



**REPORT TO  
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY  
HANDLER TEXTILE (CANADA) INC.  
REGARDING  
CERTAIN THERMALLY BONDED NONWOVENS**

**OCTOBER 23, 1996**

**HANDLER TEXTILE (CANADA) INC.**

**REQUEST NO.: TR-95-054**

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| Tribunal Members:                         | Raynald Guay, Presiding Member<br>Charles A. Gracey, Member<br>Desmond Hallissey, Member |
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## INTRODUCTION

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.

Pursuant to the Minister's reference, on October 8, 1995, the Tribunal received a request from Handler Textile (Canada) Inc. (Handler) of Montréal, Quebec, for the permanent removal of the customs duty on importations, from all countries, of nonwovens, solely of polyester staple fibres or mixtures of polyester staple fibres and viscose rayon staple fibres, containing not less than 50 percent by weight of polyester, held together by thermal bonding, partially coated on one side with small translucent dots of hot melt adhesive, for use in the manufacture of fusible interlinings and shoulder pads (the subject fabrics).

On January 18, 1996, the Tribunal, being satisfied that the request was properly documented, issued a notice of commencement of investigation which was distributed and published in the January 27, 1996, edition of the *Canada Gazette*, Part I.<sup>3</sup>

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

A staff investigation report, summarizing the information received from these departments, Handler 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: Handler; the Canadian Textiles Institute (CTI); Canada Hair Cloth Co. Limited (CHC); Matador Converters Co. Ltd. (Matador); Veratex Lining Ltd. (Veratex); Kufner Textiles Inc.; Altrim Inc. (Altrim); Freudenberg Nonwovens Inc. (Freudenberg); Peerless Clothing Inc. (Peerless); Parapad Inc.; and Interforme Interlinings Inc.

Following the distribution of exhibits to parties, only the CTI filed a submission with the Tribunal, to which Handler provided a response.

A public hearing was not held for this investigation.

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1. On March 20 and July 24, 1996, the Minister of Finance revised the terms of reference.
  2. R.S.C. 1985, c. 47 (4th Supp.).
  3. Vol. 130, No. 4 at 370.

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**PRODUCT INFORMATION**

The fabrics covered by the request made by Handler range from nonwovens made of 50 percent polyester staple fibres blended with viscose rayon staple fibres to nonwovens made of 100 percent polyester staple fibres. In 1996, the subject fabrics are classified under classification No. 5603.92.90.20. They are dutiable at 18.8 percent *ad valorem* under the MFN tariff and the GPT; at 4.9 percent *ad valorem* under the US tariff; and at 17.3 percent *ad valorem* under the Mexico tariff. The subject fabrics imported from the United States will enter duty free in 1998. However, the MFN tariff will only be reduced to 14.0 percent by the year 2004.

The product description suggested by Revenue Canada was incorporated in the description used in the notice of commencement of investigation:

Nonwovens, solely of polyester staple fibres or mixtures of polyester staple fibres and viscose rayon staple fibres, containing not less than 50 percent by weight of polyester, held together by thermal bonding, partially coated on one side with small translucent dots of hot melt adhesive, for use in the manufacture of fusible interlinings and shoulder pads.<sup>4</sup>

In a submission filed by Freudenberg, it is explained that the product description as stated by Handler is somewhat confusing. Freudenberg suggests that the subject fabrics are in fact the finished product, fusible interlinings, which are ready for use in the construction and production of collars, cuffs, garments and other apparel-related items. In this respect, Freudenberg notes that the subject fabrics are not for use in the manufacture of fusible interlinings, rather they are fusible interlinings.<sup>5</sup>

The laboratory analysis of the samples provided by Handler was received by the Tribunal on December 18, 1995, by Revenue Canada. Both fabric samples are 100 percent polyester, thermally bonded nonwovens. Handler claims that these are just samples of what it imports and maintains that the request is to include all fusible interlinings ranging from 50 percent by weight of polyester to 100 percent by weight of polyester.<sup>6</sup>

CHC, a domestic producer, provided samples to the Tribunal of identical or substitutable fabrics, and the Tribunal sent these samples to Revenue Canada for analysis. Revenue Canada provided the product description and laboratory analysis of these samples to the Tribunal on May 17, 1996.

