



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
BUCKEYE INDUSTRIES
REGARDING
CERTAIN DYED WOVEN FABRICS**

DECEMBER 19, 1996

BUCKEYE INDUSTRIES

REQUEST NO.: TR-95-063

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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.

On January 3, 1996, the Tribunal received a request from Buckeye Industries (Buckeye) for the permanent removal of the customs duty on importations, from the United States, of three polyester/cotton fabrics (the subject fabrics) produced by the Graniteville Company of Warrentonville, South Carolina. Buckeye also requested a drawback of duties paid on imports of the subject fabrics since 1992, the year in which identical or substitutable fabrics became unavailable from domestic production.

On July 3, 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 July 13, 1996, edition of the *Canada Gazette*, Part I.³

As part of the investigation, the Tribunal's research staff sent questionnaires to potential users and importers 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 concerning the subject fabrics.

A staff investigation report, summarizing the information received from these government departments, Buckeye and other respondents to the Tribunal's questionnaires, was provided to Buckeye, the Canadian Textiles Institute (CTI) and Montreal Fast Print Ltd.

A public hearing was not held for this investigation.

PRODUCT INFORMATION

To facilitate the administration of the requested tariff relief, if granted, Revenue Canada suggested, and Buckeye accepted, a generic description of the subject fabrics. Revenue Canada confirmed that the subject fabrics are currently classified under classification No. 5514.22.00.10 of Schedule I to the *Customs Tariff*.⁴ Revenue Canada also suggested that, should a favourable recommendation be made, this description be used in a new tariff code to distinguish the subject fabrics from other fabrics classified under the same tariff item. Revenue Canada's suggested description is:

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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. 28 at 1913.
 4. R.S.C. 1985, c. 41 (3rd Supp.).

Woven fabric, dyed, 3-thread or 4-thread twill, containing not less than 63 percent polyester staple fibres and not less than 35 percent cotton, weighing not less than 165 g/m² and not more than 290 g/m² for use in the manufacture of work shirts and work trousers.

Currently, Buckeye imports three different fabrics that meet this description: Super Equestrian Shirting, used to make a durable, perma pressed work shirt; Equestrian Twill, a heavier fabric used to manufacture perma pressed work trousers; and Yankee Twill, used to make rugged work trousers.

Fabrics classified under classification No. 5514.22.00.10 are dutiable at 19.0 percent *ad valorem* under the MFN tariff; 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. By comparison, fabrics imported into the United States from MFN countries are dutiable at 16.6 percent, from Canada at 3.4 percent and from Mexico at 8.4 percent.

According to Statistics Canada, in 1995, fabrics imported under classification No. 5514.22.00.10 had a value for duty of about \$11.7 million. Nearly the same total value for duty was reported by the importers that responded to the Tribunal's questionnaire, indicating a virtually complete coverage of imports.

REPRESENTATIONS

Buckeye

Buckeye has been manufacturing work clothes in Canada since 1912. Its plant is located in Hanover, Ontario, and its sales, distribution and administration offices are located in Toronto, Ontario. It supplies work shirts and work trousers to major department stores and other retailers throughout Canada.

Before 1992, Buckeye manufactured its work clothes using Ft. Yukon and Ft. George brand fabrics made in Canada by Dominion Textile Inc. (Dominion Textile). Ft. Yukon fabric was used to produce shirts, while the heavier Ft. George fabric was used to make trousers. In 1992, Dominion Textile ceased production of these fabrics, and Buckeye, unable to find another domestic supplier of these fabrics, ultimately turned to the United States for replacement fabrics. However, the added expenses of currency exchange, transportation and import duties substantially increased the cost of goods manufactured at Buckeye's Hanover plant, which, in turn, had a negative impact on Buckeye's ability to compete in the domestic market.

In order to become more competitive, Buckeye requested tariff relief on its imports of the subject fabrics from the United States. As well, Buckeye requested a drawback of duties paid on imports of the subject fabrics since 1992. Should these requests be granted, Buckeye expects to be able to price domestically produced work shirts and work trousers competitively with those imported into Canada from countries such as the People's Republic of China (China), Taiwan, Bangladesh and other low-wage countries in South and Central America.

