



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
ACTON INTERNATIONAL INC.
REGARDING
WOVEN FABRIC OF
HIGH TENACITY YARNS**

FEBRUARY 27, 1997

ACTON INTERNATIONAL INC.

REQUEST NO.: TR-96-004

Tribunal Members: Anthony T. Eyton, Presiding Member
Robert C. Coates, Q.C., Member
Desmond Hallissey, Member

Research Director: Réal Roy

Research Manager: Anis Mahli

Counsel for the Tribunal: David M. Attwater

Registration and
Distribution Officer: Claudette Friesen

Address all communications to:

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

INTRODUCTION

On 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, the Tribunal received, on June 10, 1996, a request from Acton International Inc. (Acton) of Acton Vale, Quebec, for the permanent removal of the customs duty on importations of a woven fabric of high tenacity yarns for use as a stabilizing/reinforcing fabric in the manufacture of unvulcanized, calendered rubber, used in the production of snowmobile track and industrial track (the subject fabric).

On October 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 October 26, 1996, edition of the *Canada Gazette*, Part I.³

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 firms identified as potential importers and users of 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 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, Acton and firms that responded to the Tribunal's questionnaires, was provided to the parties that had filed notices of appearance for this investigation. These parties are Acton, Barrday, Inc. (Barrday) 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 fabric was defined as a woven fabric, coated or impregnated with styrene-butadiene rubber, styrene rubber⁴ or butadiene rubber, of high tenacity yarns solely of nylon filaments or of high tenacity yarns of polyester filaments and nylon filaments, weighing less than 1,000 g/m², for use as a stabilizing/reinforcing fabric in the manufacture of unvulcanized, calendered rubber, used in the production of snowmobile track and industrial track.

1. On March 20 and July 24, 1966, the Minister revised the terms of reference.

2. R.S.C. 1985, c. 47 (4th Supp.).

3. Vol. 130, No. 43 at 3063.

4. Subsequent to the commencement of the investigation, on the recommendation of the Revenue Canada laboratory chemist, Acton agreed to delete the phrase "styrene rubber" because its inclusion in the product definition was not germane to the subject fabric.

Revenue Canada analyzed the samples of the subject fabric provided by Acton and concluded that, on the basis of the laboratory analysis, it was a woven fabric, coated or impregnated with styrene-butadiene rubber, made of high tenacity yarns solely of nylon filaments or of high tenacity yarns of polyester filaments and nylon filaments, and that, for customs purposes, the subject fabric is classified under tariff item No. 5906.99.20 of Schedule I to the *Customs Tariff*.⁵

Under tariff item No. 5906.99.20, the subject fabric is dutiable in 1997 at 17.5 percent *ad valorem* under the MFN tariff; at 11.0 percent *ad valorem* under the GPT; at 2.5 percent *ad valorem* under the US tariff; and at 9.9 percent *ad valorem* under the Mexico tariff.

In 1995, total imports of woven fabrics made of high tenacity yarns by weight of rubberized textile fabrics, which are classified under tariff item No. 5906.99.20, were reported by Statistics Canada to have amounted to 3.6 million kg, with an estimated value of \$25.3 million. Because the major proportion of this volume was imported for the manufacture of other than snowmobile track and industrial track, Acton's share of this total volume was negligible. The majority of these imports originated in Europe and the United States.

REPRESENTATIONS

Users of the Subject Fabric

Acton coats the subject fabric exclusively for Camoplast Rockland, Ltd. (Camoplast) for incorporation into industrial track and snowmobile track manufactured in Plattsburgh, New York. Acton also manufactures rubber boots, shoes and bottoming materials (i.e. soles).

Acton submits that, until the end of 1992, it purchased its requirements of fabric from the Dominion Textiles Inc. plant in Drummondville, Quebec. However, after this plant relocated to the United States in 1993, Acton was unable to source the fabric domestically, even from producers of industrial high tenacity fabrics, such as Goodyear Canada Inc. and Firestone Textiles Co., a Div. of Bridgestone/Firestone Canada Inc.

