



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
ALPINE JOE SPORTSWEAR LTD.
REGARDING
CERTAIN 4-THREAD TWILL FABRICS**

MARCH 27, 1997

ALPINE JOE SPORTSWEAR LTD.

REQUEST NO.: TR-96-006

Tribunal Members: Raynald Guay, Presiding Member
Robert C. Coates, Q.C., Member
Desmond Hallissey, 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 September 17, 1996, the Tribunal received a request from Alpine Joe Sportswear Ltd. (Alpine Joe) of Vancouver, British Columbia, for the removal, for an indeterminate period of time, of the customs duty on importations of certain 4-thread twill fabrics for use in the manufacture of pants and shorts (the subject fabrics).

On December 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 December 14, 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 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, Alpine Joe 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 Alpine Joe 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 described as 4-thread twill fabrics, dyed, containing 60 percent or more by weight of polyester staple fibres, 30 percent or more by weight of cotton and 5 percent or more by weight of elastomeric monofilaments, weighing less than 300 g/m², of subheading No. 5514.22 of Schedule I to the *Customs Tariff*,⁴ for use in the manufacture of pants and shorts.

Revenue Canada analyzed the samples of the subject fabrics provided by Alpine Joe and concluded that, on the basis of the laboratory analysis, the fabrics are woven in the warp, from 2-ply yarns of a blend of polyester staple fibres and cotton fibres, and in the weft, from yarns composed of a blend of polyester staple

-
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. 50 at 3440.
 4. R.S.C. 1985, c. 41 (3rd Supp.).

fibres and cotton fibres and a polyurethane elastomeric monofilament, and that, for customs purposes, the subject fabrics are classified in subheading No. 5514.22. As such, they are dutiable at 17.5 percent *ad valorem* under the MFN tariff and the GPT; at 2.5 percent *ad valorem* under the US tariff; and at 15.0 percent *ad valorem* under the Mexico tariff.

Subsequent to the commencement of the investigation, in a letter dated February 4, 1997, Mr. Leonard Wall, President of Alpine Joe Sportswear Ltd., asked the Tribunal to narrow the scope of the investigation as follows:

4-thread twill fabrics; dyed, containing 60% or more by weight of polyester staple fibres, 30% or more by weight of cotton and 5% or more by weight of elastomeric monofilaments, having 428 yarns per 10cm in the warp direction (128 dtex per single yarn) and 257 yarns per 10cm in the weft direction (316 dtex per single yarn), weighing less than 300 g/m², of subheading No. 5514.22, for use by Alpine Joe Ltd. in the manufacture of pants and shorts.

In addition, Mr. Wall asked that the annual import volume be restricted to 15,000 linear yards, based on a fabric width of 43 in.

According to Statistics Canada, in 1995, total imports of 3-thread or 4-thread twill, including cross twill, of polyester fibres, by weight, which were classified in subheading No. 5514.22, 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 garments other than pants and shorts, Alpine Joe's share of this total volume was negligible. The majority of these imports originated in the United States, the People's Republic of China, the Republic of Korea and Japan.

REPRESENTATIONS

Users of the Subject Fabrics

Alpine Joe uses the subject fabrics in the manufacture of recreational garments (bicycle uniform shorts, uniform shorts, uniform pants, hiking pants, hiking shorts and bicycle touring shorts) at its own production facility in Vancouver. Alpine Joe submits that it is the sole manufacturer of the specified end products made from the subject fabrics.

Alpine Joe contends that, for over 15 years, it has imported its requirements of the subject fabrics and that, during this period, it has been unable to find a domestic manufacturer that could supply the required fabrics. Alpine Joe further submits that, in 1995, although it approached about 40 Canadian textile manufacturers as possible sources of supply, none of those companies expressed any interest or desire to manufacture substitutable fabrics.

In its revised request for tariff relief, Alpine Joe asks that the tariff relief be restricted to an annual import volume of 15,000 linear yards based on a fabric width of 43 in. Alpine Joe further requests that the tariff relief be retroactive to January 1, 1997, because, to prevent a major garment account from switching to offshore suppliers, it had to quote 1997 prices based on a duty-free price for the subject fabrics. Finally, Alpine Joe proposes that the removal of the duty on the subject fabrics be implemented in the form of a company-specific remission order rather than a tariff code.