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4. On April 11, 1996, Handler wrote to the Tribunal asking that the end use for shoulder pads be excluded. This request was supported by other parties, specifically, CHC and Altrim.

5. Various other users of the subject fabrics commented that the subject fabrics are actually fusible interlinings. It was suggested that the end-use description refer to "fusible interlining parts for the apparel or garment industry" rather than "for use in the manufacture of fusible interlinings."

6. Neither Handler nor Revenue Canada made particular reference to a weight range for the subject fabrics. In this respect, Revenue Canada's laboratory analysis shows that the two fabrics submitted by Handler fall within the weight description of subheading No. 5603.92 (i.e. weighing more than 25 g/m<sup>2</sup> but not more than 70 g/m<sup>2</sup>).

## REPRESENTATIONS

### **Handler**

**Handler** converts large rolls of the subject fabrics into fusible interlining parts for use by the apparel industry. It imports 100 percent of the subject fabrics from Handler Textiles U.S.A. in New Jersey. The variety of interlining fabrics available is very extensive. During the Tribunal's visit to Handler's production facility, Handler provided a sample book containing an extensive selection of interlining fabrics with different weights, fibre contents, constructions and types of adhesive applications, both woven and nonwoven.

Handler states that there are no domestic producers of identical or substitutable fabrics which meet its needs in the manufacture of fusing products. Handler argues that the subject fabrics are very specific in nature because they are partially coated on one side with small translucent dots of hot melt adhesive. Handler stresses that it has not been able to obtain identical or substitutable fabrics from domestic producers. Handler confirmed that all its fabrics, including the 100 percent polyesters and the blends of polyester staple fibres with viscose rayon staple fibres, are in fact thermally bonded.

Early in the investigation, Handler submitted that it had discussions with CHC and invited CHC to show its product line. Handler described its needs and the current prices that it pays for the subject fabrics. Handler submitted that, as of June 24, 1996, CHC had not followed up with Handler. This lack of interest leads Handler to believe that CHC is a small competitor and does not have the capabilities to supply the nonwoven fusible interlinings that Handler requires.

Handler argues that the reduction in duty will help it compete with importers of pre-made fusible interlining parts. It will also help offset any rise in labour costs and overhead, while holding or lowering prices. The textile industry is very tight and vulnerable, and Handler argues that it is still recovering from the recession and that economic uncertainty is prevalent in the textile industry. Handler further argues that the benefit of tariff relief for two years is not "feeble." It states that this type of benefit results in minimal cost to the government, while, at the same time, it fuels the Canadian economy. In particular, it gives a much needed boost to companies like Handler that supply the apparel industry. Handler feels that this benefit is not superfluous because a number of users will benefit for a two-year period without causing CHC to lose sales.

Handler requested that, if tariff relief is granted, it should be retroactive to the date on which the request was deemed properly documented. Handler argues that, if it deserves the tariff relief, it deserved it on the date on which it applied for it. Handler highlights the fact that time lags between the date of a Tribunal recommendation and the actual implementation of an order-in-council can be very long. Handler questions why a company should fail to obtain tariff relief for this extended period of time because of circumstances beyond its control.

### **Other Users of the Subject Fabrics**

**Peerless** of Montréal is Canada's largest manufacturer of men's fine tailored clothing. Peerless was established in 1919. It is privately owned and employs in excess of 2,000 people. Peerless is an international manufacturing and marketing company which supplies a wide range of tailored suits to all major market segments in the United States. Peerless's product line includes men's tailored suits, sports jackets, blazers, tuxedos, trousers, vests and walking shorts.

Peerless supports the request for tariff relief made by Handler and also requests the immediate and permanent removal of the customs duty on the subject fabrics.

