

**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
CANATEX INDUSTRIES
(DIVISION OF RICHELIEU KNITTING INC.)
REGARDING
CERTAIN NYLON FILAMENT YARNS**

MARCH 24, 1995

**CANATEX INDUSTRIES
(DIVISION OF RICHELIEU KNITTING INC.)**

REQUEST NO.: TR-94-001

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Tribunal Members : Anthony T. Eyton, Presiding Member
 Arthur B. Trudeau, Member
 Raynald Guay, Member

Research Director : Réal Roy

Research Manager : Douglas Cuffley

Counsel for the Tribunal : David 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 November 7, 1994, the Canadian International Trade Tribunal (the Tribunal) received a request from Canatex Industries (Division of Richelieu Knitting Inc.) (Canatex) of Sorel, Quebec, for the immediate and permanent removal of the customs duty on importations, from all countries, of 100% nylon, partially oriented filament yarn (POY), greige or solution-dyed, under 50 tex, type 6 or 6.6 (the subject yarn).

On November 25, 1994, 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 December 3, 1994, edition of the Canada Gazette.

Canatex alleged that the subject yarn is not available from Canadian production. It is used in the production of textured nylon yarn, which, in turn, is used in the manufacture of products such as hosiery, lace, apparel, coating and lingerie.

As part of the investigation, the Tribunal's research staff sent questionnaires to a former producer of the subject yarn, to known users of the subject yarn and to a sample of large users of textured nylon yarn made from the subject yarn. A letter was sent to the Department of National Revenue requesting information on the tariff classification of the subject yarn, and a sample was provided for laboratory analysis. In addition, a letter was sent to the Department of Foreign Affairs and International Trade requesting information on quantitative import restrictions on the subject yarn. As well, officials of the departments of Industry and Finance were informed of the request.

A staff investigation report, summarizing the information received from these departments, Canatex and other firms that responded to the questionnaires, was provided to the parties that had filed notices of appearance for this investigation. These parties are: (1) the Canadian Textiles Institute (CTI), the industry association; (2) Canatex, the requester; and (3) Bermatex Inc. (Bermatex) of Montmagny, Quebec, also a producer of textured nylon yarn.

The CTI filed a submission with the Tribunal, while Canatex and Bermatex provided responses to the Tribunal's questionnaire. A public hearing was not held for this investigation.

PRODUCT INFORMATION

The product in issue is 100% nylon, partially oriented filament yarn (POY), greige or solution-dyed, under 50 tex,¹ type 6 or 6.6.

The subject yarn is classified for customs purposes under tariff item No. 5402.41.10 of Schedule I to the *Customs Tariff*.² The subject yarn is dutiable at 10 percent ad valorem under the MFN tariff; at 6.5 percent ad valorem and 8.52¢/kg under the GPT; and free under the Mexico tariff. The subject yarn is presently duty-free under the U.S. tariff with the application of Code 9650 of the *Customs Duties Accelerated Reduction Order*.

The subject yarn is made from nylon polymer. Nylon yarn is produced by extruding molten nylon polymer through a spinneret, a metal device with tiny holes. The number of holes establishes the number of filaments. This is followed by quenching, drawing and winding on a bobbin. Nylon yarn can be fully oriented, that is, fully drawn or “flat,” with the polymer molecules distributed in a straight-line fashion. Nylon yarn can also be partially oriented, as is the subject yarn, with the molecules distributed in a zigzag fashion.

The subject yarn can be sourced in the United States, Mexico, Germany, the United Kingdom, Italy, France, Turkey, Israel, Taiwan and other Asian countries. There are two types of the subject yarn, types 6 and 6.6. The differences between these two types are the molecular structure of the yarn and the different chemicals from which the polymer is produced.

There are three firms in Canada which further process the subject yarn into other products, i.e. textured nylon yarn. In addition to Canatex, Bermatex and Shefford Textiles Ltée (Shefford) of Waterloo, Quebec, are known producers of textured nylon yarn.

Canatex has two plants, one in Pintendre and one in Norbertville, both located in the province of Quebec. They are both 100 percent dedicated to the production of textured nylon yarn. They operate 24 hours a day, 7 days a week. These two plants employ more than 50 people in total.