Alpine Joe states that tariff relief on the subject fabrics would allow it to reduce prices, increase production and employment, and maintain its competitive position at home and in the US market.

The CTI

The CTI submits that it does not oppose Alpine Joe's request for tariff relief, provided the Tribunal's recommendation to the Minister takes into consideration the restrictions proposed by Alpine Joe in its letter of February 4, 1997.

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 fabrics with domestic substitutable fabrics, the ability of domestic fabric producers to serve Canadian downstream industries and the competitiveness of those downstream industries at home and abroad. Moreover, the Tribunal's decision to recommend tariff relief is to be based on the extent to which it considers that such tariff relief would provide net economic gains for Canada.

In this case, the Tribunal's decision was assisted by an agreement reached between Alpine Joe and the CTI on a mutually acceptable description of the subject fabrics, whereby the tariff relief would apply only to Alpine Joe and to an annual import volume of 15,000 linear yards based on a fabric width of 43 in.

The Tribunal notes that Alpine Joe submitted that there is no domestic production of a fabric identical to or substitutable for the subject fabrics and that no domestic producer alleged that it made an identical or substitutable fabric during the investigation. Alpine Joe further contended that it has imported the subject fabrics for over 15 years and that, during this period, it has been unable to find a domestic fabric manufacturer that could supply the desired fabrics. Indeed, during 1996, Alpine Joe contacted 40 potential domestic suppliers, and none offered to sell it identical or substitutable fabrics.

In assessing the net economic gains for Canada, the Tribunal notes that granting tariff relief will enable Alpine Joe to reduce prices, increase employment and production, and maintain its competitive position in the domestic market and in the US market. The primary benefits of granting the tariff relief, based on the limited volume of imports of the subject fabrics, would exceed \$15,000 annually. The evidence, moreover, indicates that the removal of the customs duty on annual imports by Alpine Joe of 15,000 linear yards of the subject fabrics will not result in any direct or indirect tangible costs accruing to domestic fabric producers, given the absence of domestic suppliers of identical or substitutable fabrics.

Because the removal of the tariff provides benefits to Alpine Joe without any tangible costs to the domestic textile industry, the Tribunal believes that tariff relief will provide net economic gains for Canada. Therefore, the Tribunal recommends that tariff relief be granted, as requested, for an indeterminate period of time.

Alpine Joe requested that the tariff relief be retroactive to January 1, 1997. In determining whether to recommend tariff relief retroactively, the Tribunal will not consider recommending such relief other than in the most exceptional circumstances. The evidence on the record is undisputed that, to maintain one of its major accounts, Alpine Joe had to absorb the duty on the subject fabrics and sell its pants and shorts at prices

that did not include the duty; to do otherwise would have meant losing a significant account and endangering the future of the company. The Tribunal is persuaded that, unless prompt and appropriate action is taken to allow for the refund of the duty already paid, because of its limited size, Alpine Joe will incur financial losses that will adversely affect its viability as a long-term domestic manufacturer of shorts and pants. Therefore, in this case, the Tribunal considers it appropriate to recommend that the tariff relief be retroactive to January 1, 1997.

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 up to 15,000 linear yards (based on a width of 43 in.) per annum, from Japan, of 4-thread twill fabrics, dyed, containing 60 percent or more by weight of polyester staple fibres, 30 percent or more by weight of cotton and 5 percent or more by weight of elastomeric monofilaments, having 428 yarns per 10 cm in the warp direction (128 decitex per single yarn) and 257 yarns per 10 cm in the weft direction (316 decitex per single yarn), weighing less than 300 g/m², of subheading No. 5514.22, for use by Alpine Joe in the manufacture of pants and shorts, be removed for an indeterminate period of time.

The Tribunal further recommends that the tariff relief be retroactive to January 1, 1997.

Raynald Guay
Raynald Guay
Presiding Member

Robert C. Coates, Q.C.
Robert C. Coates, Q.C.
Member

Desmond Hallissey
Desmond Hallissey
Member