Peerless submits that it uses the subject fabrics as a component of its suits, sports coats, trousers and vests. Peerless argues that the subject fabrics are critical to Peerless's success and that the engineering process which has contributed to Peerless's success requires the use of the subject fabrics. Peerless believes that there are no acceptable domestic substitutable fabrics of the quality supplied by its existing sources. Peerless claims that it has been unable to find identical or substitutable fabrics over the past two years.

Peerless submits that tariff relief would lower costs, which would allow it to lower its wholesale price. Peerless states that, with the elimination of the existing drawback regime under the *North American Free Trade Agreement*<sup>7</sup> (NAFTA) of third party inputs on exports to the United States, tariff relief would directly affect its export sales to the United States.

**Veratex** of Montréal was established in 1981. It imports the subject fabrics from the United States. Veratex cuts the subject fabrics to shape for collars, cuffs, facings and fronts of garments. It then fuses the cut interlining pieces to garment parts. Veratex also sells piece goods to garment manufacturers that, in turn, use these fabrics by cutting them to their own requirements for their garment manufacturing process.

Veratex supports the request for tariff relief and claims that identical or substitutable fabrics are not available from Canadian production. Veratex imports thermally bonded nonwovens, partially coated on one side with small translucent dots of hot melt adhesive. The fabrics are composed of 100 percent polyester, 70 percent polyester and 30 percent nylon, 100 percent nylon, 85 percent nylon and 15 percent polyester, and 70 percent nylon and 30 percent polyester. These fabrics range in weight from 24 to 90 g/m<sup>2</sup>.

Veratex argues that tariff relief would enable it to lower its price to Canadian garment manufacturers that, in turn, would become more competitive in the global marketplace. It argues that tariff relief would also enable Canadian garment manufacturers to be more competitive vis-à-vis imported garments.

**Altrim** of Montréal was incorporated in 1954. It serves women's and men's apparel manufacturers in Canada and the United States. Altrim submits that it produces shoulder pads, sleeve heads, chest pieces, waistbands, bindings and trims. It sells fusible interlinings and also cuts and fuses these interlinings to its customers' fabrics according to their specifications. All production processes are performed in Altrim's plant in Montréal. The fusible interlinings are cut and then passed through a fusing press and fused onto the customers' face fabrics.

Altrim also supports the request for tariff relief. It states that there are no Canadian producers of identical or substitutable fabrics. Currently, Altrim imports the subject fabrics from the United States and Germany. It describes fusible interlinings as being manufactured by passing nonwovens or other fabrics through a powder coating system that is subsequently heated to allow the powder to adhere to the base fabric. The nonwovens imported by Altrim are both thermally and chemically bonded.

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7. Done at Ottawa, Ontario, December 11 and 17, 1992, at Mexico, D.F., on December 14 and 17, 1992, and at Washington, D.C., on December 8 and 17, 1992 (in force for Canada on January 1, 1994).

Altrim submits that tariff relief would benefit Canadian apparel manufacturers by making their garments more competitive in Canada and in export markets. As a supplier to apparel manufacturers, Altrim argues that its business success depends on the success of the apparel manufacturers.

**Freudenberg** of Montréal distributes both “sew-in” and “fusible” interlinings, commonly referred to as “Sew-ins,” “Fusibles,” “Interfacings” and “Fusings.” Freudenberg supports the request for tariff relief made by Handler.

Freudenberg’s North American headquarters office is located in Chelmsford, Massachusetts. The subject fabrics are manufactured in various plants throughout the United States. Freudenberg did produce identical or substitutable fabrics in Cornwall, Ontario, up until about five years ago; however, it now imports the subject fabrics from the United States. Freudenberg submits that it pioneered the use of nonwovens for the apparel industry. Since the cancellation of Freudenberg’s manufacture of these nonwovens in Canada, Freudenberg believes that there are no current Canadian manufacturers of identical or substitutable fabrics.

