CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

REPORT TO THE MINISTER OF FINANCE

REQUEST FOR TARIFF RELIEF BY HEALTEX MANUFACTURING INC. REGARDING MERTEX PLUS FABRIC

OCTOBER 2, 1995

HEALTEX MANUFACTURING INC.

REQUEST NO.: TR-94-015

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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*.[1] 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 March 10, 1995, the Tribunal received a request from Healtex Manufacturing Inc. (Healtex) of Scarborough, Ontario, for the permanent removal of the customs duty on importations of Mertex Plus fabric for use in the manufacture of surgical gowns and drapes for use in hospital operating rooms (the subject fabric).

In its request, Healtex alleges that fabrics identical to or substitutable for the subject fabric are not available from domestic production. Healtex claims that the subject fabric is impervious and, therefore, completely protects medical/surgical staff from the transmittal of infectious diseases that are borne by blood or other body fluids.

On June 2, 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 Part I of the June 10, 1995, edition of the Canada Gazette.[2]

As part of the investigation, the Tribunal's research staff sent questionnaires to potential domestic producers of fabrics identical to or substitutable for the subject fabric. Questionnaires were also sent to known manufacturers and a sample number of users of surgical gowns and drapes. 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.

A staff investigation report, summarizing the information received from these departments, Healtex 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) Healtex, the requester; (2) Kimberly-Clark Corporation (Kimberly-Clark) of Roswell, Georgia, an exporter of disposable surgical gowns and drapes; (3) Sealy Canada Ltd. of Scarborough, an importer of fabrics classified under the same tariff item as the subject fabric for use in the production of mattresses; (4) Stedfast Inc. (Stedfast) of Granby, Quebec, a producer of substitutable fabrics; (5) the Canadian Textiles Institute (CTI), the industry association; and (6) three manufacturers of surgical gowns and drapes: W. Laframboise Ltée (Laframboise) of Ville d'Anjou, Quebec; Angelica International Ltd. (Angelica) of Weston, Ontario; and Baxter Corporation (Baxter) of Mississauga, Ontario.

Following the issuance of the staff investigation report, Kimberly-Clark was the only party to file a submission with the Tribunal. A public hearing was not held for this investigation.

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1. R.S.C. 1985, c. 47 (4th Supp.).
2. Vol. 129, No. 23 at 1890.

PRODUCT INFORMATION

The subject fabric has a three-layer construction. The outer layer is a tricot of 100 percent polyester, the middle layer is a thin plastic membrane of 100 percent polyurethane, and the inner layer is a four-thread twill weave fabric woven from cotton and polyester. The woven fabric of this composite material represents 60 percent of the sample weight. Therefore, Revenue Canada considers the subject fabric to be a woven fabric and classifies it under tariff item No. 5407.92.00 of Schedule I to the *Customs Tariff*. [3]

The subject fabric is dutiable at 20.5 percent ad valorem under the MFN tariff; at 20.2 percent ad valorem under the BPT; at 7.5 percent ad valorem under the U.S. tariff; and at 20.0 percent ad valorem under the Mexico tariff.

The middle layer of the subject fabric renders it impervious. Fluids, allegedly, will not penetrate the subject fabric, even under pressure. Healtex claims that the only available domestic fabric is a single-layer, microfibre fabric of 100 percent polyester which offers only a repellent characteristic. If pressure were applied, it would result in a penetration of fluids.

The subject fabric is used by Healtex to manufacture surgical gowns and drapes for use in hospital operating rooms.

A surgical drape is a covering made of cloth or a disposable nonwoven material[4] and is used to cover the area of a patient on which an operation is being performed. A drape usually has a fenestration (an opening) to allow the surgeon to perform the operation. It comes in various sizes depending on the type of operation for which it is used. Drapes also vary from hospital to hospital. For example, for an eye operation, a drape measuring 15 sq. in. with a fenestration measuring 3 sq. in. might be sufficient, while for open heart surgery, the largest drape manufactured, a laparotomy drape which covers the entire body, is required.

A surgical gown or drape is made to the user's specifications. Therefore, the amount of the subject fabric or other impervious or water-repellent fabric used in a gown or drape varies for each tender, depending on the specifications required. Usually, only the front part of the gown, from the chest to the feet, and the forearms, the parts that are exposed to fluids or that come in contact with the operating table, are made of an impervious or water-repellent fabric. Other parts of the gown are usually made of an anti-bacterial fabric. A drape can also be made of a combination of anti-bacterial, water-repellent and impervious fabrics. The parts that are exposed to fluids are more and more made of an impervious fabric.