In response to submissions by other parties, Acton claims that, based on the information in the case files, Barrday has not demonstrated to the Tribunal that it can supply a substitutable fabric of good and consistent quality at competitive prices. Acton adds that Barrday produces only a fabric woven of nylon filaments, while the subject fabric is woven of nylon filaments or of polyester filaments and nylon filaments.

Acton submits that, although tariff relief would improve its market share and competitiveness at home and abroad, it would not offset its 1996 monetary losses which resulted from the restrictions on duty drawbacks as a result of the *North American Free Trade Agreement*⁶ implemented on January 1, 1996. Acton further submits that the subject fabric, which benefited from full duty relief in 1995, did not benefit from any duty relief in 1996.

Finally, Acton points out that, unless the Tribunal recommends tariff relief retroactive to January 1, 1996, Acton will not recoup its 1996 monetary losses.

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

6. Done at Ottawa, Ontario, on 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).

Soucy International Inc. (Soucy) submits that it uses the subject fabric in the production of low- and high-performance snowmobile track at its manufacturing facility in Drummondville. Soucy adds that, of about 150,000 snowmobile tracks produced for the Canadian market, about two thirds is produced by Camoplast and the balance is produced by Soucy. Soucy indicates that it sources most of its fabric requirements from the United States and Europe.

Soucy states that, during 1993 and 1994, subsequent to the closure of the Dominion Textiles Inc. plant in Drummondville in 1993, it tested a substitutable fabric woven of high tenacity yarns solely of nylon filaments produced domestically by Barrday. Soucy states that, because of elongation, shrinkage and peeling problems, it eventually stopped testing the substitutable fabric and began to purchase its fabric requirements from offshore suppliers. Soucy adds that, although it did not buy any fabric from Barrday in 1995, it retested Barrday's fabric in 1996 and was generally pleased with the test results.

Soucy submits that, although it was satisfied with the preliminary test results obtained in 1996, to switch sourcing its requirements of fabric of nylon filaments from offshore sources to Barrday, Barrday would have to supply a substitutable fabric of good and consistent quality at competitive prices. Soucy further submits that, for the company to remain competitive with domestic and offshore suppliers of snowmobile track, it must be able to buy a reliable fabric with a long-standing reputation at competitive prices.

Finally, Soucy supports Acton's request for tariff relief on imports for the subject fabric.

Domestic Textile Producer

Barrday manufactures specialty industrial and textile-based finished products at its plant in Cambridge, Ontario. These include protective products, filtration products, recreational products and industrial products. According to production data submitted by Barrday, as a ratio of total plant production, the production of the substitutable fabric accounted for a negligible amount.

Barrday submits that, on March 15, 1993, it approached Camoplast to determine if it would be interested in establishing a business relationship between the two companies. Barrday further submits that, because Camoplast insisted on having Barrday sign an exclusive confidentiality agreement, Barrday decided instead to work with Soucy.

Barrday opposes Acton's request for tariff relief because it states that Barrday is able to weave and presently weaves a substitutable fabric at the Cambridge facility with yarns spun in Canada and has the fabric treated in the United States. Barrday adds that it is well capitalized and, accordingly, to expand capacity, additional equipment could be readily purchased, if necessary. Barrday concludes that, with its existing equipment, it would be able to supply a major proportion of the users' current demand.

Finally, Barrday asks the Tribunal to turn down Acton's request for tariff relief because the removal of duty on imports of the subject fabric will hurt Barrday.

The CTI

The CTI, which represents the major proportion of domestic textile producers, although not Barrday, does not oppose Acton's request for tariff relief.

ANALYSIS

The terms of reference direct the Tribunal to evaluate the economic impact that reducing or removing a tariff would have on domestic textile producers and downstream producers and, in so doing, to consider all relevant factors, such as the substitutability of the subject fabric with a domestic fabric, the ability of domestic fabric producers to serve the Canadian downstream industries and the competitiveness at home and abroad of those downstream industries. 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.

