



**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
CAMP MATE LIMITED
REGARDING
CERTAIN WOVEN FABRICS OF
NON-TEXTURED NYLON FILAMENT YARNS**

JUNE 10, 1996

CAMP MATE LIMITED

REQUEST NO.: TR-95-051

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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 September 11, 1995, the Tribunal received a request from Camp Mate Limited (Camp Mate) of Scarborough, Ontario, for the permanent removal of the customs duty on importations of woven fabrics, solely of non-textured nylon filament yarns, coated on one side with non-cellular polyurethane, for use in the manufacture of family recreational tents and tent flies (the subject fabrics).

On February 9, 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 February 17, 1996, edition of the *Canada Gazette*, Part I.²

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 and to five major retailers that purchase family recreational tents from Camp Mate. 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, Camp Mate 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 Camp Mate and the Canadian Textiles Institute (CTI).

A public hearing was not held for this investigation.

PRODUCT INFORMATION

Camp Mate describes the subject fabrics as nylon taffeta, of a width of 60 in. and a length of 250 yd., with a thread count of 70 deniers. The subject fabrics are treated with fire and water retardants and an ultraviolet inhibitor. They are used in the manufacture of family recreational tents and tent flies. The subject fabrics may be dyed numerous colors to satisfy consumer preferences.

Camp Mate indicated in its request that the subject fabrics were classified under tariff item No. 5903.20.20 of Schedule I to the *Customs Tariff*.³

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

Revenue Canada analyzed the samples of the subject fabrics and concluded that they are woven fabrics, solely of non-textured nylon filament yarns, coated on one side with non-cellular polyurethane. Revenue Canada confirmed that, for customs purposes, the subject fabrics are classified under tariff item No. 5903.20.20.

Revenue Canada noted that the words “seen with the naked eye” are used to qualify coated fabrics and should be taken to mean that impregnation, coating or covering of the fabric must be directly visible upon simple visual inspection. In the case of the subject fabrics, Revenue Canada stated that the coating could be seen with the naked eye and, therefore, that they could be classified as indicated above. It was further noted that, depending on the fabric, the coating and the thickness of the coating, these types of fabrics could be classified in Chapter 54 (i.e. under tariff item No. 5407.42.00).

Revenue Canada further suggested that, should a favourable recommendation be made, the following description be used to describe the subject fabrics: “Woven fabrics, solely of non-textured nylon filament yarns, coated on one side with non-cellular polyurethane for use in the manufacture of family or recreational tents and tent [flies].”

Under tariff item No. 5903.20.20, the subject fabrics are dutiable at 19.0 percent *ad valorem* under the MFN tariff; at 14.0 percent *ad valorem* under the GPT; at 5.0 percent *ad valorem* under the U.S. tariff; and at 11.5 percent *ad valorem* under the Mexico tariff.

In 1995, total imports of nylon fabrics for use in the manufacture of nylon tents and outerwear, as published by Statistics Canada, classified under tariff item No. 5903.20.20, were reported to have amounted to 649,000 kg, with an estimated value of about \$10 million. Because the major proportion of this volume was imported for the manufacture of outerwear, Camp Mate’s share of this total volume represented less than 5 percent. The majority of these imports originated in the Republic of Korea, Japan, Indonesia and the United States. In the same year, the estimated market for the subject fabrics used in the manufacture of family recreational tents and tent flies consisted only of Camp Mate’s imports.

REPRESENTATIONS

Users of the Subject Fabrics

Camp Mate manufactures family recreational tents (i.e. for four persons and more) and tent flies from the subject fabrics at its two plants in Scarborough. These plants employ over 40 full-time employees. Historically, Camp Mate’s strength has been in the production of high-wall tents. However, because of a continuing shift in consumer preference towards domed tents, Camp Mate has been placed at a distinct disadvantage relative to foreign producers that enjoy lower labour costs and export subsidies. Notwithstanding the continuing pressure from low-priced tents from a number of Asian countries, Camp Mate claims that, with permanent tariff relief, it will become more price-competitive.