Healtex and other parties have reported that the medical/surgical community is increasingly concerned with the transmission of infectious diseases, particularly hepatitis B virus, hepatitis C virus and human immunodeficiency virus (HIV), from contact with blood and other body fluids.

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3. R.S.C. 1985, c. 41 (3rd Supp.).
4. The nonwoven material is a mixture of natural fibres from wood pulp (cellulose) and chemicals, which is specifically designed for this end use. It is commonly referred to as paper, although suppliers of this product prefer to consider this material as a fabric made from natural fibres or as a medical device because of its specific design.

The Canadian Standards Association (CSA) is in the process of finalizing a standard for the "Selection, Use, Maintenance, and Laundering of Reusable Textile Wrappers, Surgical Gowns, and Drapes for Health Facilities." This standard is expected to be published shortly. The fourth draft prepared by the Subcommittee on Selection, Use, Maintenance, and Laundering of Reusable Textiles for Health Facilities, under the jurisdiction of the Technical Committee on Sterilization, is undergoing an internal critical review prior to being published.

In the fourth draft, reusable textiles are classified into three different types:

Type A: a barrier to airborne micro-organisms demonstrating little or no water repellence;

Type B: a water-repellent reusable textile, permeable to the sterilant of choice and compliant with the 45° spray test (which is illustrated in Appendix B of the standard);

Type C: a viral-proof reusable textile, permeable to the sterilant of choice and compliant with Appendix C of the standard (which is the ES 22-92 test method of the American Society for Testing and Materials (ASTM) entitled "Emergency Standard Test Method for Resistance of Protective Clothing Materials to Penetration by Blood-Borne Pathogens Using Viral Penetration as a Test System").

The market for surgical gowns and drapes is comprised of two categories of products: (1) single-use/disposable products made of a nonwoven material (commonly referred to as paper gowns and drapes); and (2) reusable products made of fabric. The single-use products made of a nonwoven material are still widely used in hospitals. It is estimated that approximately 60 percent of drapes and 50 percent of gowns used in hospital operating rooms are made of paper. The remaining share of the market is comprised of reusable products made of fabric, woven or knitted. These products made of fabric differ in their level of water resistance and overall resistance to wear and tear, and the number of washing, drying and sterilization processes that they can undergo before they are no longer water-repellent.

A large share of the market for reusable products is comprised of surgical gowns and drapes made of pima cotton. Pima cotton fabrics contain 50 percent by weight of cotton and 50 percent by weight of polyester. They are tightly woven fabrics, 280 threads/sq. in., which are coated or impregnated for repellence. Pima cotton replaced polycotton that was used historically in hospital operating rooms and which had 140 threads/sq. in. Pima cotton fabrics enter Canada duty-free under Code 4295 of Schedule II to the *Customs Tariff*. Other products that comprise the market for reusable products include gowns and drapes made of microfilament polyester fabrics, which exceed 15,000 threads/sq. in., such as the "Virobar" product sold by Laframboise, and various other products with either a coating to render the fabric water-repellent or a plastic membrane to render the fabric impervious.

REPRESENTATIONS

Healtex submits that, if tariff relief were granted, the benefits would include more employment opportunities for the production of surgical gowns and drapes and cost savings to end users, namely, hospitals in Canada, as the cost per unit would be significantly lower. It would also result in greater sales, improved protection for the medical/surgical staff and a reduction in the need for single-use/disposable products which, according to Healtex, create hazardous waste that affects the environment.

The Tribunal sent questionnaires to four manufacturers of surgical gowns and drapes other than Healtex. These four manufacturers use fabrics that allegedly compete with the subject fabric.

Lac-Mac Limited (Lac-Mac) of London, Ontario, has developed an impervious fabric with W.L. Gore & Associates of Elkton, Maryland, which is called "GORE Surgical Barrier Fabric." This fabric, which is marketed in Canada by Lac-Mac under the trade name "InnerBloc," has a three-layer construction. The inner and outer layers are manufactured in Canada and are laminated to a polytetrafluoroethylene (PTFE) membrane by W.L. Gore & Associates, also the manufacturer of the PTFE membrane. Lac-Mac claims that its product is superior to the subject fabric or other products that incorporate a polyurethane barrier component.