Should the requested tariff relief permit Buckeye to regain some market share, the firm expects that this will enable it to continue to provide full employment at its Hanover plant. Furthermore, although there

are no plans for major investments in the plant at this time, sustained increased sales will demand such investments.

Users

Richlu Sportswear, Division of Winnipeg Pants & Sportswear Mfg. Ltd. (Richlu), of Winnipeg, Manitoba, supports Buckeye's request for tariff relief on the grounds that it, too, began importing the subject fabrics from the United States when Dominion Textile stopped producing identical or substitutable fabrics. Richlu requested that the scope of the investigation be expanded to include greige fabrics, as well as fabrics made from a blend of 50 percent polyester and 50 percent cotton.

With respect to end products, Richlu noted that it manufactures matched-set jackets to complement the work shirts and work trousers produced by Buckeye. Since these goods must exactly match Buckeye's work clothes, Richlu also requested that the scope of the investigation be expanded to include jackets, parkas, vests, coveralls and overalls.

Louis Hébert Uniforme inc. (Louis Hébert), of Laval, Quebec, like the other domestic users of the subject fabrics, began sourcing from the United States in 1992, when domestic production ceased. However, requirements for minimum order quantities, long delivery times, brokerage fees, warehousing, currency exchange and import duties increased the price of the subject fabrics to such an extent that it is becoming difficult for Louis Hébert to compete with finished goods produced in the United States or imported from China and Pakistan.

Despite these extra costs, Louis Hébert has not yet imported any finished work trousers or work shirts. However, in order to remain competitive and to lower its costs, it is looking at the feasibility of importing finished goods from China, Pakistan, Cuba and other countries.

Louis Hébert believes that tariff relief will facilitate domestic production and provide for fair competition and seeks the removal of duties on imports of the subject fabrics from the United States from January 1, 1995, to January 1, 1998. Like Buckeye, it would also like a drawback of duties paid between September 1992 and January 1, 1995.

In Louis Hébert's opinion, tariff relief on the subject fabrics would enable it to increase its domestic production and permit it to compete with those firms that are importing more product than they produce domestically. The expected reduced costs and improved working capital resulting from tariff relief, if granted, would also place Louis Hébert in a better position to compete in other Canadian and export markets.

Canadian Uniform Limited (Canadian Uniform), of Toronto, Ontario, was formed by the amalgamation of three smaller work-wear manufacturers in 1964. It manufactures and distributes a wide range of work clothing and workplace textiles, including work shirts, trousers, coveralls, shop coats, dresses and smocks. Canadian Uniform sells primarily to the industrial laundry trade, with a small volume of sales to end users and to the retail trade.

Canadian Uniform manufactures its goods at a plant in Hawkesbury, Ontario, where it employs 90 people. It also uses a number of contractors across the country that employ about 360 people. Like Buckeye, it purchased identical or substitutable fabrics exclusively from Dominion Textile until it ceased production of those fabrics in 1992. In fact, even prior to Dominion Textile closing its operation, Canadian Uniform was purchasing, from the United States, wider fabrics which provided it with greater production efficiencies, since Dominion Textile could not or would not produce such fabrics.

Currently, Canadian Uniform purchases all its fabrics, with the exception of pocketing, from the United States, but is of the opinion that fabrics sourced in Asia, which benefits from both low fabric costs and very low labour rates, could offer domestic producers an even greater competitive advantage against US manufacturers of finished work-wear. On these grounds, Canadian Uniform requested that tariff relief be granted on the subject fabrics imported from MFN countries. Canadian Uniform feels that, if the duty is removed on the subject fabrics from MFN sources, while retaining it on finished garments, higher labour rates in Canada would be offset by the lower cost of the subject fabrics, thereby increasing the competitiveness of Canadian-produced goods while, at the same time, reducing the threat of competition from US NAFTA-qualifying goods, especially those benefiting from access to 807/807A programs.

Canadian Uniform suggested that the end use in the fabric description be expanded from “work shirts and work trousers” to “work clothing,” since the subject fabrics can also be used for shop coats, chef coats, counter coats, butcher coats, lab coats, coveralls, overalls and the like. Similarly, Canadian Uniform requested that, should tariff relief be granted, it should be on all fabrics imported under classification No. 5514.22.00.10.

