

**REPORT TO
THE MINISTER OF FINANCE**

**REQUESTS FOR TARIFF RELIEF BY
HELLY HANSEN CANADA LIMITED
REGARDING
WEFT-KNIT COATED FABRICS**

MARCH 19, 1999

HELLY HANSEN CANADA LIMITED

**REQUEST NOS. : TR-97-015,
TR-97-016 AND TR-97-020**

Tribunal Members: Patricia M. Close, Presiding Member
Raynald Guay, Member
Peter F. Thalheimer, Member

Research Director: Réal Roy

Researcher: Peter Rakowski

Statistician: Julie Charlebois

Counsel for the Tribunal: Gilles B. Legault

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 with respect to those requests to the Minister.

Pursuant to the Minister's reference, on March 6, 1998, the Tribunal received three requests from Helly Hansen Canada Limited (Helly Hansen), of Dartmouth, Nova Scotia. The first request (TR-97-015) asked for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of weft-knit fabric of polyester yarns coated on one side with a non-cellular polyurethane, of tariff item No. 5903.20.29 of the schedule to the *Customs Tariff*,³ for use in the manufacture of apparel. This fabric is known in the trade as Techmaflex PE and is used as the outer shell in hooded, stretch and insulated jackets and pants.

The second request (TR-97-016) asked for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of weft-knit fabric of poly(m-phenylene-isophthalamide) (Nomex) yarns coated on one side with a non-cellular polyurethane, of tariff item No. 5903.20.29, for use in the manufacture of apparel. This fabric is known in the trade as Techmaflex Nomex Z and is used as the outer shell in flame-retardant insulated jackets and pants.

The third request (TR-97-020) asked for the removal, for an indeterminate period of time, of the customs duty on importations from all countries of weft-knit fabric of nylon yarns coated on one side with a non-cellular polyurethane, of tariff item No. 5903.20.29, for use in the manufacture of apparel. This fabric is known in the trade as Techmaflex and is used as the outer shell in Canadian Coast Guard members' jackets and bib pants.

On September 4, 1998, the Tribunal, being satisfied that the requests were properly documented, consolidated the three requests and issued a notice of commencement of investigation which was distributed and published in the September 19, 1998, edition of the *Canada Gazette*, Part I.⁴ In the notice of commencement of investigation, the inputs for which tariff relief was sought are described as "weft-knit fabric[s] of polyester, nylon or poly(m-phenylene-isophthalamide) coated on one side with a non-cellular polyurethane, of tariff item No. 5903.20.29, for use in the manufacture of apparel" (the subject fabrics).

As part of the investigation, the Tribunal's research staff sent questionnaires to potential producers of identical or substitutable fabrics. A questionnaire was also sent to one potential user/importer of the subject fabrics. In addition, the Department of Foreign Affairs and International Trade was asked to provide current information on any quantitative import restrictions on the subject fabrics, and the Department of Industry was informed of the requests and asked to provide any relevant comments. The Department of Finance was also informed of the requests.

-
1. On March 20 and July 24, 1996, and on November 26, 1997, the Minister of Finance revised the terms of reference.
 2. R.S.C. 1985, c. 47 (4th Supp.).
 3. R.S.C. 1985, c. 41 (3rd Supp.).
 4. Vol. 132, No. 38 at 2452-53.

A staff investigation report, summarizing the information received from these departments, Helly Hansen and other interested parties, was provided to those parties that had filed notices of appearance in the investigation.

PRODUCT INFORMATION

The subject fabrics are used as an outer shell for a variety of apparel, including hooded jackets, deluxe jackets, waist and bib pants, stretch jackets and bib pants, insulated jackets and bib pants, and flame-retardant insulated jackets and bib pants. They consist of a substrate, a knitted fabric, that has been coated using a transfer coating process. With transfer coating, a coating of polyurethane or polyvinyl chloride is applied in layers to a paper carrier until the required coating thickness is achieved. At this stage, the product appears as rolls of paper coated with a waterproof membrane. In the second stage, a knitted base fabric and the coated paper are then run through the transfer coating process. The coating layer is then transferred from the paper carrier to the knitted base fabric. Another type of coating process called direct coating is used principally with woven fabrics. Direct coating involves the application of polyvinyl chloride or polyurethane directly to the fabric and is applied in layers to build up the fabric to the required thickness. While there are a variety of woven fabrics and some knitted fabrics that are direct coated in Canada, there is no known domestic production of transfer-coated knitted fabrics.

The Department of National Revenue (Revenue Canada) advised the Tribunal that the subject fabrics are currently classified under tariff item No. 5903.20.29 and are dutiable at 16.0 percent *ad valorem* under the MFN tariff; at 14.0 percent *ad valorem* under the GPT; and at 7.5 percent *ad valorem* under the Mexico tariff and the Chile tariff and are duty free under the US tariff.

