subheading Nos. 5510.11 and 5510.30. However, Atlantic stated that it did not object to the granting of relief for the specific yarns described in the request and imported during the inquiry period. In this regard, it submitted that Liesse imports not more than 200 metric tonnes of the subject yarn per year and that a renewable "import licence" could be issued to Liesse every year based on its utilization of the "licence" for specific volumes of the subject yarn.

#### FilSpec

22. FilSpec, of Sherbrooke, Quebec, has been producing yarn of artificial and synthetic staple fibres or natural fibres since 2004. The company employs 170 people.

23. FilSpec opposed Liesse's request for tariff relief on the grounds that it currently produces and sells yarns, including specialty yarns, identical to the subject yarn and that these yarns account for an important part of its activities. In this connection, it stated that the production of yarn of artificial staple fibres is simple and that the company produces yarn using three different processes, i.e. open end, ring and air jet.

24. FilSpec claimed that tariff relief on the subject yarn would seriously affect its viability because the company would be less competitive with other low-cost producers of yarn. With respect to Liesse's allegations that the requirement for small quantities of specialty yarn does not justify the set-up costs of initiating yarn production in Canada, FilSpec stated that they are without foundation. It indicated that more than 35 percent of its production of specialty yarns is for quantities below 1,000 kg per order. Since the demand for specialty yarns is on the rise and the company has based its future on this growth, FilSpec stated that tariff relief on the subject yarn would jeopardize its survival.

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9. In its response of April 13, 2007, Manoir stated that it has redesigned its business model and closed its two main manufacturing plants located in Saint-Laurent, Quebec. It now operates on the basis of a partnership with selected knitting and/or dyeing and finishing specialists in order to offer knitted fabrics to North American apparel manufacturers.

25. FilSpec explained that its customers already import high-volume yarns at very low prices and that the elimination of duties on these yarns would only allow them to make additional profits. In addition, tariff relief would encourage some of its customers to import specialty yarns, thereby putting its sales of these types of yarn at risk. FilSpec also stated that the product description of the subject yarn is too broad and goes beyond the characteristics of the yarns described in Liesse's request. It stated that tariff relief on single yarn of artificial staple fibres, as described in the notice of commencement of investigation, would jeopardize 80 percent of its volume of production.

#### Régitex

26. Founded in 1998, Régitex, of Saint-Joseph, Quebec, develops and produces custom-made ring-spun yarns using many natural and synthetic fibres.

27. Régitex opposed Liesse's request for tariff relief on the grounds that it currently produces and sells yarns covered by subheading Nos. 5510.11 and 5510.30. Although it has not produced yarns measuring less than 210 decitex under these subheadings, Régitex stated that it is well within its technical capability to produce finer yarns. In this regard, it indicated that it produces and sells yarns measuring less than 210 decitex that are classified in other subheadings.

28. Régitex stated that the risks associated with Liesse's request for tariff relief are far greater than the potential savings of \$160,000 in duties per year (based on Liesse's annual imports of \$2 million). According to Régitex, there is a growing demand for yarn made of artificial staple fibres, the elimination of duties on the subject yarn would have a negative impact on its potential sales, and the money invested in research and development would be lost.

29. Régitex stated that Liesse's request should not have been considered by the Tribunal because, as reflected in the information provided by Liesse, the company is buying the same yarn from a domestic source. Moreover, as a result of the Tribunal's last inquiry into the availability of yarns produced by Canadian manufacturers, tariff protection was retained on the subject yarn because of reported domestic production.<sup>10</sup>

### **Importing and Distributing Industry**

#### HMH

30. HMH is an importer and distributor of the subject yarn. It imports the subject yarn from Austria and Portugal and supplies Liesse. HMH supported Liesse's request for tariff relief and stated that the elimination of duties on the subject yarn would make its customers more competitive in a global environment. As a result, its sales of yarn would increase.