According to Canadian Uniform’s submission, the major threat to the domestic industry comes from the importation of finished garments from both the United States and Asia. When tariffs on garments from the United States are removed in two years, higher labour costs in Canada will reduce the domestic industry’s ability to compete, especially when the US industry has the added advantage of lowering its costs through outward-processing 807/807A programs.

Canadian Uniform anticipated that, if tariff relief is granted on imports from all MFN countries, it could reduce its overall production costs by importing from those countries, thereby making its coveralls competitive with those produced in Asia. Tariff relief would also allow it to increase its employment and decrease its inventories, which would further decrease costs and increase service.

Anchor Textiles (Anchor), of Toronto, is the manufacturing division of Work Wear Corporation of Canada Ltd., which is primarily in the business of renting industrial clothing. Currently, Anchor imports the subject fabrics in a variety of dyed colours and converts them into finished coats, pants, jumpsuits, coveralls and other industrial apparel, which it has been producing since 1962. Anchor agrees with Buckeye’s position that identical or substitutable fabrics are not available in Canada and, therefore, does not oppose the request.

Anchor submits that, in order for a fabric to be substitutable for the subject fabrics, it must be a blend of 65 percent polyester and 35 percent cotton and be pre-shrunk and vat-dyed with consistent shading. Shrink resistance and consistent shading are extremely important factors to Anchor’s customers. Although it

submits that Montreal Fast Print Ltd. has shown some interest in supplying it with a substitutable fabric, it is still unable to furnish a fabric with the desired qualities in the quantities required.

Pro Safety Accessories Inc. (Pro Safety), of Brampton, Ontario, has been manufacturing shirts, trousers, coveralls and carriers to supply military demand and protective clothing for the logging industry since 1983. It currently purchases the subject fabrics from Buckeye. From 1992 to 1995, Pro Safety purchased the subject fabrics from the Graniteville Company in the United States. Before 1992, Pro Safety purchased all its fabric requirements from Dominion Textile. Like the other users and importers, it submits that identical or substitutable fabrics are not available from domestic production and supports Buckeye's request because tariff relief would result in lower prices for Pro Safety. It does not support Buckeye's request for retroactive relief insofar as, in the opinion of Pro Safety, all refunds would remain with Buckeye and would not be passed on to its customers.

Pro Safety has discussed purchasing fabrics from Doubletex Inc. (Doubletex), but Doubletex does not have a substitutable fabric and cannot predict when it will have one. Apparently, Doubletex has indicated that it is addressing the problem but, to date, the only fabrics that it is able to supply are lightweight roll goods, without the special finishes. Pro Safety purchases approximately 25,000 linear metres of fabric each year and indicates that, if the duty were removed, it would result in a cost saving of approximately \$5,000. According to Pro Safety's submission, this saving would have little impact on its employment, production and investment efforts.

Importers

J.P. Hammill & Son Limited (Hammill), of Guelph, Ontario, supports Buckeye's request because identical or substitutable fabrics have not been available in Canada since 1992. According to the submission, an acceptable substitutable fabric must be of consistent greige form and woven to the specifications outlined in Buckeye's request. Hammill also suggests that, to be acceptable, the weaving and finishing operations should be done by the same supplier. This would permit a continuous finishing procedure and provide the best shade casting in large production runs.

The submission also suggests that batch finishing or semi-continuous finishing is not acceptable because the dyes must be of a vat type that will withstand vigorous home and industrial washes and remain colourfast. According to the submission, these features are readily available from mills in the United States, but are not currently available from any Canadian mill.

According to Hammill, it attempted to have identical or substitutable fabrics produced domestically, but the attempts proved unsuccessful. No domestic supplier had a consistent supply of suitable competitively priced greige fabrics, and domestic batch dyeing left unacceptable shading differences between lots. Hammill added that none of the domestic firms was able to provide a trouser weight fabric. Similarly, Hammill recently attempted to source domestically a lightweight shirting fabric with a poplin weave, but no firm has been able to supply an acceptable vat-dyed fabric.