1. The size or fineness of the yarn is defined by its linear density. The “tex” is the standard measure of linear density expressed in grams per 1,000-metre length. For example, one tex has a density equal to one gram per 1,000 metres. The tex system of numbering yarns and all types of fibres is intended to gradually replace the many numbering systems for cotton, woollen, worsted, and denier numbering or counts. For the subject yarn, the industry commonly uses the decitex measurement or denier count. The decitex is a sub-multiple of the tex and is the density in decigrams per 1,000 metres. Ten decitex equal one tex. The denier is an old measure; one denier has a density equal to 0.05 gram per 450 metres and equals 1.11 decitex. A common textured nylon yarn of 70 deniers equals 78 decitex or 7.8 tex. The tariff item, under which the subject yarn is classified, covers all sizes up to 50 tex (500 decitex or 450 deniers).

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

Bermatex and Shefford each operate a single plant. The sales of textured nylon yarn produced at these two plants account for between 10 and 20 percent, respectively, of their total company sales.

Textured nylon yarn is a continuous nylon filament yarn treated to impart bulk and stretch properties. The polymer molecules of a POY are distributed in a zigzag fashion. The texturing process used by Canatex consists of threading the POY through a furnace and drawing it with the assistance of rollers in order to align the molecules in a straight line. The POY is stretched by approximately 25 percent. For example, a POY of 105 decitex will produce a yarn of 78 decitex, once textured. The yarn is then cooled while travelling along a cooling plate. False twist is then applied by means of friction discs to give it texture and bulk. Two or more yarns can be plied together by being put through an air jet which interlaces the yarns. The resulting yarn is then wound on a spindle of a predetermined diameter.

Textured nylon yarn in the mid-range (65 to 160 decitex) produced by Canatex is used primarily (50 percent) in the manufacture of hosiery and tights where it provides stretch, strength and shape retention. It has a wide range of other uses, for example: (1) outerwear, swimwear, active wear and sportswear (25 percent); (2) lace for curtains and tablecloths (10 percent); (3) lingerie, trimming and elastic tape (5 percent); and (4) coating, the knitted fabric that forms the backing of vinyl seats which gives the necessary stretch and shape retention to the vinyl (10 percent). There are two popular yarn sizes in this range, the 77 decitex (70 deniers) and the 110 decitex (100 deniers).

Textured nylon yarn that is finer than 65 decitex is used primarily in the manufacture of panty hose, while textured nylon yarn that is coarser than 160 decitex is used largely for industrial applications, such as air bags for passenger cars, but also for other apparel applications, such as hockey pants and warp knit raschel fabrics for athletic wear and body suits.

Total Canadian imports of the subject yarn are estimated for 1994 at between 1.5 and 2.0 million kilograms, for a total value for duty of approximately \$7 to \$9 million. In the past, these imports originated largely in the United States and, to a lesser extent, in Europe. It is anticipated that these imports will increase by 13 percent during the period from October 1994 to September 1995 compared to the preceding 12-month period. However, according to the three producers of textured nylon yarn, these imports are likely to be sourced mainly from Europe, as there is a shortage of supply in the United States. The customs duties that would be payable on the proposed imports from Europe are estimated at between \$0.5 and \$1.0 million.

The Canadian market for textured nylon yarn made from the subject yarn for 1994 is estimated at between 3.0 and 4.0 million kilograms. The Canadian producers of textured nylon yarn account for nearly 50 percent of the market, while importers of textured nylon yarn account for the remaining share.

REPRESENTATIONS

All three producers of textured nylon yarn requested that the tariff be removed. They argued that there were no substitutes for the subject yarn. The subject yarn is used in the production of textured nylon yarn, and, while other products might be substitutable for textured nylon yarn, only nylon POY, the untextured subject yarn, can be used to produce textured nylon yarn.

Canatex requested that the tariff relief, if granted, be retroactive to the date of the request. It argued that tariff relief retroactive to the date of the request would assist Canatex in offsetting a recent price increase imposed by its supplier. The benefit to Canatex, if granted, for the period between the date of the request (November 7, 1994) and the date of the recommendation to the Minister of Finance (March 24, 1995) would be between \$150,00 and \$250,000.

DuPont Canada Inc. (DuPont), which was the sole producer of the subject yarn in Canada, ceased production in 1988. It did not register as a party in the Tribunal's investigation nor did it express any objection to Canatex's request for tariff relief. DuPont did, however, confirm that it had stopped production of the subject yarn in Canada in August 1988, having converted the equipment to the production of other yarns, and that it had no intention of producing the subject yarn in the foreseeable future.

