



**REPORT TO  
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY  
LINGERIE BRIGHT SLEEPWEAR (1991) INC.  
REGARDING  
PRINTED POLYCOTTON WOVEN FABRIC**

**MARCH 6, 1996**

**REQUEST NO.: TR-95-005**

**LINGERIE BRIGHT SLEEPWEAR (1991) INC.**

**Request No.: TR-95-005**

Tribunal Members:	Raynald Guay, Presiding Member Robert C. Coates, Q.C., Member Lise Bergeron, Member
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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 May 11, 1995, the Tribunal received a request from Lingerie Bright Sleepwear (1991) Inc. (Bright) of Montréal, Quebec, for the immediate and permanent removal of the customs duty on importations of printed Tex Seer ("Krinkle") woven fabric of 65 percent polyester and 35 percent cotton, of plain weave construction 96 x 72/sq. in., yarn count of 45 x 45, of a width of 42 in. and weighing 95.5g/m<sup>2</sup>, for use in the production of women's and children's sleepwear (the subject fabric). Bright seeks tariff relief retroactive to September 30, 1994, citing the non-availability of the subject fabric from domestic production.

On August 15, 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 August 26, 1995, edition of the Canada Gazette, Part I.<sup>2</sup>

As part of the investigation, the Tribunal's research staff sent questionnaires to potential producers of identical or substitutable fabrics. Questionnaires were also sent to known users and several potential importers of fabrics identical to or substitutable for the subject fabric. A letter was sent to the Department of National Revenue (Revenue Canada) requesting information on the tariff classification of the subject fabric, and a sample was provided for laboratory analysis. Letters were also sent to a number of other government departments requesting information and advice.

On October 23, 1995, a staff investigation report, summarizing the information received from these departments, Bright 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 Bright, Doubletex Inc. (Doubletex), Luffy Ltd. and the Canadian Textiles Institute (CTI).

Doubletex filed a submission on the staff investigation report. Bright filed a response to the staff investigation report and Doubletex's submission. A public hearing was not held for this investigation.

## **PRODUCT INFORMATION**

The request seeks tariff relief on importations of printed Tex Seer ("Krinkle") woven fabric of 65 percent polyester and 35 percent cotton, of plain weave construction 96 x 72/sq. in., yarn count of 45 x 45, of a width of 42 in. and weighing 95.5g/m<sup>2</sup>, for use in the production of women's and children's sleepwear. The subject fabric has a seersucker appearance with alternating puckered and flat stripes.

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1. R.S.C. 1985, c. 47 (4th Supp.).
  2. Vol. 129, No. 34 at 2934.

Printed fabric designs are referred to as either generic (no licence fee) or licensed. Sleepwear producers pay licence fees for the right to incorporate trademark figures in the patterns printed on their fabrics. This is a very common practice in the production of children's sleepwear where Disney trademark figures are printed on the fabrics used to produce the finished garments. Sleepwear manufacturers provide fabric producers with licensed designs. In the case of generic designs, sleepwear manufacturers either choose a design from a selection offered by fabric producers or provide fabric producers with a design. Bright's imports of the subject fabric are printed only with generic designs.

According to Revenue Canada, the subject fabric is classified for customs purposes under tariff item No. 5513.41.00 of Schedule I to the *Customs Tariff*.<sup>3</sup> It was dutiable, in 1995, at 20.5 percent *ad valorem* under the MFN tariff; at 20.2 percent *ad valorem* under the BPT; at 15.7 percent *ad valorem* under the Australia and New Zealand tariffs; at 7.5 percent *ad valorem* under the U.S. tariff; and at 20.0 percent *ad valorem* under the Mexico tariff.