### **OTHER INFORMATION**

31. Under the *World Trade Organization Agreement on Textiles and Clothing*, quantitative restraints on imports of textiles and apparel were eliminated on January 1, 2005. Therefore, Canada does not maintain any quantitative restrictions on the subject yarn.

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10. In Reference No. MN-2004-002, on the basis of production reported by FilSpec, the Tribunal recommended the retention of duty protection for tariff item Nos. 5510.11.00 and 5510.30.00.

32. The CBSA indicated that there would be no additional costs, over and above those it already incurs, to administer the tariff relief requested for the subject yarn.

## **ANALYSIS**

33. 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 economic factors, including, where appropriate, the availability of substitutable inputs from domestic sources and a domestic versus foreign price comparison. 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 maximize net economic gains for Canada and would be administrable on a cost-effective basis.

### **Availability of Substitutable Inputs**

34. With respect to the issue of substitutability, the Tribunal accepts the evidence provided by FilSpec that it currently produces and sells yarns identical to or substitutable for the subject yarn. In this regard, the Tribunal notes that, over the past three years, Liesse has purchased 5 to 10 percent of its spun rayon yarn requirements under heading No. 55.10 from FilSpec.

35. Régitex also stated that it is well within its technical capability to produce finer yarns, since it produces and sells yarns measuring less than 210 decitex that are classified in other subheadings. However, Régitex has not provided any evidence, in this case, to support a conclusion of imminent production or the potential to supply commercial quantities of yarn in the Canadian marketplace that would be acceptable to Liesse and other potential buyers. As stated by the Tribunal in previous cases, it is the responsibility of the domestic producers to provide evidence, not just assertions or allegations, of their ability to produce identical or substitutable products. Moreover, the Tribunal has not seen a clear marketing strategy from Régitex in respect of yarns substitutable for the subject yarn. Therefore, the Tribunal concludes that Régitex has not demonstrated, to the Tribunal's satisfaction, that it will be able, in the foreseeable future, to supply Liesse and other potential buyers with yarns that are identical or substitutable for the subject yarn.

36. Atlantic did not indicate that it produces identical or substitutable yarns for the subject yarn, only that it has the technical capability to produce such yarn. As in Régitex's case and for similar reasons, the Tribunal concludes that Atlantic has not demonstrated that it will be able to meet the requirements of Liesse and other potential buyers.

### **Domestic Versus Foreign Price Comparison**

37. Liesse stated that it imports high-volume commodity yarns at prices that are not competitive with those of North American producers. The Tribunal is of the view that, even in the absence of tariff relief, Liesse would not shift more of its purchases to FilSpec unless FilSpec were able to offer yarns at competitive prices. In this regard, the evidence indicates that FilSpec is not likely to lose sales if tariff relief is granted since, for the inquiry period, the landed cost of the subject high-volume yarns, which includes all duties, is significantly lower than FilSpec's selling prices of similar yarns.<sup>11</sup> On the other hand, to the extent that FilSpec already sells identical or substitutable speciality yarns at prices that would be competitive even without the tariff, tariff relief would not likely erode that advantage or negatively affect FilSpec's ability to sell to domestic circular knitters, including Liesse.

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11. Tribunal Exhibit TR-2006-002-24 (protected), Administrative Record, Vol. 2.1 at 12, 13.

### Net Economic Gains for Canada

38. The Tribunal's decision to recommend the reduction or removal of a tariff must be based on the extent to which it considers that such relief would maximize net economic gains for Canada. The Tribunal accepts Liesse's position that, in light of the importance to its operations of the increasingly competitive U.S. market, it has been forced to seek lower-priced yarns and unique yarns from foreign suppliers. In this context, the Tribunal is of the view that Liesse faces a high degree of competition and is vulnerable to market pressures.

39. FilSpec claimed that tariff relief on the subject yarn would seriously affect its viability and come at the expense of jobs in its company. Régitex stated that such relief would have a negative impact on its potential sales and that the money invested in research and development would be lost.