Users of textured nylon yarn made from the subject yarn that responded to the Tribunal's questionnaire were all in support of the request as submitted by Canatex.

The CTI submitted that, if the requested tariff relief were to be implemented, it should be on a "temporary" basis, but not necessarily with a specific time limit. It opposes any permanent unilateral tariff concession on textiles. The CTI also commented that the Department of Finance has followed a long-established practice of rejecting requests for retroactive application of tariff relief measures. According to the CTI, new annex codes are effective as of the date on which they are implemented by Order-in-Council and are rarely, if ever, retroactive.

The Department of Foreign Affairs and International Trade informed the Tribunal that Canada currently maintains quota restrictions on filament and spun nylon yarns imported from the Republic of Korea and Taiwan as part of an aggregate limit on these and other man-made fibre yarns. The agreements governing these restrictions have been in place since 1979. The restrictions are applied to a general group of products and represent levels significantly larger than the market for mid-range textured nylon yarn. According to import permit statistics, imports of nylon yarn from the Republic of Korea and Taiwan combined have remained relatively low for the past several years, less than 50,000 kilograms a year, on average, which is less than 1 percent of the levels permitted under the agreements.

The Department of National Revenue has indicated that there would be no costs, over and above those already incurred by it, to administer the tariff relief should it be granted.

ANALYSIS

The primary direct benefits of granting tariff relief, based on the historical level of imports of the subject yarn and the projections provided by the three Canadian users of the subject yarn, are estimated at between \$0.5 and \$1.0 million per annum, if the subject yarn is subject to the MFN rate of duty. If the tariff were removed, there would likely be some sharing of those benefits between the users of the subject yarn and their customers, depending upon the level of competition in the domestic market for the goods produced from the subject yarn.

Possible secondary, or indirect, benefits to users of the subject yarn imported from non-NAFTA sources could be an increase in the users' share of the apparent domestic market for the textured nylon yarn produced from the subject yarn, should they decide to pass along some or all of the duty savings. These users of the subject yarn would benefit, as increasing sales volume could lead to economies of scale which would result in lower production costs and, potentially, increased profits to them or lower prices for their customers.

Given that the subject yarn is no longer produced in Canada and that imports of the subject yarn from the United States (the principal supplier of the subject yarn to Canada) since 1990 have been duty-free, there are no commercial costs of removing the tariff on the subject yarn. Also, there are no known ramifications³ for Canada in terms of any trade agreements that it has with other countries.

The removal of the tariff should have a positive impact on the competitiveness, in the domestic market, of Canatex and other importers/producers vis-à-vis imports of textured nylon yarn. This should enhance the job security of people already employed in this industry sector in Canada and might create job opportunities for others in the future.

Given that removal of the tariff on the subject yarn will provide a benefit to all three users in terms of reducing their input costs and increasing their competitive position in the Canadian market vis-à-vis imports of textured nylon yarn, and given that there will be no costs to any Canadian producer resulting from removal of the tariff, there would appear to be an unequivocally positive net commercial gain for Canada in removing the tariff on the subject yarn. The only cost associated with removal of the tariff would be the loss of government income from duties on imports of the subject yarn to the extent that imports are sourced in countries other than the United States and Mexico.

The Tribunal believes that permanent tariff relief is the most appropriate recommendation. DuPont is the only firm with the equipment to potentially produce the subject yarn in Canada. However, as part of a plan to rationalize the sourcing and supply of nylon yarn, it ceased production of the subject yarn in Canada in August 1988. DuPont's production equipment was re-engineered at great expense to increase its capacity to produce other nylon products, for which its Kingston, Ontario, site is to become a global source. It has no plans to resume production of the subject yarn in Canada in the foreseeable future. For these reasons, DuPont adopted a "neutral position" with respect to the request. Under these circumstances, and because the Tribunal recognizes that a stable business environment will foster investment and growth, it believes that permanent tariff relief is warranted.

3. If the tariff relief were granted, however, it might have the effect of removing the tariff advantage currently enjoyed by GPT and NAFTA exporters.

With regard to Canatex's request for retroactive tariff relief, the Tribunal does not believe that there are any extraordinary competitive circumstances warranting such a recommendation.

RECOMMENDATION

In view of the above information and evidence submitted, the Tribunal hereby recommends to the Minister of Finance that the customs duty on importations, from all countries, of 100% nylon, partially oriented filament yarn (POY), greige or solution-dyed, under 50 tex, type 6 or 6.6, be permanently removed.

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