Revenue Canada confirmed that the subject fabric is a printed, plain weave fabric woven from single yarns of a blend of polyester staple fibres and cotton fibres and that it has alternating puckered and relatively flat stripes that are characteristic of seersucker fabrics. The laboratory found that the polyester staple fibres and the cotton fibres represent 64 and 36 percent of the fabric weight, respectively. The laboratory also found that the yarn sizes agreed, within experimental error, with the sizes provided in the request and that the weave construction in the sample matched that in the description provided by Bright. However, the laboratory found that the width of the sample was 41 in. (compared to 42 in. in the request) and had apparently been cut from a wider fabric. In addition, the laboratory reported that the sample weighed 100.0 g/m<sup>2</sup>, which is slightly heavier than the 95.5 g/m<sup>2</sup> provided in the description of the subject fabric in the request.

Revenue Canada also stated that the description of the subject fabric provided by Bright is inconsistent with the terminology found in the Harmonized Commodity Description and Coding System<sup>4</sup> and suggested that, in the Tribunal's report to the Minister, the subject fabric be described as printed, plain weave fabric, containing 64 percent by weight of polyester staple fibres and 36 percent by weight of cotton fibres and weighing 100 g/m<sup>2</sup> for use in the manufacture of nightshirts, nightdresses, pajamas, bathrobes, dressing gowns, négligés and similar articles. Revenue Canada also expressed the view that, should a favourable recommendation be made, the description of the subject fabric should be more specific in order to distinguish it from other fabrics that would be classified under the same tariff item and suggested the following description for the subject fabric:

*Woven fabrics, with a seersucker or similar appearance, containing not less than 60 per cent by weight of polyester staple fibres and mixed solely with cotton, of a weight not exceeding 100 g/m<sup>2</sup>, of subheading No. 5513.41, for use in the manufacture of nightshirts, nightdresses, pajamas, bathrobes, dressing gowns, négligés and similar articles.*

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

4. Customs Co-operation Council, 1st ed., Brussels, 1987.

Bright uses the subject fabric to produce women's and children's sleepwear. The principal goods produced are nightshirts, pajamas, jumpsuits, robes, dorm sets and peignoirs. The subject fabric is received at Bright's premises where it is cut and sewn into finished garments, which are then tagged, placed on hangers, packaged and shipped to Bright's customers across Canada. All production is performed in-house by Bright, including the design work for the subject fabric. One and a half metres of the subject fabric are required to produce one unit of each product.

Imports of the subject fabric originate in the People's Republic of China. Total Canadian imports of the subject fabric, in 1994, were over 130,000 linear metres, having a value for duty of approximately \$98,000. The volume of imports anticipated for 1995 is just in excess of 160,000 linear metres, having a value for duty of about \$120,000. In 1994, other producers of polyester/cotton wrinkle sleepwear imported allegedly substitutable fabrics amounting to approximately 0.5 million linear metres, having a value for duty in excess of \$800,000. For 1995, these user-importers anticipated importing a similar volume of these allegedly substitutable fabrics, but at increased prices yielding a value for duty of over \$900,000.<sup>5</sup>

The apparent Canadian market for the subject fabric and allegedly substitutable fabrics for use in the production of women's and children's sleepwear, in 1994, is estimated to be just under 690,000 linear metres. This estimate is based on the combined purchases of imports reported by Bright and other user-importers that produce women's and children's polyester/cotton wrinkle sleepwear and the volume of sales of the allegedly substitutable fabrics produced domestically by Doubletex to domestic sleepwear producers. Imports accounted for over 90 percent of the market in 1994. The market, in 1995, is estimated to be just over 720,000 linear metres, based on projected imports provided by the known importers and assuming that Doubletex maintains its 1994 market share.

## **REPRESENTATIONS**

Bright's request is for the immediate and permanent removal of the customs duty on importations of the subject fabric. The estimated duty savings for Bright would be approximately \$22,000 annually.

Bright's position is that tariff relief should be granted on the grounds that there is no domestic production of an identical or substitutable fabric. Bright contends that there is no acceptable substitute for the subject fabric. Bright noted, in particular, that 100 percent polyester fabric could not be considered an acceptable substitute because it is not readily accepted by the market. It was submitted that parents do not want their children to sleep in garments made of 100 percent synthetic fabric. Bright also submitted that 100 percent polyester fabric is sold domestically at 1.5 times the cost of the subject fabric.