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2. Vol. 130, No. 7 at 536.
 3. R.S.C. 1985, c. 41 (3rd Supp.).

Camp Mate stated that, without tariff relief, the ex-quota treatment which has been extended to its imports of the subject fabrics since 1988 would disappear. Without any form of relief, Camp Mate asserted that it would not survive in an extremely competitive business dominated by tents imported from Asia. It was further submitted that, in addition to layoffs of plant employees and significant losses in wages, the federal government would stand to lose revenues collected from corporate and personal income taxes and might have to forego the duty collected on tents imported from Asia because, in the absence of a viable domestic industry, family recreational tents manufactured outside Canada would likely be imported duty-free.

Camp Mate added that, despite its importance in the domestic tent industry, neither one of the domestic producers (Consoltex Inc. [Consoltex] and Doubletex) attempted to contact it or solicit its business. During the past two years, Camp Mate attempted, on two occasions, to contact Consoltex with the intent of sourcing Canadian-made nylon tenting. According to Camp Mate, however, Consoltex was prepared to sell it only nylon fabric imported on its behalf from the Republic of Korea. Although Consoltex has not revealed to Camp Mate the price at which it would be willing to sell its domestically produced fabric, Camp Mate submits that it would result in a price increase which it could not afford to absorb. As well, Camp Mate questions the long-term viability of the offer, especially when Consoltex would be selling the fabric at a loss. Meanwhile, Doubletex quoted a price that was much higher than that for the subject fabrics available to Camp Mate.

Camp Mate contended that, because of their affordable price, the subject fabrics are the preferred material used in imported and domestically produced nylon tents. Camp Mate disagrees with Doubletex that the circumstances pertaining to this case are similar to those in Request No. TR-95-006⁴ which dealt with dyed polyester fabric with a urethane coating. Camp Mate does not use waterproof and fire-retardant polyester fabric because it is much more expensive than nylon fabric.

Camp Mate submits that it competes mainly in the middle price range of the tent market. This strategy allows it to sell to major Canadian retailers that have resolved to carry products that are made in Canada, even though they import most of their tent lines directly from Asia. Camp Mate states that the tent pricing examples used by Consoltex to show that tariff relief is insufficient to protect the former against competition from low-cost imports are not relevant because they apply to tents that compete in the low end of the tent market.

Camp Mate concludes that the granting of tariff relief should not result in any economic hardship for either Consoltex or Doubletex because they have not supplied any nylon fabrics which Camp Mate has been using. According to Camp Mate, if tariff relief were granted, there would be no impact on the domestic textile industry.

Pelion Mountain Products Ltd. (Pelion), which is located in Burnaby, British Columbia, imports and uses the subject fabrics to manufacture tents and tarps. Pelion supports Camp Mate's request for tariff relief on the grounds that the quality of domestically produced nylon fabrics is not suitable for the manufacture of

4. Report to the Minister of Finance: Request for Tariff Relief by Pelion Mountain Products Ltd. Regarding Dyed Polyester Fabric with a Urethane Coating, Canadian International Trade Tribunal, February 16, 1996.

either tents or tarps. It was further submitted that Canadian textile producers are unable to manufacture the required fabrics at competitive prices.

Pelion suggests that, if tariff relief is granted on the subject fabrics, the duty on the greige fabrics should also be removed.

Domestic Textile Producers

Consoltex submits that it is a major producer of fabrics identical to or substitutable for the subject fabrics. In particular, it alleges that its domestically produced fabric, "Amtex," is virtually identical to the subject fabrics. Consoltex weaves a broad and diversified range of fabrics which are sold to the apparel, non-apparel and industrial market sectors.

Consoltex attributes the severe drop in sales of its nylon fabrics to domestic tent manufacturers to the fact that low-priced tents are imported from a number of Asian countries. Consoltex agrees with Camp Mate that the domestic tent industry is in a precarious position as a result of these low-priced imports. However, because of the wide gap between the average selling prices of domestically produced tents and imported tents, Consoltex is of the opinion that tariff relief will not alleviate Camp Mate's difficulties and proposes a different approach to resolving the domestic tent industry's problem. Consoltex offered to sell Camp Mate its "Amtex" fabric at a certain price per metre⁵ for a period of one year, provided Camp Mate undertook to initiate a dumping action against imported nylon tents from three major countries (i.e. China, the Republic of Korea and Vietnam).