Codet Inc. (Codet), of Coaticook, Quebec, indicated that it initially purchased identical or substitutable fabrics from Dominion Textile. When that source closed, it was unable to find a domestic mill that could provide it with the quantity of industrial strength fabric necessary for its production and turned to the United States for supply. According to Codet's submission, tariff relief would make it more competitive with finished goods from the United States and Asia.

Baker Textiles Inc., of Montréal, Quebec, is an importer of the subject fabrics. It submits that identical or substitutable fabrics are not produced in Canada, and it supports Buckeye's request for tariff relief as long as such relief is not available only to Buckeye. It notes that it imports the subject fabrics and resells them to manufacturers like Buckeye and that it should, therefore, be entitled to the same relief as Buckeye, in order to stay competitive.

Domestic Textile Producers

The **CTI** indicates that, with Buckeye, it has developed the wording for a fabric description that would both satisfy Buckeye's request and be acceptable to the CTI and its members, thereby facilitating the processing of the matter for all parties. A key issue, upon which both parties have already agreed, is that Buckeye seek tariff relief only in respect of certain fabrics originating in the United States. This issue, according to the CTI, is of considerable importance because Canadian producers are concerned that duties should not be removed on the subject fabrics originating in any other country. As well, the CTI notes that the end-use provision as described in the notice of commencement of investigation, i.e. for use in the manufacture of work shirts and work trousers, is not administrable in its present form and should be described more precisely. Instead, the CTI suggests that the end use be specific to men's shirts and men's trousers.

With respect to the issue of whether the Tribunal should consider recommending tariff relief on imports of the subject fabrics from all MFN sources, the CTI submits that Buckeye's request was only with respect to imports from the United States and that Buckeye does not call upon the Tribunal to consider tariff relief on imports from MFN countries. The CTI submits that the Tribunal is free, under the terms of reference, to recommend tariff relief in respect of the United States only and that the Governor in Council has the power to implement such a recommendation.

Consoltex Inc. (Consoltex), of Ville Saint-Laurent, Quebec, makes seven fabrics (four twills and three plain weaves) that it sells primarily for use in the manufacture of uniforms. It also produces four fabrics that it sells as part of its regular product line which are not restricted to use in the manufacture of uniforms. Consoltex submits that its position regarding tariff relief on the subject fabrics depends entirely on the countries covered if tariff relief is granted. Consoltex does not oppose Buckeye's request if tariff relief is granted only on imports from the United States, since the subject fabrics will enter duty free on January 1, 1998, under the provisions of NAFTA. However, Consoltex opposes the request if tariff relief is granted on imports of the subject fabrics from any other country because it does produce and sell polyester/cotton fabrics, and other fabrics, which compete directly with the subject fabrics in the uniform trade. The provision of tariff relief on the subject fabrics from countries other than the United States, Consoltex argued, would injure its sales of identical or substitutable fabrics.

Other Parties

The **Department of Foreign Affairs and International Trade** informed the Tribunal that Canada maintains quota restraints on imports of polyester/cotton fabrics from China, Hong Kong, the Republic of Korea and Taiwan. The majority of imports of the subject fabrics from these countries are from China, which used only slightly more than one half of the quota level in 1995.

Revenue Canada confirmed that there would not be any extra costs to administer tariff relief on the subject fabrics, using its suggested wording. However, should tensile strength, tearing strength, shrinkage, smoothness, abrasion resistance, seam slippage and pilling resistance be used, there would be an added cost of \$900 for each importation to cover the cost of the extra tests required for each type of fabric.

ANALYSIS

The terms of reference direct the Tribunal to assess 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 instance, the Tribunal's decision was assisted by an agreement reached between Buckeye and the CTI on a mutually acceptable description of the subject fabrics and the restriction that tariff relief apply to fabrics of US origin.

In its request, Buckeye submitted that, until 1992, it purchased identical or substitutable fabrics from Dominion Textile. When Dominion Textile stopped manufacturing the fabrics in 1992, Buckeye sought, but was unable to find, another domestic supplier. As a result, it commenced purchasing the subject fabrics from a supplier in the United States, as did all of the users and importers of the subject fabrics that responded to the Tribunal's questionnaires. Although there is some indication in the evidence that small quantities of identical or substitutable fabrics might be available domestically through firms such as Consoltex, Doubletex and Montreal Fast Print Ltd., all users and importers that responded to the Tribunal's questionnaires submitted that, when Dominion Textile ceased producing identical or substitutable fabrics, they found themselves unable to find domestic sources that could supply the quality and quantity of fabric that they required and, out of necessity, had to import the subject fabrics from the United States.

