



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
VENTURE III INDUSTRIES INC.
REGARDING
CERTAIN WOVEN FABRICS
OF SYNTHETIC FILAMENT YARNS**

JANUARY 31, 1997

VENTURE III INDUSTRIES INC.

REQUEST NO.: TR-96-003

Tribunal Members: Anthony T. Eyton, Presiding Member
Desmond Hallissey, Member
Lyle M. Russell, Member

Research Director: Réal Roy

Research Manager: Anis Mahli

Counsel for the Tribunal: Heather A. Grant

Registration and
Distribution Officer: Claudette Friesen

Address all communications to:

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

INTRODUCTION

On July 14, 1994, the Canadian International Trade Tribunal (the Tribunal) received terms of reference¹ from the Minister of Finance (the Minister) pursuant to section 19 of the *Canadian International Trade Tribunal Act*.² 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 April 11, 1996, the Tribunal received a request from Venture III Industries Inc. (Venture) of Toronto, Ontario, for the indeterminate removal of the customs duty on importations of certain woven fabrics of synthetic filament yarns for use in the manufacture of women's blouses (the subject fabrics).

On August 27, 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 September 7, 1996, edition of the *Canada Gazette*, Part I.³

As part of the investigation, the Tribunal's research staff sent a questionnaire to two potential producers of identical or substitutable fabrics. A questionnaire was also sent to firms identified as potential importers and 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 for information and advice.

A staff investigation report, summarizing the information received from these government departments, Venture and firms that responded to the Tribunal's questionnaires, was provided to interested parties that had filed notices of appearance for this investigation. The parties to the investigation are Venture, P. Singh Impex Inc., Doubletex and the Canadian Textiles Institute (CTI).

A public hearing was not held for this investigation.

PRODUCT INFORMATION

In the notice of commencement of investigation, the subject fabrics were defined as woven crepe fabrics, namely, faille, georgette and crepe de Chine, solely of polyesters, of single yarns measuring not less than 50 decitex but not more than 180 decitex, weighing not less than 90 g/m² but not more than 120 g/m², for use in the manufacture of apparel.

Revenue Canada analyzed the samples of the subject fabrics provided by Venture and concluded that, on the basis of the laboratory analysis, they are woven fabrics made from high-twist polyester yarns

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1. On March 20 and July 24, 1996, the Minister revised the terms of reference.
 2. R.S.C. 1985, c. 47 (4th Supp.).
 3. Vol. 130, No. 36 at 2544.

(over 800 twists per metre in the warp or the weft) and that, for customs purposes, the subject fabrics are classified under tariff item No. 5407.61.90 of Schedule I to the *Customs Tariff*.⁴

During the course of the investigation, following a request by Consoltex Inc. (Consoltex) to include in the product definition the yarn twist factor and a narrower end use, which changes were agreed to by Venture, it was indicated in the staff investigation report that, “[i]n making recommendation[s] to the Minister of Finance, the Tribunal will be examining the evidence and submissions relating to the following product description: *Woven fabrics, namely, faille, georgette and crepe de Chine made entirely of single, non-textured high-twist yarns (in excess of 1,000 turns per meter), measuring not less than 50 decitex but not more than 180 decitex, weighing not less than 90 g/m² but not more than 120 g/m², for use in the manufacture of ladies’ blouses and matching skirts.*”

Under tariff item No. 5407.61.90, the subject fabrics were dutiable in 1996 at 19.0 percent *ad valorem* under the MFN tariff and the GPT; at 20.2 percent *ad valorem* under the BPT; at 5.0 percent *ad valorem* under the US tariff; and at 17.5 percent *ad valorem* under the Mexico tariff.

In 1995, total imports of woven fabrics containing 85 percent or more by weight of non-textured polyester filaments, which are classified under tariff item No. 5407.61.90, were reported by Statistics Canada to have amounted to 2.9 million kg, with an estimated value of about \$41 million. Because the major proportion of this volume was imported for the manufacture of apparel other than women’s blouses and matching skirts, Venture’s share of this total volume was negligible. The majority of these imports originated in the Republic of Korea, Japan, Indonesia and the United States.

REPRESENTATIONS

User of the Subject Fabrics

Venture is one of five major women’s blouse manufacturers in Canada.⁵ In addition to manufacturing women’s blouses at its plant located in Toronto, Venture manufactures other women’s soft sportswear (pants, skirts and jackets). As well, Venture imports silk blouses from the Far East.

Venture claims that tariff relief for an indeterminate period would increase production as a result of lower material costs, create additional jobs and allow it to pass on some of the cost savings to the consumer.

Venture submits that neither Consoltex nor Doubletex can supply a fabric identical to or substitutable for the subject fabrics and that, in June 1995, Consoltex indicated that it could not supply Venture with any 100 percent non-textured polyester fabrics for use in the manufacture of women’s blouses.⁶

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

5. The remaining four are: JMS International Fashions, Como Diffusion Inc. and Chagall, of Montréal, Quebec, and Elite Blouse, of Toronto.