Barrday is the only domestic textile producer that opposed the request for tariff relief on the subject fabric on the grounds that it presently weaves a substitutable fabric in its Canadian facility with yarns made in Canada. The Tribunal notes that, during the first quarter of 1996, Soucy tested a small volume of Barrday's fabric and, while it was generally pleased with test results,⁷ the production volume was nonetheless negligible, and the price at which Barrday sold its fabric was still in contention. Because Barrday's selling price of the substitutable fabric sold to Soucy for testing was markedly higher than that of the subject fabric, Soucy indicated that it would switch from sourcing its fabric requirements from offshore sources to domestic sources only if Barrday offered its fabric at a competitive price.

Based on the information that Barrday has provided on its production, total sales and sales volumes and values to major accounts of the allegedly substitutable fabric for the 1995-1996 period, the Tribunal is not persuaded that the substitutable fabric which Barrday produces is currently acceptable by producers of reinforced fabrics used in the production of snowmobile track and industrial track.

The absence of concrete evidence of sales of the substitutable fabric by Barrday suggests that, notwithstanding Barrday's claim that it produces a substitutable fabric, that fabric has failed to gain acceptance in the segment of the market for snowmobile track and industrial track. In the absence of such sales, it is difficult to consider that the removal of the duty on imports of the subject fabric would impose a cost on Barrday. It is apparently not selling this fabric now and has few prospects for the near future.

Barrday has not demonstrated that it is, or will become, an active supplier of a fabric identical to or substitutable for the subject fabric in the end-use market specified in the request for tariff relief. Furthermore, Barrday did not provide any concrete evidence that would quantify the extent of its costs or losses, should tariff relief be granted. Barrday did, however, provide unsubstantiated assertions that the removal of the duty on the subject fabric would hurt it.

In assessing the net economic gains for Canada, the Tribunal notes that granting tariff relief will provide Acton and Soucy with significant benefits as a result of lower costs of production (the duty savings were estimated at over \$450,000 in 1997). The duty relief should offset some of the losses incurred by both Acton and Soucy from the discontinuation of duty remissions. The savings should also assist users of the subject fabric and the manufacturers of snowmobile track and industrial track to remain competitive with offshore imports by offering competitive prices to Canadian snowmobile manufacturers. These competitive input costs should, in turn, make Canadian snowmobiles and industrial machinery very attractive in overseas markets.

7. According to Soucy, small modifications to the fabric were requested.

Because the removal of the tariff provides significant benefits to Acton, Soucy and manufacturers of snowmobile track and industrial track without any tangible costs to the domestic industry, the Tribunal believes that tariff relief will provide net economic gains for Canada. Therefore, the Tribunal recommends that tariff relief be granted.

If this tariff relief is granted and if, at a future date, Barrday succeeds in obtaining market acceptance for its fabric, it may then wish to request the commencement of an investigation under subparagraph 19(1) of the Textile Reference Guidelines for the purpose of recommending an amendment of the order of the Governor in Council providing tariff relief. However, in order to ensure a degree of purchasing and financial stability for Acton and Soucy or any other producers that want to use the subject fabric, the Tribunal recommends that the tariff relief be granted for an indeterminate period of time.

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 of woven fabric, coated or impregnated with styrene-butadiene rubber or butadiene rubber, of high tenacity yarns solely of nylon filaments or of high tenacity yarns of polyester filaments and nylon filaments, weighing less than 1,000 g/m² of tariff item No. 5906.99.20, for use as a stabilizing/reinforcing fabric in the manufacture of unvulcanized, calendered rubber, used in the production of snowmobile track and industrial track, be removed for an indeterminate period of time.

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

Robert C. Coates, Q.C.

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Member

Desmond Hallissey

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Member