40. As noted above, FilSpec has sold certain quantities of yarn to Liesse and the Tribunal believes that, even if tariff relief were granted, its circumstances would not change in the immediate future. If tariff relief were granted, the pricing of domestic and imported yarns would remain such that Liesse would not shift more of its purchases to FilSpec and, in the Tribunal's view, it is doubtful that FilSpec would experience a loss of employment or gross margin, as it submitted. The Tribunal also notes that FilSpec's alleged identical or substitutable yarns do not represent a significant portion of its total company sales of yarn.<sup>12</sup> Furthermore, based on the evidence, these sales include sales of yarn to companies not involved in circular knitting.<sup>13</sup> In other words, such sales are not affected by this request for tariff relief, since the end-use provision of the request is restricted to circular knitted apparel fabrics. Therefore, the Tribunal is of the view that any potential risk to FilSpec is minimal.

41. The Tribunal is of the view that, should FilSpec be in a position to offer products that are directly substitutable for the subject yarn, at competitive prices and in commercially available quantities, it will be in a good position to obtain a share of the market. The same conclusion would apply to Régitex, should it choose to pursue potential business opportunities with Liesse. With respect to Atlantic, the Tribunal considers that there was insufficient information submitted to assess whether tariff relief would have a negative impact on any potential production of identical or substitutable yarns.

42. Régitex submitted that, since the Tribunal recommended the retention of duty protection for tariff item Nos. 5510.11.00 and 5510.30.00 following its inquiry on the production in Canada of certain fibres, yarns and apparel fabrics, Liesse's request should not have been considered. In this regard, the Tribunal notes that the standing reference on textiles is the appropriate mechanism for a case-by-case examination of any specific requests for tariff relief.

43. On the basis of the information provided to the Tribunal, tariff relief would provide direct annual benefits in excess of \$125,000 to importers of the subject yarn. Potential gains were based on the MFN and GPT rate of duty for 2007, i.e. 8 percent *ad valorem*. In addition, the benefits provided to users in the form of reduced costs could enable them to better position themselves for sales of fabrics in their export markets, particularly the United States. Based on the evidence that the current tariff does not offer effective protection, the Tribunal sees little cost to the domestic producers of yarn, if tariff relief is granted. Given that there is some indication that the domestic industry can provide certain specialty yarns at competitive prices, tariff relief should not reduce the opportunity for the domestic industry to pursue opportunities with the producers of circular knitted apparel fabrics.

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12. Tribunal Exhibit TR-2006-002-17.01 (protected), Administrative Record, Vol. 4 at 5.

13. *Ibid.* at 2.

44. The Tribunal also notes that the CBSA indicated that there would be no additional costs, over and above those it already incurs, to administer the tariff relief requested for the subject yarn.

45. Therefore, although the Government would forgo the corresponding duty revenues, which are estimated to be in excess of \$125,000 annually, the Tribunal considers that there would be few direct commercial costs to domestic producers of yarn associated with the removal of the customs duty on the importation of the subject yarn.

46. In summary, the Tribunal is of the view that potential benefits to Liesse and other users of the subject yarn outweigh any potential costs to domestic producers of yarns. The forgone revenues to the Government would be small. Consequently, the Tribunal finds that the tariff relief requested by Liesse would provide net economic gains to Canada.

## RECOMMENDATION

47. 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 single yarn solely of artificial staple fibres other than acetate fibres, or mixed solely with 15 percent or less by weight of any natural fibre, measuring less than 210 decitex, of subheading No. 5510.11, and single yarn containing 50 percent or more by weight of artificial staple fibres other than acetate fibres, mixed solely with cotton fibres, measuring less than 210 decitex, of subheading No. 5510.30, for use in the manufacture of circular knitted apparel fabrics.

Serge Fréchette  
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Presiding Member

James A. Ogilvy  
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Member

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

Hélène Nadeau  
Hélène Nadeau  
Secretary