6. In its response to the producers’ questionnaire, Consoltex provided data on sales from domestic production for domestic consumption of fabrics woven from textured polyester yarns, with a minimum weight of 130 g/m², whereas the subject fabrics are made of high-twist, non-textured polyester yarns whose maximum weight is 120 g/m².

Venture further submits that it heard from Doubletex, for the first time, only after the Tribunal had commenced its investigation. Subsequent to the commencement of the investigation, the President of Doubletex contacted Venture to explore the prospects of establishing a business relationship between their companies. Venture submits that, because Doubletex did not produce printed fabrics, Doubletex was willing not to oppose the request for tariff relief on printed fabrics and offered Venture the option of either buying fabrics that had been imported, dyed and finished by Doubletex or having Doubletex do custom dyeing and finishing of greige fabrics imported by Venture. According to Venture, the offer was turned down because: (1) Doubletex's fabrics did not drape nor were they suitable for blouses; and (2) as a small manufacturer, Venture did not have the expertise and time to get involved in the business of importing and finishing greige fabrics.

In response to submissions by the parties, Venture agrees with the CTI and Doubletex that the product definition as stated in the notice of commencement of investigation should be amended to include the twist factor of the yarn.

With respect to the end-use restriction suggested by the CTI (i.e. that the tariff relief be limited to fabrics for use in the manufacture of women's blouses or blouse and skirt ensembles), Venture objects to the term "ensemble"⁷ because, as it is presently defined in Note 3 (b) to Chapter 62 of the *Customs Tariff*, it appears to be too restrictive. Instead, Venture suggests the use of the phrase "coordinated skirt," which, it argues, is adequately defined in the *Blouses and Shirts Remission Order*.⁸

Venture states that Doubletex does not produce printed fabrics and does not sell, to Canadian blouse manufacturers, fabrics which are identical to or substitutable for the subject fabrics because, if it did, it would have provided production and sales data as required in the producers' questionnaire.

Venture is also opposed to the suggestion by Doubletex that there be a price point restriction of \$5/m² or more introduced into the end-use definition, as there is no basis to support such a measure.

7. The term "ensemble" is defined in Note 3 (b) to Chapter 62 of Schedule I to the *Customs Tariff* as follows:

The term "ensemble" means a set of garments (other than suits and articles of heading No. 62.07 or 62.08) composed of several pieces made up in identical fabric, put up for retail sale, and comprising:

- one garment designed to cover the upper part of the body, with the exception of waistcoats which may also form a second upper garment, and
- one or two different garments, designed to cover the lower part of the body and consisting of trousers, bib and brace overalls, breeches, shorts (other than swimwear), a skirt or a divided skirt.

All of the components of an ensemble must be of the same fabric construction, style, colour and composition; they also must be of corresponding or compatible size. The term "ensemble" does not apply to track suits or ski suits, of heading No. 62.11.

8. SOR/88-332, June 23, 1988, *Canada Gazette* Part II, Vol. 122, No. 14 at 2855, in which the term "coordinated apparel" is defined as follows: "coordinated apparel" means a woman's or girl's jacket that is coordinated with a skirt or pants or a coordinated two-piece dress, linked by colour, shape or detail with the express purpose of being sold and worn together, but does not include such apparel as an athletic suit, outerwear apparel, coordinated denim apparel and coordinated apparel made on order for a department of the Government of Canada."

With respect to Doubletex's request to include greige fabrics within the scope of the investigation, although Venture does not specifically object to this addition, it submits that such a request would be best served by a separate request for tariff relief to the Tribunal.

Finally, Venture submits that it is still willing to consider, for sampling, any fabric that Doubletex produces.

Other Canadian Users

JMS International Fashions, Como Diffusion Inc. and Chagall, of Montréal, and Elite Blouse, of Toronto, are the other major women's blouse manufacturers in Canada.

These importers/users are unanimous in their support of Venture's request for tariff relief because, they argue, the domestic fabric producers do not manufacture identical or substitutable fabrics in the light weights that they require in the manufacture of blouses. They contend that the tariff relief would help them to offer prices that would attract domestic consumers back to Canadian-made apparel.

Domestic Textile Producers

The CTI submits that Consoltex does not oppose Venture's request for tariff relief, provided the product description is modified to indicate that the high-twist yarns are used either in the warp or in the weft and to specify the number of turns per metre (i.e. in excess of 1,250 turns per metre). In addition, the CTI would prefer that the end use be limited to "the manufacture of ladies' blouses or blouse and skirt ensembles" or, more narrowly, to women's blouses only.

Doubletex

Doubletex claims that it produces identical or substitutable fabrics which have the main defining characteristics of the subject fabrics (easy care, easy wear and easy styling), as described in Venture's request. Doubletex submits that, because Venture claims that the subject fabrics are used to manufacture higher-end blouses, a price point restriction of \$5/m² or more should be inserted into the end-use definition. With respect to the twist factor, Doubletex suggests that the turns per metre of the yarn should be specified in the product definition.