Consoltex opposes Camp Mate's request for tariff relief because of the availability, from domestic production, of fabrics substitutable for the subject fabrics and because low prices were Camp Mate's primary motivation for choosing the subject fabrics.

In conclusion, Consoltex stressed that, unless the viability of the domestic tent industry is addressed expeditiously, imported tents will dominate the market, resulting in a loss of business for both Camp Mate and domestic textile suppliers.

Doubletex is Canada's largest, non-integrated fabric converter. Doubletex produces nylon fabrics from greige fabrics imported from around the world.⁶ The majority of its production of coated nylon and coated polyester fabrics is sold to the outerwear trade, while some of these fabrics are used to produce recreational products.

5. Although this price has not been revealed to Camp Mate, it is much higher than that paid by Camp Mate for the subject fabrics.

6. See Report to the Minister of Finance: Request for Tariff Relief by Lingerie Bright Sleepwear (1991) Inc. Regarding Printed Polycotton Woven Fabric, Canadian International Trade Tribunal, Request No. TR-95-005, March 6, 1996.

Doubletex states that the subject fabrics are price-sensitive and that tariff relief will induce its customers to switch to cheaper fabrics and damage its existing business. Doubletex also opposes the request for tariff relief because, it argues, the circumstances⁷ surrounding this request are similar to those in Request No. TR-95-006, which dealt with dyed polyester fabric with a urethane coating and where the Tribunal did not recommend that tariff relief be granted.

In its preliminary submission, the CTI, which represents the majority of Canadian textile manufacturers, opposed the removal of the tariff on imports of the subject fabrics because it would be injurious to the domestic production of nylon fabrics that are used extensively in domestically produced and imported tents. The CTI contends that Camp Mate failed to demonstrate that the duty savings would be sufficient to resolve the acknowledged problem of its competitiveness in the tent market. The CTI further suggests that the Tribunal should not recommend tariff relief if it finds that the difference in delivered-to-retailer prices between tents manufactured by Camp Mate (using the subject fabrics) and identical or similar tents imported from the People's Republic of China is greater than the duty savings as a result of tariff relief on the subject fabrics, because the removal of the tariff will not help tent manufacturers and will jeopardize the domestic textile industry.

The Department of Foreign Affairs and International Trade indicated that Canada maintains quota restraints on the subject fabrics from Poland, the Republic of Korea, Taiwan and Thailand. Moreover, it informed the Tribunal that, in 1988, the Textile and Clothing Board recommended ex-quota treatment on fire-retardant tenting. Since that time, it has extended this treatment to Camp Mate's imports on an annual basis. Ex-quota treatment is only granted in cases where it can be demonstrated that there is an extra charge for using products under quota or where the goods are not otherwise available in Canada. Finally, it indicated that any continuation of the ex-quota exemption on the subject fabrics would henceforth be made in light of the outcome of the request now before the Tribunal.

With respect to Camp Mate's request for tariff relief, the Department of Industry noted that, to its knowledge, there are several Canadian manufacturers of fabrics that are identical to or substitutable for the subject fabrics for use in the manufacture of tents.

ANALYSIS

The Tribunal considered Camp Mate's request for tariff relief as directed in the Minister's terms of reference concerning the economic impact on domestic textile and downstream producers of reducing or removing a tariff. The Tribunal focussed on three issues: (1) the availability of domestically produced fabrics identical to or substitutable for the subject fabrics; (2) a domestic versus import price comparison; and (3) the impact on the domestic industry of granting the tariff relief. In determining whether or not to

7. The following excerpt from the Tribunal's report to the Minister summarizes those circumstances: "tariff relief on the subject fabric generally may well encourage other manufacturers of tarpaulins to switch from nylon to polyester fabric. It is clear from the evidence that price is a major factor in the buying decision for fabrics for use in the production of tarpaulins and that tarpaulins made from coated polyester fabric and those made from coated nylon fabric compete for market share," *supra*, note 4 at 5.

recommend tariff relief, a key consideration for the Tribunal was the extent to which tariff removal would provide net economic gains for Canada.