Bright submitted that tariff relief would help to create a more level playing field and allow it the opportunity to compete fairly with imported sleepwear. Bright submitted that import competition is increasing with the reduction in the tariffs on ready-made garments that occurred on January 1, 1995, and the additional decreases scheduled to take place pursuant to negotiations under the *General Agreement on*

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5. The volume of imports of the subject fabric represents approximately 7 percent of the total imports classified under tariff item No. 5513.41.00.

*Tariffs and Trade.* In these circumstances, Bright contends that tariff relief is warranted to assist domestic garment producers, like Bright, to continue and to increase their investments. Bright suggested that its production facilities in Canada might be closed in the absence of such support. It was also submitted that tariff relief would assist Bright to commence exporting to the United States.

Bright contends that the three allegedly substitutable fabrics submitted by Doubletex are not substitutable for the subject fabric for the following reasons.

First, the Doubletex fabrics are not of a comparable technical description. Specifically, they are composed primarily of cotton (80 percent) rather than polyester and are classified under different tariff items (5210.11.00 and 5210.21.00). Second, Bright contends that polyester/cotton and 100 percent cotton flannelette sleepwear are two distinct market segments. Consumers seeking either type do so for the inherent qualities of each product. Bright notes that the Tribunal has another request before it regarding 100 percent cotton flannelette fabric for sleepwear. Bright notes that certain major sleepwear producers that use flannelette are participating in that investigation, but are not participating in this investigation because it is a separate market that they do not supply. As well, Bright argues that, as cotton flannelette will command a higher price than polyester, they are not substitutes. Third, Bright submitted that Doubletex has not provided evidence of its ability to supply the end product market. Bright submitted that, of the three customers that Doubletex identified, only one is a sleepwear manufacturer, while the others are sportswear producers. Furthermore, Bright noted that Doubletex only sold one of the three allegedly substitutable fabrics (Seersucker) to the aforementioned sleepwear producer and pointed out that no sales data respecting this customer were provided nor was the percentage of Doubletex's total sales for which these sales accounted.

Bright opposes the request by competing sleepwear producers to have any tariff relief extended to cover the imported fabrics used by them. Bright submitted that the Tribunal established a precedent in its report to the Minister in Request Nos. TR-94-011 and TR-94-019<sup>6</sup> that, under its terms of reference, the Tribunal is obliged to focus on the very specific request before it and to make its recommendations in that context.

Lingerie Hago Inc. (Hago) produces women's sleepwear using imported 65/35 polyester/cotton woven wrinkle fabrics that are allegedly substitutable for the subject fabric, as they differ only slightly in construction. Hago requests that any tariff relief be extended to cover these allegedly substitutable fabrics. The specifications for these fabrics are provided in the appendix to this report.<sup>7</sup>

Elgo Textiles Ltd. (Elgo) is an importer-distributor that supports Bright's request for tariff relief on the grounds that there is no domestic production of identical or substitutable fabrics. Elgo submitted that there is steady seasonal demand by consumers for sleepwear made from polyester/cotton wrinkle fabrics. It contends that removal of the tariff will improve the competitiveness of domestically produced garments against imported garments from the Far East. Elgo submitted that it imports allegedly substitutable fabrics.

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6. Report to the Minister of Finance: Requests for Tariff Relief by Château Stores of Canada Ltd. and Hemisphere Productions Inc. Regarding Armani Gabardine, September 19, 1995.