Freudenberg imports nonwovens with various fibre contents, including 100 percent polyester, 100 percent polyamides, blends of polyester and polyamides and blends of polyester and rayon. These fabrics are thermally bonded and binder-bonded. A high proportion of its fabrics are thermally bonded.

#### **Domestic Producers of Identical or Substitutable Fabrics**

The **CTI** represents Canadian manufacturers of textiles. It opposes the request for tariff relief on the basis that identical or substitutable fabrics are produced in Canada. In its submission following receipt of the Tribunal’s staff investigation report, the CTI commented that, if the subject fabrics originate preponderantly in the United States, Handler and other users of the subject fabrics have a “feeble” claim for any tariff relief. The CTI notes that the tariff on imports from the United States will be reduced by half next year and will be zero in 1998. Thus, any benefit resulting from tariff relief will disappear in 1998.

The CTI highlights the fact that granting tariff relief would create a tariff anomaly under which producers of identical or substitutable fabrics in Canada would be paying the regular MFN or US duty on the inputs while facing duty-free competition on its further manufactured output.

The CTI further submits that the MFN duty should not be removed under any circumstances, as no case has been made for tariff relief in respect of non-NAFTA goods.

**CHC** of St. Catharines, Ontario, has been manufacturing shape-retaining textiles for 112 years. It makes interlinings for the apparel industry. These include a complete range of woven interlinings, weft insertion interlinings and nonwoven interlinings, both thermally bonded and saturate nonwovens. These interlinings are all made in Canada and sold in Canada, the United States and internationally.

CHC claims that it currently produces fabrics which are identical to or substitutable for the subject fabrics. For example, it makes interlinings with fibre contents ranging from 100 percent polyester to 50 percent polyester/50 percent viscose to 50 percent polyester/50 percent nylon, in weights ranging from 0.94 to 1.60 oz./sq. yd. CHC considers its fabrics to be identical to and substitutable for the subject fabrics because they are used for the same applications, are made using the same manufacturing processes, have the

same weights, fibre contents and other characteristics and perform in the same way in the end uses in which they compete.

CHC currently imports the base fabric from the United States. A polyamide paste is then applied to the fabric in numerous dot configurations to convert the fabric into a fusible interlining. It also applies a dry polyamide dot and a sintered application using either polyamide, polyester or polyethylene types of coating. The fabric is then inspected and checked for quality control.

Canada Pad of Montréal and Canatex/National Pad of Downsview, Ontario, are the sales/marketing arms for CHC.

CHC argues that the subject fabrics compete directly with its domestically produced nonwoven interlinings, as well as with weft insertion linings. It claims that the interlining market is dynamic, with thermally bonded nonwovens being equally substitutable for other traditional nonwoven fusibles and weft insertion linings.

CHC points out that Handler sources the subject fabrics from the United States and that, under NAFTA, these fabrics will enter duty free within two years, but that tariff relief, if granted, would open up duty-free entry to all sources. CHC argues that this open access is more likely to have a negative impact on prices than a positive one. If duty-free MFN import sources are available, the traditional US sources of supply will be disrupted in favour of lower-cost sources, and this will have a negative impact on the whole market for interlinings, including CHC, other competitors and Handler. CHC submits that the duty-free competition of imports from MFN sources could be very disruptive and harmful to Canadian producers of identical or substitutable fabrics.

**Matador** of Montréal is a manufacturer of nonwovens of 100 percent polyester staple fibres and/or blends of polyester and viscose fibres. Matador withdrew its opposition to the request for tariff relief early in the investigation. However, it submits that, should the Tribunal broaden the definition to include fabrics of a weight greater than 70 g/m<sup>2</sup>, Matador would then oppose the request for tariff relief.

**Consoltex Inc.** of Montréal wrote to the Tribunal stating that it did not have an interest in this investigation.

**Jasztex Fibers Inc.** of Saint-Léonard, Quebec, manufactures nonwoven, thermally bonded and chemically bonded polyester wadding, weighing more than 65 g/m<sup>2</sup>, for use in the needlepunching industry. It submits that it does not produce fabrics with hot melt adhesive for use in the manufacture of fusible interlinings and shoulder pads. Therefore, it states that, within the confines of the adhesive process and the specific end use requirement, it does not oppose the request for tariff relief as submitted by Handler.