The Tribunal notes that Consoltex was the only domestic supplier of an allegedly identical or substitutable fabric to provide comment on Buckeye's request. Consoltex does not oppose Buckeye's request as long as the Tribunal's recommendation for tariff relief applies solely to imports of the subject fabrics from the United States.

In summary, there is no evidence on the record that any domestic fabric producer or converter has produced or offered a fabric comparable in quality to the US-sourced subject fabrics in the volumes required by the domestic users since Dominion Textile left the business in 1992.

Accordingly, the Tribunal determines that the net economic benefit that would result from the requested tariff relief would amount to the value of duties which, but for the tariff relief, would have been collected on imports of the subject fabrics from the United States. Duties on imports of the subject fabrics are projected to be \$290,000 in 1997 and zero on January 1, 1998, when duties payable on imports of fabrics from the United States are removed completely.

Given the apparent absence of domestic production of identical or substitutable fabrics, the Tribunal is of the opinion that tariff relief would not result in a cost to the domestic fabric manufacturers. Similarly, the Tribunal is of the opinion that tariff relief on the subject fabrics will aid all manufacturers of the finished garments in competing with imports of the finished garments from countries where lower labour and input costs predominate.

After the Tribunal issued its notice of commencement of investigation, a number of parties requested that the scope of the investigation be expanded to cover fabrics and end uses not contemplated by the Tribunal's notice of commencement of investigation. Moreover, certain parties requested that the Tribunal consider recommending tariff relief on imports from MFN countries instead of only on imports from the United States. The Tribunal decided not to expand the scope of the investigation. In reaching this decision, the Tribunal considered the fact that its notice of commencement of investigation specified precisely the type of fabric and the end use for which Buckeye had sought relief. The notice also indicated that Buckeye had requested tariff relief only in respect of US fabrics.

In the Tribunal's view, expanding the scope of the investigation substantially, after issuing its notice of commencement of investigation, would be unfair to and could prejudice persons who, on the basis of the notice, elected not to participate in the investigation on the understanding that they did not have an "interest." Given the fragmented and specialized nature of the fabric and garment industries, it is likely that there are parties that would have intervened in this investigation, had the notice of commencement of investigation included the additional fabrics, end uses and sources of fabrics which interested parties requested the Tribunal to consider.

Of course, any party wishing to obtain tariff relief on fabrics not covered by this report may file a properly documented request.

With respect to Buckeye's request for retroactive tariff relief, the Tribunal does not believe that there are extraordinary competitive circumstances in the domestic market that would warrant such a recommendation. However, the Tribunal is recommending to the Minister that the implementation of this recommendation be effective as of the date of this report.

RECOMMENDATION

In view of the above information and evidence before the Tribunal in this matter, the Tribunal hereby recommends to the Minister that the customs duty on the following fabrics originating in and imported from the United States be removed for an indeterminate period of time:

- (1) Dyed, 3-thread or 4-thread twill weave fabrics, of tariff item No. 5513.22.00 or 5514.22.00, containing 65 percent by weight of polyester staple fibres and 35 percent by weight of cotton, having in the warp 415 yarns or more per 10 cm and in the weft 240 yarns or more per 10 cm, of a weight of 160 g/m² or more, but not exceeding 190 g/m², for use in the manufacture of men's shirts; and
- (2) Dyed, 3-thread or 4-thread twill weave fabrics, of tariff item No. 5514.22.00, containing 65 percent by weight of polyester staple fibres and 35 percent by weight of cotton, having in the warp 425 yarns or more per 10 cm and in the weft 165 yarns or more per 10 cm, of a weight of 260 g/m² or more, but not exceeding 290 g/m², for use in the manufacture of men's trousers.

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

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Desmond Hallissey

Desmond Hallissey
Member

Lyle M. Russell

Lyle M. Russell
Member