Lac-Mac opposes the request for tariff relief. It claims that the existing competitive pricing for surgical gowns (in the $40-to-$60 range) is already at a level that is lower than that anticipated in Healtex's submission for products utilizing similar fabrics and offering similar degrees of performance. It does not see the advantage to the Canadian health care market of removing the duty on importations of the subject fabric, which is priced higher than other available fabrics, and removal of the duty may cost some Canadian jobs for component fabrics.

Laframboise, which specializes in the production of textile products for hospital operating rooms, also opposes the request. At the insistence of Canadian hospitals looking for a new technology regarding medical textiles, Laframboise, in co-operation with two Canadian textile manufacturers, undertook to develop new fabrics that would meet higher protection standards. Since the early 1990s, it has worked on the development of the "Virobar" fabric for use in the manufacture of surgical gowns and drapes that would offer a protection superior to that of other available fabrics, such as cotton, polycotton and pima cotton, which no longer meet the new requirements for protection against contamination. Surgical gowns made of the "Virobar" fabric are being used in five hospitals.

Since last year, Laframboise, with the collaboration of a second textile manufacturer that already manufactures a very resistant, waterproof product, has tested surgical gowns and drapes made of the fabric developed with this manufacturer combined with the "Virobar" fabric in six hospitals and two central laundries. Test results from hospitals and laundries indicate that, after more than 50 washing, drying and sterilization processes, the gowns and drapes made of the two combined fabrics are favourably meeting the required norms of protection.

Laframboise considers the "Virobar" fabric to be substitutable for the subject fabric. The "Virobar" fabric, by its conception and properties, meets the protection requirements in 90 to 95 percent of surgical operations. Laframboise has invested in excess of $100,000 in research, development, manufacture and issuance of a catalogue for this fabric. It claims that, if tariff relief were granted, all these efforts over the past four years to have these fabrics made in Canada instead of importing them would be nullified. It further argues that it would be inappropriate to grant tariff relief for the subject fabric, at a time when it is testing an impervious fabric that it considers to be identical to the subject fabric and which will conform to the total protection requirements of surgeons and medical staff.

Angelica, a manufacturer of surgical gowns and drapes, also opposes the request for tariff relief. However, because protection against infectious diseases is paramount in health care facilities, it argues that

all types of barrier protection fabrics should be available at a reasonable cost to all potential users and, therefore, recommends the immediate removal of all duties on importations of barrier protection fabrics from all countries.

Baxter, a manufacturer and supplier of woven and nonwoven surgical gowns and drapes, submits that there are many substitutable products available, ranging from single-use, one-layer fabric gowns and drapes to comparable reusable, three-layer fabric gowns and drapes. It argues that, in light of other available products, the subject fabric is neither unique nor necessary in the health care industry. It is also Baxter's position that granting the requested tariff relief will provide Healtex with an unfair competitive advantage over Baxter and others in the market for hospital supplies.

Baxter produces reusable "Optiguard" gowns in the United States and imports them into Canada as finished goods for sale. The "Optiguard" fabric is substitutable for the subject fabric in that it is worn by health care practitioners in operating rooms and provides them with protection from infectious diseases, including HIV.

Baxter, which also has a substantial business in nonwoven gowns and drapes, claims that some single-use gowns are fluid-repellent and that others are fluid-impervious. It also submits that reusable products do not automatically provide cost savings over disposable products. Baxter has many fact-based cost analyses that provide the cost effectiveness of disposable drapes in hundreds of Canadian hospitals. Other reasons for preferring disposable over reusable products are patient comfort, reduced lint, infection control and labour savings of reprocessing.

Finally, Baxter argues that environmental life cycles of reusable versus disposable surgical gowns and drapes show an equal effect on the environment. Reusable products affect water and air via laundry and processing. Disposable drapes are not considered hazardous waste. They can be landfilled, unless they are saturated or dripping with blood, in which case they are considered biomedical waste. Biomedical waste represents less than 1 percent of total hospital waste.

Questionnaires were sent to Healtex's five major customers identified in its request. Only two customers replied.

The Royal Victoria Hospital of Barrie, in Barrie, Ontario, states that it does not have sufficient information regarding Healtex or the subject fabric to either support or oppose the request. Independent research and test materials would have to be obtained, and the whole process of evaluation would have to be undertaken before it could make any comment.