**Western Fibres Limited** of Vancouver, British Columbia, submitted that it does not oppose the request for tariff relief as submitted by Handler. It produces a wide variety of thermally bonded low-, mid- and high-loft fabrics, but none of them with small translucent dots of hot melt adhesive on one side. It stressed that, if tariff relief is recommended, the Tribunal should make sure that the product description includes only the subject fabrics.



**Union Felt Products Inc.** of Downsview indicated that it does not oppose the request for tariff relief as submitted by Handler.

### **Other Parties**

The **Department of Foreign Affairs and International Trade** informed the Tribunal that Canada does not maintain quota restraints on nonwoven fabrics classified under classification No. 5603.92.90.20. Therefore, the subject fabrics are not subject to any quantitative import restrictions. Furthermore, the subject fabrics are not included in the *Import Control List* and, therefore, no import permit is required.

**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**

The terms of reference direct the Tribunal to assess the economic impact on domestic textile and downstream producers of reducing or removing the tariff and, in so doing, to take into account all relevant factors, including the substitutability of domestically produced textile inputs for imported textile inputs, the ability of Canadian producers to serve the Canadian downstream industries and a domestic versus imported price comparison.

The question of “fabric substitutability” is important in this case, as Handler’s main reason for requesting tariff relief is that it claims that identical or substitutable fabrics are not available from Canadian production. One of the first factors examined by the Tribunal when assessing the substitutability of domestic fabrics and imported fabrics is the technical description of the fabrics. The laboratory analysis undertaken by Revenue Canada concluded that two of the four samples submitted by CHC had the same general construction and fibre content as the two samples submitted by Handler. Specifically, all four fabrics are nonwoven, made of 100 percent polyester staple fibres held together by thermal bonding. These samples have been partially coated on one side with small translucent dots of hot melt adhesive. The only technical feature which varies from sample to sample is the weight. The two samples submitted by Handler weigh 28 and 35 g/m<sup>2</sup>, while the samples submitted by CHC weigh 43 and 50 g/m<sup>2</sup>.

CHC submitted that, currently, it produces nonwoven fusible interlinings ranging in weight from 0.94 to 1.60 oz./sq. yd. (31 to 54 g/m<sup>2</sup>). In support of this statement, the Tribunal received a sample book from CHC displaying the broad range of nonwoven fusible interlinings that it produces.

The weights of the subject fabrics have not been raised as an issue by Handler. Handler noted that the two samples submitted to the Tribunal for analysis are only examples of a broader range of the subject fabrics that it imports (i.e. it imports the subject fabrics made of blends of polyester and viscose which are classified under tariff item No. 5603.92.90, which includes fabrics weighing more than 25 g/m<sup>2</sup> but not more than 70 g/m<sup>2</sup>). However, Handler did submit that, on average, the weight of the subject fabrics ranges around 30 g/m<sup>2</sup>, which is on the lighter end of the range defined by the tariff item for the subject fabrics. Other users submitted to the Tribunal that the nonwoven fusible interlinings that they import vary in weight. For example, Peerless submitted that the nonwoven fusible interlinings that it uses in the construction of its men’s suits are also on the lighter end of the weight range defined by tariff item No. 5603.92.90. Veratex submits that it imports nonwoven fusible interlinings ranging in weight from 24 to 90 g/m<sup>2</sup>. Altrim imports

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nonwoven fusible interlinings under the tariff item for fabrics weighing less than 25 g/m<sup>2</sup> and under the tariff item for fabrics weighing more than 25 g/m<sup>2</sup> but not more than 70 g/m<sup>2</sup>. In general, this shows that the majority of the subject fabrics imported by Handler and other interested users appear to be lighter than the fabrics currently supplied by CHC.