Doubletex questions the incompatibility between the description of the end use in the notice of commencement of investigation where "apparel" was used and that in the staff investigation report where "ladies' blouses and matching skirts" was used. Doubletex suggests that the end use should be confined to the manufacture of "ladies' blouses."

Doubletex further submits that it does not oppose the removal of duty on printed fabrics meeting the specified definition, but opposes the removal of duty on dyed fabrics.

In conclusion, Doubletex submits that the Tribunal should recommend tariff relief on printed fabrics, on identical bleached, unbleached or prepared-for-dyeing fabrics and on woven fabrics which command a value of \$5/m² or more for use in the manufacture of women's blouses only.

ANALYSIS

The terms of reference direct the Tribunal to evaluate the economic impact that tariff reduction, or removal, would have on domestic fabric producers and downstream apparel manufacturers. Consequently, the Tribunal's decision to recommend tariff relief is based on the extent to which it considers that such tariff relief would provide net economic gains for Canada.

In this case, during the early phase of the investigation, the Tribunal's task was simplified by an agreement between Venture and the CTI on the description of the subject fabrics.

Doubletex was the only domestic textile producer that opposed the request for tariff relief on non-printed finished fabrics. However, it has not provided any information on its production and sales to blouse manufacturers of allegedly identical or substitutable fabrics, and the Tribunal is unable to conclude that it has demonstrated an ability to serve this manufacturing sector with fabrics that are identical to or substitutable for the subject fabrics.

Therefore, the Tribunal gives little weight to Doubletex's opposition to Venture's request because Doubletex has not demonstrated that it is, or will become, an active supplier of identical or substitutable fabrics to the end-use market specified in the request for tariff relief. The Tribunal also notes that Doubletex did not provide any evidence to quantify the extent of its alleged costs or losses should tariff relief be granted.

The Tribunal notes that Consoltex was the only domestic producer of an allegedly identical or substitutable fabric to provide comments on Venture's request. Consoltex does not oppose Venture's request, as long as the twist factor of the yarn and a narrower definition of the end use is specified in the Tribunal's recommendation for tariff relief.

The CTI proposed that the term "matching skirt" be replaced by "skirt ensemble," whereas Venture suggested the use of the term "coordinated skirt," based on the definition of "coordinated apparel" set out in the *Blouses and Shirts Remission Order*. Having considered the definitions of the two terms, the Tribunal considers the phrase "ladies' blouses and coordinated skirts" to be the most appropriate end-use description of the subject fabrics to provide the scope of tariff relief desired by Venture, such that the blouses and skirts are linked by colour, shape or detail "with the express purpose of being sold and worn together."

In assessing the net economic gains for Canada, the Tribunal notes that granting tariff relief would provide the five blouse manufacturers with significant benefits as a result of lower costs of production. The projected duty savings in 1997 were estimated to be in excess of \$250,000. The duty savings should assist the blouse manufacturers in offering prices that would attract domestic consumers back to Canadian-made apparel, help them develop an export market in the United States and ensure their long-term competitiveness.

Because the removal of the tariff provides benefits to Venture and other blouse manufacturers without any costs to the domestic industry, the Tribunal believes that tariff relief would provide net economic gains for Canada. Accordingly, the Tribunal is of the view that tariff relief should be granted.

Doubletex indicates that it would not oppose the recommendation for tariff relief, provided the Tribunal imposed a value of \$5/m² or more on the subject fabrics and extended the recommendation to include identical bleached, unbleached or prepared-for-dyeing fabrics.

In assessing the economic impact of granting tariff relief, the Tribunal normally compares the domestic prices at which the allegedly identical or substitutable fabrics made by national producers are sold with the landed, duty-paid value of the imported fabrics under consideration. However, as the Tribunal has not found that the domestic industry produces identical or substitutable fabrics, it does not consider it appropriate to impose a price point restriction on the subject fabrics.

With respect to the inclusion of greige fabrics in its recommendation for tariff relief, the Tribunal considers that these fabrics were fully covered in a previous report.⁹

RECOMMENDATION

In light of the above information and evidence before the Tribunal in this matter, the Tribunal hereby recommends to the Minister that the customs duty on importations, from all countries, of woven fabrics, namely, faille, georgette and crepe de Chine, made solely of single, non-textured polyester yarns, with a twist exceeding 1,250 turns per metre in either the warp or the weft, measuring not less than 50 decitex but not more than 180 decitex, weighing not less than 90 g/m² but not more than 120 g/m² of tariff item No. 5407.61.90, for use in the manufacture of women's blouses and coordinated skirts, be removed for an indeterminate period.

The Tribunal further recommends that the tariff relief be effective as of the date of this report.

Anthony T. Eyton

Anthony T. Eyton
Presiding Member

Desmond Hallissey

Desmond Hallissey
Member

Lyle M. Russell

Lyle M. Russell
Member

9. See *Report to the Minister of Finance: Requests for Tariff Relief by Doubletex Regarding Unbleached or Bleached Woven Fabrics*, Request Nos. TR-95-057 and TR-95-058, October 24, 1996.