7. No samples were provided to the Tribunal.

These are plain weave, dyed and printed fabrics that are available in either a flat or a wrinkle finish. The specifications for these allegedly substitutable fabrics are provided in the appendix to this report.<sup>8</sup> Elgo sells the allegedly substitutable fabrics to domestic manufacturers and retailers. It submitted a list of domestic garment manufacturers that buy the allegedly substitutable fabrics.<sup>9</sup>

Doubletex is Canada's largest fabric converting mill and opposes the request on the grounds that it produces allegedly substitutable fabrics. Doubletex imports greige fabrics from around the world for converting (finishing) in its three plants located in Montréal, Toronto, Ontario, and Winnipeg, Manitoba. In its response to the Tribunal's producer's questionnaire, Doubletex submitted samples of three allegedly substitutable fabrics that are sold under the trade names Seersucker, Mini Seersucker and Alcatraz. The first two fabrics have a wrinkle finish, while the last fabric has a flat finish. Doubletex produces these fabrics by finishing imported greige fabrics.<sup>10</sup> All three allegedly substitutable fabrics are made of 80 percent cotton and 20 percent polyester and are dyed. The specifications of these allegedly substitutable fabrics are provided in the appendix to this report. In its submission on the Tribunal's staff investigation report, Doubletex submitted that Bright's competitors had identified a number of fabrics that they considered to be substitutable for the subject fabric and, as a result, had defined substitutability in a broader manner than the Tribunal had in cases considered by it to date. Doubletex contends that different finishes, fibre content, fabric widths and yarn counts are substitutable based on the specifications of the allegedly substitutable fabrics submitted by Bright's competitors.

Doubletex submitted that the determination of substitutability is critical to the pertinence of the Tribunal's cost/benefit analysis. In this case, Doubletex contends that the analysis is flawed because it does not include the cost to Bright's competitors, that would be at a cost disadvantage if tariff relief were granted only on the subject fabric and not on the allegedly substitutable fabrics used by Bright's competitors.

In addition, Doubletex contends that, based on the definition of the subject fabric, it determined that the essential criterion that an allegedly substitutable fabric would have to possess was the seersucker finish. Consequently, it limited its proposed substitutes to a seersucker fabric. Doubletex also contends that, had it known the range of fabrics that the sleepwear producers were going to submit as allegedly substitutable fabrics, it would have submitted one of its largest selling fabrics that has a flat finish (Belle Blend) but a weight, construction and fibre content that are identical to those of the subject fabric. Consequently, the cost to Doubletex respecting this fabric would also not be included in the cost/benefit analysis. Doubletex noted that it sells in excess of one million metres per year of Belle Blend, for sales revenues of several million dollars. On that basis alone, Doubletex contends that the costs of tariff relief will outweigh the benefits.

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8. No samples were provided to the Tribunal.

9. These customers are: Leslie Belle Manufacturing Ltd.; Berkeley Dress Company Limited; Manhattan Children's Wear Co. Ltd.; Private Collections Ltd.; and Maison Pour Enfants Enrg. According to Elgo, of these garment manufacturers, only Maison Pour Enfants Enrg. produces women's and/or children's sleepwear.

10. The imported greige fabrics are classified under tariff item No. 5210.11.00 (unbleached) or 5210.21.00 (bleached). The greige fabrics are classified in Chapter 52, "Cotton," because the predominant fibre is cotton. These differ from the subject fabric because it is predominately made of polyester fibre.

Doubletex alleges that it emphasized the wrinkle finish when it selected the domestically produced fabrics that it would submit as allegedly substitutable fabrics. Doubletex contends that this resulted in it not submitting one of its leading products, a 65/35 polyester/cotton fabric, because it has a flat finish. Doubletex is of the view that a flat fabric is substitutable for a wrinkle fabric on the grounds that one of Bright's competitors, Universal Manufacturing Inc., submitted comments in response to the Tribunal's user's questionnaire, alleging that it competes directly with Bright with sleepwear produced using a flat fabric. Doubletex contends that it produces fabrics identical to or substitutable for those identified by Bright's competitors.

Doubletex submitted that tariff relief could encourage its customers to import the duty-free subject fabric directly, rather than buy it from Doubletex. In addition, Doubletex submitted that imported non-printed fabric could readily be printed in Canada. Doubletex argued that it would be discriminatory to remove the tariff on printed fabrics while maintaining the tariff on identical greige and dyed fabrics. According to Doubletex, this would leave the impression that the government is promoting imports over domestic production and would contradict any commitment to Canadian jobs and investment. Regarding the latter, Doubletex submitted that, over the past 20 months, it had made significant investments that increased its converting capacity and added to its dyeing capacity and versatility. Doubletex plans to make additional investments over the next year.