Although Handler and other users have not argued strongly that the weight of the subject fabrics that they import is of critical importance, the Tribunal believes that the lighter-weight fabrics being imported do give a certain texture, feel and drapability to a finished garment that could not be duplicated when a heavier-weight fabric is used. The evidence on file shows that, currently, CHC makes thermally bonded, nonwoven fusible interlinings with small translucent dots of hot melt adhesive in two weights, 43 and 50 g/m<sup>2</sup>.

Another factor that the Tribunal considers when assessing the substitutability of domestic and imported fabrics is market acceptance. The evidence in this case shows that CHC does sell its identical or substitutable fabrics to customers that are well known and established in the interlining business as either users or distributors. These sales are made at an average price which falls in the range of the average landed price of imports, albeit at the high end.

The Tribunal finds that the domestic textile industry produces, or is capable of producing, substitutable fabrics. However, the evidence available to the Tribunal shows that Handler and other users identified in this report prefer to source from imports for reasons that are not linked to prices. In this regard, the Tribunal is puzzled at CHC's lack of follow-up after contacting Handler in February 1996.

The question now facing the Tribunal becomes one of economic benefit. Based on the evidence, the Tribunal only considered the feasibility of granting relief with respect to the US tariff, as no evidence was provided to justify recommending relief with respect to the MFN tariff. In this respect, the estimated primary direct benefits of granting the tariff relief, based on the level and source of imports of the subject fabrics and the projections made by Handler and other identified users of the subject fabrics, would be approximately \$170,000 in 1996 and \$250,000 in 1997.<sup>8</sup> However, as noted in the staff investigation report and emphasized by the CTI and CHC, the tariff on imports from the United States will be reduced by half next year and will be zero in 1998. Thus, any benefit resulting from tariff relief will disappear in 1998.

The Tribunal recognizes and accepts that CHC may incur certain costs if tariff relief is granted. However, as Handler and other users identified in this investigation are not customers of CHC and CHC submitted that it has been preparing to compete with duty-free imports from the United States as a result of NAFTA, the Tribunal believes that the net benefits associated with granting tariff relief outweigh any potential costs that may be incurred by CHC.

The Tribunal is of the view that accelerating the tariff reduction schedule for the United States to zero would provide the tariff relief requested and an advanced benefit to users of the subject fabrics without substantially increasing costs to CHC.

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8. Assuming that tariff relief would be in effect from September 1, 1996, to December 31, 1997, the total benefit of granting relief is estimated to be approximately \$420,000 (\$170,000 in 1996 and \$250,000 in 1997).

With regard to the issue of end use, the Tribunal accepts the various arguments put forth by Handler and other parties that the end use for shoulder pads should be deleted from the description of the subject fabrics. It appears that very little, if any, of the subject fabrics is used in the production of shoulder pads. Altrim, a major manufacturer of shoulder pads, submitted that pre-coated fusible fabrics are used “only rarely” in shoulder pads.

With respect to Handler’s request for retroactive tariff relief, the Tribunal does not believe that there are extraordinary competitive circumstances that warrant such a recommendation.

### **RECOMMENDATION**

In view of the above information and evidence before the Tribunal in this matter, the Tribunal hereby recommends to the Minister that the tariff on the following importations from the United States be reduced to zero:

Nonwoven fusible interlinings, solely of polyester staple fibres or mixtures of polyester staple fibres and viscose rayon staple fibres, containing not less than 50 percent by weight of polyester, held together by thermal bonding, partially coated on one side with small translucent dots of hot melt adhesive, of subheading No. 5603.92, weighing more than 25 g/m<sup>2</sup> but not more than 70 g/m<sup>2</sup>, for use in the manufacture of apparel.

The Tribunal also recommends to the Minister that tariff relief on the above imports from all other countries not be granted.

Raynald Guay  
Raynald Guay  
Presiding Member

Charles A. Gracey  
Charles A. Gracey  
Member

Desmond Hallissey  
Desmond Hallissey  
Member