Two domestic textile producers, Consoltex and Doubletex, opposed the request for tariff relief.

Consoltex claims that it produces a nylon fabric, marketed under the brand name "Amtex," that is virtually identical to the subject fabrics. The Tribunal reviewed Consoltex's sales data and found that, between 1988 and 1994, Consoltex sold its nylon fabric at prices that were significantly higher than the landed, duty-paid price for the subject fabrics, while, in 1995, a negligible quantity was sold at about one third of Consoltex's 1994 average selling price. According to Consoltex, sales of its nylon fabric were made to five tent manufacturers, all competitors of Camp Mate. However, the evidence indicates that all of the nylon fabric purchased by these tent manufacturers during that period was used in the production of outerwear and outdoor recreational products. Notwithstanding Consoltex's claim that its nylon fabric is virtually identical to the subject fabrics, the higher prices which it commanded and Consoltex's inability to sell its nylon fabric to tent manufacturers lead the Tribunal to conclude that the nylon fabric is not substitutable for the subject fabrics and does not compete in the tent segment of the nylon fabric market. In other words, Consoltex has not shown an ability to serve domestic tent manufacturers with nylon fabric.

For its part, Doubletex submits that the removal of the duty will damage its existing business because the subject fabrics are price-sensitive and customers will switch to cheaper fabrics. However, Doubletex has not provided any information on its production and sales to tent manufacturers of allegedly substitutable fabrics, and the Tribunal is unable to conclude that it has demonstrated an ability to serve this particular manufacturing sector with fabrics that are identical to or substitutable for the subject fabrics.

Therefore, the Tribunal does not accept the domestic producers' contention that their nylon fabric businesses will be in jeopardy if the tariff is removed because neither Consoltex nor Doubletex has demonstrated that it is, or will become, active in the supply of identical or substitutable fabrics to the end-use market specified in the request for tariff relief, nor did these producers provide any concrete evidence that would quantify the extent of their costs or losses should tariff relief be granted.

Furthermore, the Tribunal notes that, while Canada has granted, since 1988, ex-quota treatment on Camp Mate's imports of the subject fabrics on an annual basis, it still maintains quota restraints on the subject fabrics from Thailand, the Republic of Korea, Poland and Taiwan, thus providing an element of protection to most of Consoltex's and Doubletex's production of nylon fabrics that compete in the non-tenting segment of the nylon fabric market.

In assessing the net economic gains for Canada, the Tribunal notes that granting tariff relief will provide Camp Mate with significant benefits as a result of lower costs of production (the duty savings were estimated at over \$100,000 in 1995) and higher returns on investment. It will also provide steady employment for a large number of employees and continuing tax revenue for both the federal and provincial governments. The duty savings should provide some relief to a manufacturing sector that is under intense pressure from imports of low-cost tents, thus ensuring the viability of the tent industry.

Because the removal of the tariff provides benefits to Camp Mate without any 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.

Pelion, which supports Camp Mate's request for tariff relief, suggested that it would be unfair to various fabric converters to remove the duty on finished fabrics without removing it on greige fabrics. Although its recommendation for tariff relief is restricted to finished fabrics, the Tribunal recognizes the concerns expressed by Pelion and various Canadian fabric converters relating to the potential creation of a tariff anomaly for imports of otherwise identical greige fabrics. While it has refrained from making any recommendation about tariff relief for those greige fabrics, the Minister, in considering whether to implement the Tribunal's recommendation on finished fabrics, may wish to extend similar relief on imports of greige fabrics.

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, solely of non-textured nylon filament yarns, coated on one side with non-cellular polyurethane, with a thread count of 70 deniers, classified under tariff item Nos. 5903.20.20 and 5407.42.00, for use in the manufacture of family recreational tents and tent flies, be removed for an indeterminate period.

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