The Department of Foreign Affairs and International Trade informed the Tribunal that Canada maintains quota restraints on polyester staple/cotton woven fabric (their category 36.0) classified under classification No. 5513.41.00.10 imported from the People's Republic of China, Hong Kong, the Republic of Korea and Taiwan. In 1994, imports of finished polyester/cotton fabric (excluding greige) from the People's Republic of China amounted to a 74.0 percent utilization of the restraint level (adjusted for an annual growth rate of 3.5 percent). The Canada/Hong Kong restraint agreement includes cotton (excluding denim) and polyester/cotton woven fabrics. In 1994, imports of this aggregate group amounted to a total utilization rate of 14.0 percent. Of these imports, 2.2 percent were polyester/cotton woven fabrics of category 36.0. The Canada/Republic of Korea restraint agreement includes combed wool, nylon, polyester filament and polyester/cotton woven fabrics. In 1994, imports of this aggregate group amounted to a total utilization rate of 33.0 percent. Of these imports, 6.1 percent were polyester/cotton woven fabrics of category 36.0. The Canada/Taiwan restraint agreement includes combed wool, cotton (including denim), nylon, polyester filament and polyester/cotton woven fabrics. In 1994, imports of these fabrics amounted to a total utilization rate of 33.0 percent. Of these imports, 27.3 percent were polyester/cotton woven fabrics of category 36.0. The Tribunal was also advised that ex-quota entry on the subject fabric would be considered where a recommendation had been made by the Tribunal to remove the tariff on the basis of non-availability.

Revenue Canada has 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.



## ANALYSIS

In assessing the economic impact of reducing or removing the tariff, the Tribunal took into account all relevant economic factors. In making its assessment, the Tribunal was particularly concerned with the issues of, first, the substitutability of domestically produced fabrics and, second, the impact of granting the tariff relief on the interested domestic producer. In this case, the interested domestic producer is Doubletex.

### **Substitutability**

There is no domestic production of fabrics identical to the subject fabric. The Tribunal's assessment of the claimed substitutability of certain domestically produced fabrics focused on the technical descriptions, market acceptance and prices of the allegedly substitutable fabrics.

Doubletex submitted that it is a domestic producer of three identical or substitutable fabrics. It reported sales of one of these allegedly substitutable fabrics (Seersucker) to producers of women's and children's sleepwear. The fibre content of that fabric is 80 percent cotton and 20 percent polyester, compared to the subject fabric which is made of 65 percent polyester and 35 percent cotton. These different fibre contents indicate that the allegedly substitutable fabric is not of the same general classification as the subject fabric and is classified in a different chapter of Schedule I to the *Customs Tariff* than is the subject fabric. The Tribunal agrees with Bright's view that consumers make a clear distinction between sleepwear produced with fabrics that are primarily of polyester versus cotton fibres and, as such, these products constitute separate market segments. Accordingly, the different fibre content of the domestically produced fabric indicates that the sales of Seersucker reported by Doubletex are not to the particular market segment to which the subject fabric is supplied, that being the polyester/cotton segment of the sleepwear production market. Consequently, the sales reported by Doubletex are not evidence of market acceptance of its allegedly substitutable fabric. In sum, the Tribunal concludes that the 80/20 cotton/polyester allegedly substitutable fabric submitted by Doubletex is not substitutable for the subject fabric, in view of its different technical characteristics and lack of evidence of acceptance in the relevant market segment.

The fibre content of the two remaining allegedly substitutable fabrics (Mini Seersucker and Alcatraz) submitted by Doubletex is also 80 percent cotton and 20 percent polyester. In addition, Doubletex reported no sales of these fabrics to producers of polyester/cotton sleepwear. Based on the different fibre content and the absence of sales to the relevant end product market, the Tribunal concludes that these domestically produced polyester/cotton fabrics are not substitutable for the subject fabric.