The North York Branson Hospital, in North York, Ontario, supports the request for tariff relief. It has not, to date, purchased surgical gowns or drapes manufactured from the subject fabric, but has had samples of surgical gowns for clinical trials. Its surgical staff has found that gowns made of the subject fabric offer superior protection from penetration of blood and body fluids, as well as superior comfort and "breathability" for the wearer. The tariff relief, if granted, would enable it to replace the disposable impervious gowns, which it currently uses, with reusable products.

Questionnaires were also sent to potential domestic producers of fabrics identical to or substitutable for the subject fabric.

Consoltex Inc. (Consoltex) of Montréal, which is the major Canadian manufacturer of man-made fabrics, strongly opposes the request made by Healtex because it currently produces and sells, to a Canadian manufacturer of surgical gowns, an anti-bacterial fabric made of microfilaments and carbon yarn, known as "Virotex." The "Virotex" fabric, which was developed jointly with a Quebec-based manufacturer of hospital supplies, competes directly with many other fabrics - woven, knitted, coated and/or laminated - used in the manufacture of surgical gowns and drapes.

Consoltex also submits that its collaboration with this Canadian manufacturer of hospital supplies has involved a substantial investment in research and development and has brought a successful Canadian fabric to a sophisticated and demanding marketplace. According to Consoltex, the aim of this collaboration is to engender economic gains for Canada through capital investment, the creation of employment and the manufacture of textiles and products that are at the leading edge of technology. It also argues that granting tariff relief for an import competitor to the detriment of domestically produced fabrics will discourage Canadian manufacturers from collaborating with domestic textile producers. In this particular case, it will completely undermine the work done and investment dollars spent by Consoltex and this manufacturer of hospital supplies. The combined investments estimated for both firms are in excess of $300,000.

Consoltex also notes that an identical request for tariff relief on importations of the subject fabric was made to the Department of Finance two years ago by Mercana Medical Supplies Ltd. The request was denied following representations made by the CTI and Consoltex which provided evidence of Canadian production of competitive fabrics that would be adversely affected by the duty-free entry of the subject fabric.

Finally, Consoltex argues that there is intensive competition among "new generation" products being offered to the health care industry and that it cannot, and must not, be the Canadian government's role to provide an advantage to one competitor (through duty-free entry of imported goods) to the detriment of another (Canadian production) in such a fierce struggle with such high stakes.

Stedfast, which is a leader in the highly specialized field of industrial coated and laminated textiles, claims that it produces, at the present time, a comparable fabric to the subject fabric, which is named "Stedair 3" and which was scheduled for shipment at the end of June 1995. It opposes Healtex's request, as any tariff relief granted would give Healtex a competitive advantage over Stedfast, a Canadian manufacturer. Stedfast sources base fabrics from various foreign and Canadian manufacturers. Stedfast then applies rubber, polyvinyl chloride, urethane and other compounds to coat or laminate these fabrics. If Stedfast were to agree to duty-free entry for its competitors of laminated fabrics without being assured of duty-free entry for the base fabrics that it uses and imports from countries such as the United States and breathable films from the United Kingdom, its competitive position could be seriously eroded.

Like the subject fabric, "Stedair 3" has a three-layer construction. The inner and outer layers are 100 percent polyester tricots, while the middle layer is a plastic membrane of 100 percent polyurethane. This fabric is designed to protect the wearer against fluid infiltration and to allow water vapour to go from the inside to the outside. The membrane acting as the middle layer can diffuse water vapour and is, therefore,

breathable. The laminated product is further processed to include a hydrophilic layer to increase its performance. Stedfast also submitted evidence of tests carried out on "Stedair 3" by an independent laboratory. The results of these tests indicate that this fabric passed both the synthetic blood and biological penetration resistance tests in accordance with the U.S. standards ASTM ES 21-92 and ASTM ES 22-92. The ASTM ES 21-92 test method has been designed to measure the effectiveness of protective clothing barrier material properties using a synthetic blood mixture under the condition of continuous liquid contact. The ASTM ES 22-92 test method is used to measure the resistance of protective clothing materials against blood-borne pathogens by using a non-human infectivity microbe, bacteriophage Phi-X174, which best approximates the hepatitis C virus in size and which can be used as a surrogate to the hepatitis B virus and HIV, under the condition of continuous liquid contact.