In addition, the Tribunal notes that the allegedly substitutable cotton-rich fabrics submitted by Doubletex are considerably higher-priced than the subject fabric and clearly were produced to appeal to consumers that have a preference for cotton sleepwear. The Tribunal believes this to be a distinct market segment.

Doubletex contends that the allegedly substitutable fabrics that are used by Bright's competitors in the production of sleepwear define "substitutability" for this case and in a broader manner than the Tribunal's definition.<sup>11</sup> The technical characteristics of the allegedly substitutable fabrics submitted by Bright's competitors are different from those of the subject fabric in such characteristics as yarn count, weave construction, finish, fabric weight and width. For some of these fabrics, the percentage blend of polyester and cotton fibres is different from that of the subject fabric (65/35), while for others, the fibre blend is identical to that of the subject fabric. Based on the differences in technical description, Doubletex has made a number of broad assertions about what fabric characteristics appear to be substitutable in the minds of sleepwear producers. For example, different widths, fabric weights, yarn counts and weave constructions would, according to Doubletex, be substitutable if the fabric were used to produce the end product. Taking this approach further, it appears that, because some of the allegedly substitutable fabrics differ in the percentage of polyester and cotton fibres (i.e. one is 50/50 polyester/cotton, compared to 65/35 for the subject fabric), Doubletex submitted the broad conclusion that different fibre blends are substitutable. On that basis, its 80/20 cotton/polyester fabric is substitutable for the subject fabric, which is 65/35 polyester/cotton. Similarly, because one of the other sleepwear producers uses a flat fabric to manufacture its products, Doubletex submitted that flat fabric is substitutable for wrinkle fabric.

The Tribunal has outlined the criteria that it is using to make a determination of substitutability in this case. Allegedly substitutable fabrics that are imported by other users would have to meet these criteria in order to qualify for any tariff relief granted. The Tribunal notes that these allegedly substitutable fabrics include wrinkle fabrics that are polyester/cotton blends that are classified under the same tariff item as the subject fabric and, therefore, are in the same general category as the subject fabric. The Tribunal does not accept the expansion of substitutability to include fabrics that are not of the same general category as the subject fabric. Respecting the current case, the Tribunal is satisfied that fabrics with fibre contents of blends of polyester and cotton where the polyester is the predominant fibre are substitutable when used in the specified end use. Furthermore, it is the Tribunal's view that the seersucker finish is an important defining feature of the subject fabric. No doubt sleepwear is produced from flat fabric. However, the Tribunal does not accept that flat fabric and wrinkle fabric are substitutable for each other in the minds of consumers.

Finally, the differences in fabric weight, width, weave construction and yarn count of the allegedly substitutable fabrics submitted by Bright's competitors are marginal. In the Tribunal's view, those allegedly substitutable fabrics that are of the same general category as the subject fabric, although marginally different respecting the characteristics listed above, are substitutable for the subject fabric. Furthermore, as Bright has not contested the claim of these other users to be direct competitors of Bright, the Tribunal is satisfied that they have established the market acceptance of those fabrics which meet the Tribunal's requirement that substitutable fabrics be of the same general category.

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11. This refers to the definition in the notice of commencement of investigation dated August 15, 1995.

**Potential Impact on Domestic Producers**

Doubletex submitted that the economic impact of removing the tariff would be a loss of sales volume, as its customers would import the subject fabric rather than buy it from Doubletex. The Tribunal does not accept the claim that Doubletex will lose sales volume if the tariff is removed, given that it has not sold its allegedly substitutable fabrics to the market segment supplied by Bright. In addition, Doubletex has provided no indication of the relative share of its sales for which the allegedly substitutable fabrics accounted. In its submission, Doubletex implied that recent and future investments would be jeopardized if the tariff were removed. However, no indication was provided of the extent of this alleged impact. Doubletex also alleged that granting the tariff relief would be discriminatory against importations of the identical greige fabric. However, Doubletex provided no evidence of production of a substitutable finished fabric using the identical greige fabric nor sales to the relevant end use market. In these circumstances, while the Tribunal recognizes the potential danger of creating a tariff anomaly on imported greige fabrics that are otherwise identical to the subject fabric, it finds that it is not appropriate to make a recommendation that is wider than the scope of the original investigation.

**Bright's Competitiveness**

Bright submitted that tariff relief would improve its ability to compete with imports of sleepwear. The Tribunal believes that the reduction in costs through tariff relief will assist the domestic sleepwear producer using the subject fabric to become more competitive.

On the basis of the foregoing, the Tribunal concludes that granting the tariff relief as requested will result in net economic gains for Canada. Moreover, the Tribunal sees merit in the submissions of other sleepwear producers that use substitutable polyester/cotton fabrics and that have requested that any tariff relief granted include polyester/cotton fabrics imported by them. In the Tribunal's view, this is best achieved by granting tariff relief on the class of goods covered by the tariff item that applies to the subject fabric.

**RECOMMENDATION**

In light of the foregoing, the Tribunal hereby recommends to the Minister that the customs duty on importations of

printed, plain weave fabrics, with a seersucker appearance, of polyester staple fibres, containing more than 50 percent by weight of such fibres and less than 85 percent by weight of such fibres, mixed solely with cotton fibres, of a weight not exceeding 100 g/m<sup>2</sup>, for use in the production of children's and women's nightshirts, nightdresses, pajamas, bathrobes, dressing gowns, négligés and similar articles

be removed for an indeterminate period of time.

Should the Minister grant tariff relief pursuant to the Tribunal's recommendation and a Canadian producer commence production of the subject fabric, that producer may request the commencement of an investigation for the purpose of recommending an amendment of the order of the Governor in Council which provides tariff relief.

Although its recommendation for tariff relief is restricted to finished fabrics, the Tribunal recognizes the concerns expressed by Doubletex relating to the potential creation of a tariff anomaly for imports of otherwise identical greige fabrics. While it has refrained from making any recommendation about tariff relief for those greige fabrics, the Minister, in considering whether to implement the Tribunal's recommendation on finished fabrics, may wish to consult with potential domestic producers of greige fabrics to determine whether there is any valid objection to similar tariff relief on imports of greige fabrics. In any event, any domestic manufacturer that wishes to seek tariff relief on imports of greige fabrics may file a request with the Tribunal.

Raynald Guay  
Raynald Guay  
Presiding Member

Robert C. Coates, Q.C.  
Robert C. Coates, Q.C.  
Member

Lise Bergeron  
Lise Bergeron  
Member

## APPENDIX

COMPARISON OF THE SUBJECT FABRIC  
AND ALLEGEDLY SUBSTITUTABLE FABRICS

Company	Fibre	Yarn Size (cotton count)	Weave (threads/ sq. in.)	Width (in.)	Weight (g/m <sup>2</sup> )
<b><u>Subject Fabric</u></b>					
Bright	65/35 polyester/cotton	45 x 45	96 x 72	42	95.5
Revenue Canada	64/36 polyester/cotton	45 x 45	96 x 72	41	100.0
<b><u>Allegedly Substitutable Fabrics</u></b>					
<b>Domestic</b>					
Doubletex					
Alcatraz (flat fabric)	80/20 cotton/polyester	C 20 x 20 Ply 150 deniers	66 x 50	59/60	130-140
Seersucker (krinkle)	80/20 cotton/polyester	C 20 x 20 Ply 150 deniers	66 x 50	59/60	130-140
Mini Seersucker (krinkle)	80/20 cotton/polyester	C 20 x 20	66 x 50	59/60	130-140
<b>Imports</b>					
Hago (user)					
Krinkle	65/35 polyester/cotton	45 x 45	110 x 76	44	N/A
Krinkle	55/45 polyester/cotton	35 x 35	84 x 68	44	N/A
Krinkle	65/35 polyester/cotton	42 x 42	88 x 64	60	N/A
Elgo (distributor)					
Krinkle	65/35 polyester/cotton	N/A	110 x 76	58/60	N/A

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Source: Responses to Tribunal questionnaires.