Stedfast considers "Stedair 3" to be substitutable for the subject fabric. Although the construction of the various layers of fabrics that form these two composite fabrics differs slightly, the performance of these two laminated fabrics is the same; they are designed to provide the same protection level against the same hazards using the same working principle for the same application.

LaGran Canada Inc. (LaGran) of Granby produces a tricot for Lac-Mac. This tricot is made of 100 percent polyester and becomes part of Lac-Mac's composite barrier protection fabric for use in hospital operating rooms. LaGran opposes the request for tariff relief, as this tricot is produced in Canada. It claims that the importation of a different fabric from overseas will not provide Canadians with jobs and may, in fact, cause some jobs to be eliminated.

Rentex Mills Inc. (Rentex) of Montréal, a producer of warp-knit fabrics, claims that it currently produces a 100 percent polyester tricot for which the fibre content and construction are identical to those described by Healtex for the outer layer of the subject fabric. Its fabric is used in a Canadian-made barrier protection fabric which, allegedly, provides levels of protection identical or similar to those of the subject fabric and which is being used for the same end uses, i.e. in the manufacture of surgical gowns and drapes for use in hospital operating rooms.

Rentex submits that it has invested heavily in the research and development of a Canadian-made fabric for use in the manufacture of surgical gowns and drapes, as it views that end use as an important market for the future. It argues that granting the tariff relief requested by Healtex will adversely affect its production, sales, profitability and present and future employment. Rentex presently sells its fabric to two Canadian laminators.

The CTI, which provided a submission on behalf of Canadian textile manufacturers, opposes the request for tariff relief on the basis that directly competing fabrics are produced and sold by domestic producers. It submits that these domestic producers have invested heavily in researching and developing new fabrics, in conjunction with their Canadian customers and final users, to meet the needs of the health care industry that is seeking to replace "traditional" fabrics with alternatives that offer better and more cost-effective performance and safety. The CTI further submits that the subject fabric is one of the many competitors in this market and that it would be inappropriate for the Canadian government to interfere in this competition to the detriment of Canadian production by conferring a price benefit to the subject fabric imported by Healtex.

The Department of Foreign Affairs and International Trade informed the Tribunal that Canada currently maintains quota restrictions on the subject fabric imported from Poland, the Republic of Korea and Taiwan as part of an aggregate limit on polyester filament fabrics, including any fabric mixed mainly or solely with polyester filaments. The bilateral agreements governing these restrictions have been in place since 1978 between the Government of Canada, the Government of the Republic of Korea and the Taiwan Textile Federation and since 1979 between the Government of Canada and the Government of Poland. The restrictions are applied to a general group of products and represent levels significantly larger than the market for the subject fabric. Also, the subject fabric is not imported from these three countries and, therefore, would not be subject to these restrictions if it continued to be imported from current sources.

Revenue Canada 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 a tariff and, in so doing, to take into account all relevant economic factors, including the substitutability of domestically produced textiles for imported textiles, domestic versus foreign price competition and the ability of domestic producers to serve Canadian needs.

Substitutability

In considering the issue of substitutability of domestically produced fabrics for the subject fabric, the Tribunal examined, in particular, the technical description, performance and availability of the domestically produced fabrics, namely, "Stedair 3," "Virotex," "Virobar" and "InnerBloc," and the subject fabric.

In terms of the technical description, there are no Canadian fabrics that are identical to the subject fabric. However, there are two domestically produced fabrics that have similar constructions to the subject fabric: "Stedair 3" and "InnerBloc." Both Canadian products have a three-layer construction with a laminated membrane that acts as a waterproof barrier.

The Tribunal finds that, in the health care industry, and more particularly in the manufacture of surgical gowns and drapes, the degree to which domestically produced fabrics are substitutable for the subject fabric is limited, to a large extent, by objective performance standards, such as penetration resistance. This is unlike other industries, such as in the fashion industry, where the degree of substitutability among fabrics is limited by factors such as consumer demand and preferences for new, differentiated fabrics.[5]

In terms of the performance of the domestically produced fabrics, the Tribunal notes that both "Stedair 3" and "InnerBloc" are designed to provide the same protection level as that of the subject fabric. "Stedair 3" has passed both the synthetic blood and biological penetration resistance tests in accordance with the Canadian standards for reusable textiles for health facilities. "Stedair 3" meets the highest standard set by

5. See Report to the Minister of Finance: Requests for Tariff Relief by Château Stores of Canada Ltd. and Hemisphere Productions Inc. Regarding Armani Gabardine, Canadian International Trade Tribunal, Request Nos. TR-94-011 and TR-94-019, September 19, 1995, at 7.

the CSA. Because this reusable fabric is viral-proof, it is classified as a Type C reusable textile. In addition, the Tribunal notes that "InnerBloc," which has been available and used for some time, also meets the highest standard set by the CSA.

Consoltex's "Virotex" and Laframboise's "Virobar" fabrics are also considered by the Tribunal to be, under certain circumstances, substitutable for the subject fabric. Although these two fabrics are not impervious, they are water-repellent, are classified as Type B reusable textiles and can be used in 90 to 95 percent of all surgical operations.

These fabrics are currently being produced and are available from Canadian production. While "Stedair 3" is a recently developed fabric, it was scheduled for shipment at the end of June 1995, and Stedfast expects its sales of "Stedair 3" to reach significant levels by 1997. Moreover, the input fabrics to make "InnerBloc" and "Stedair 3" are readily available from other Canadian textile manufacturers, namely, LaGran and Rentex.

Taking into account the above factors, the Tribunal is satisfied that there are domestically produced substitutes for the subject fabric.

Price Competition

The Tribunal notes that the landed price of the subject fabric is higher than the price of substitutable fabrics produced by domestic textile producers. Further, surgical gowns made of the subject fabric are priced at the high end of the price range for all gowns competing in this market.

Therefore, the Tribunal is satisfied that Canadian fabrics are priced competitively. Indeed, Canadian fabrics can be obtained at comparatively lower prices than the price of the subject fabric. Gowns made of these Canadian fabrics are also available at lower prices than those of gowns made of the subject fabric.

Ability of Domestic Producers to Serve Canadian Needs

The Tribunal notes that "old generation" products, such as cotton fabrics or disposable textiles, are being replaced by reusable water-repellent and waterproof fabrics that offer medical staff and patients better security against infectious diseases. Canadian manufacturers have invested heavily in the research, development and manufacture of "new generation" products to meet the needs of the health care industry. The market for these "new generation" products, which will be evolving for some time to come, is presently supplied by Canadian manufacturers, and their share of this market is expected to further increase with the recent availability of "Stedair 3."

Having determined that there are price-competitive, domestically produced substitutes available to meet the current needs of the health care industry, the Tribunal considered the costs and benefits of granting the tariff relief on importations of the subject fabric.

The primary direct benefits of granting the tariff relief, based on historical and projected levels of imports of the subject fabric provided by Healtex, are estimated at between $50,000 and $100,000 per annum. A secondary, or indirect, benefit to Healtex could be an increase in its share of the domestic market

for surgical gowns and drapes. Healtex would benefit, as increased sales volume would lead to economies of scale which would result in lower production costs and, potentially, increased profits to Healtex or lower prices for its customers.

The Tribunal is of the view that granting the tariff relief would adversely affect the business of textile producers that are supplying Canadian laminators or manufacturers of surgical gowns and drapes with either one-layer fabrics or tricots for the inner or outer layers of composite fabrics. The Tribunal agrees with the Canadian textile industry that Canadian companies currently participating in the competition have invested heavily in its growth potential and that providing duty-free entry for foreign competing fabrics could undermine the work that they have done to date and their future plans. Placing domestically produced fabrics at a disadvantage vis-à-vis foreign fabrics at this point in time could destroy the ability of Canadian companies to pursue opportunities and make it impossible for them to recover the investments of money and effort already expended.

The investment cost incurred by Consoltex alone in developing a competitive fabric far exceeds the benefits that would accrue to Healtex if the tariff relief were granted. Consequently, the Tribunal concludes that granting the tariff relief would harm Canadian producers considerably more than it would help Healtex.

Therefore, for all the above reasons, the Tribunal believes that the appropriate recommendation under these circumstances is not to grant tariff relief on importations of the subject fabric.

RECOMMENDATION

In view of the above information and evidence before the Tribunal in this matter, the Tribunal hereby recommends to the Minister that tariff relief on importations of the subject fabric not be granted.

Anthony T. Eyton
Anthony T. Eyton
Presiding Member

Desmond Hallissey
Desmond Hallissey
Member

Lise Bergeron
Lise Bergeron
Member