REPRESENTATIONS

Requester

Helly Hansen

Helly Hansen is located in Dartmouth and employs more than 100 people. It submitted that it is requesting tariff relief in respect of its imports of the subject fabrics due to the disadvantage that it experiences upon importation. Helly Hansen argued that it pays duty on its purchases of subject fabrics and that it must recover this cost from its customers in the form of a higher price, which may result in a decrease in sales. Helly Hansen also maintained that higher duties result in less competitive finished garments, lower employment levels and upward pressure on prices. Helly Hansen further asserted that, if the subject fabrics entered Canada duty free, it would have the opportunity of increasing its sales to the US market, which would result in an expansion of its plant capacity and an increase in employment in Canada.

Helly Hansen contended that it had exerted considerable effort to determine if substitutable fabrics are available. The company stated that it contacted 14 fabric suppliers to determine if they produced

substitutable fabrics. Helly Hansen alleged that none of these suppliers were able to forward samples of fabrics substitutable for the subject fabrics and that substitutable fabrics were not available in Canada.⁵

In its review of the case material collected by Tribunal staff and submissions by other parties, Helly Hansen made a number of additional points.

Firstly, Helly Hansen argued that subject fabrics are transfer-coated knitted fabrics and that the difference between a woven and a knitted fabric is obvious upon examination. Helly Hansen submitted that transfer coating to a knitted fabric is a unique process that provides lightweight stretchy waterproof garments that are preferred and requested by many end users and that none of the producers of allegedly identical or substitutable fabrics are able to make a transfer-coated knitted fabric. Furthermore, Helly Hansen claimed that even those fabrics which are allegedly substitutable for the subject fabrics do not have the same end use as that of the subject fabrics.

Secondly, in response to the concerns of the domestic industry that the granting of tariff relief would allow a broad range of fabrics to enter Canada duty free, Helly Hansen noted that Revenue Canada has provided suggested wording for the tariff classification which should ensure that this is unlikely to occur.

Thirdly, Helly Hansen claimed that, since filing its requests, it has had further success in promoting its products based on their superior attributes. In particular, it argued that it purchased Techmaflex Nomex Z, which is used in the production of lightweight flexible flame-retardant apparel, because it saw the potential for this type of product. Furthermore, it submitted that it obtained a substantial contract for flame-retardant outerwear made with one of the subject fabrics and that the determining factors were the qualities of its coated knitted fabric compared to those of the current coated woven fabrics available. As proof that domestic producers of allegedly substitutable fabrics could not meet the requirements of this contract, Helly Hansen submitted that no bids were made by any of the garment manufacturers opposing the requests for tariff relief.

Fourthly, Helly Hansen indicated that, if tariff relief were granted, its future sales of apparel made with the subject fabrics would be substantially higher than those indicated in its requests that were filed in early 1998. It also argued that, should tariff relief not be granted, it would put increased pressure on Helly Hansen to compete with manufacturers of imported finished garments produced using lower labour costs and could result in the loss of jobs in Canada.

Finally, in response to allegations that its imports are proprietary and the result of a licensing agreement with its Norwegian parent, Helly Hansen reiterates that transfer-coated knitted fabrics are not produced in Canada, and thus, it cannot source identical or substitutable fabrics domestically. Furthermore, Helly Hansen stated that it is a privately owned Canadian corporation and that, while it has a licensing agreement with Helly Hansen AS in Norway, this agreement is strictly for the use of the Helly Hansen brand name. Helly Hansen added that, under the licensing agreement, it has complete discretion to purchase fabrics from any manufacturer that it chooses and submitted that it purchases several other types of fabrics domestically, including some from Consoltex Inc. (Consoltex).

5. Concurrently with these requests, Helly Hansen filed three other requests (TR-97-017, TR-97-018 and TR-97-019) for different fabrics. However, partly as a result of the Tribunal's process, Helly Hansen was successful in identifying a domestic manufacturer capable of producing identical or substitutable fabrics. Accordingly, Helly Hansen withdrew these requests.

Helly Hansen submitted that it is requesting tariff relief solely to promote the niche market that it is serving, not to deter production from coated woven fabric producers. It concluded that, based on the information in its submissions, the subject fabrics did not compete with current Canadian manufacturers' fabrics and that substitutable fabrics could not be found domestically. On the basis of these facts, Helly Hansen requested that tariff relief be granted.

Domestic User/Importer of the Subject Fabrics

Ranpro Inc.

Ranpro Inc. (Ranpro), located in Simcoe, Ontario, has been manufacturing industrial protective apparel since the mid-1800s. For the past 30 years, the company has made industrial rainwear, including commercial fishermen's foul-weather clothing.

Ranpro argued that the polyurethane coating, combined with the knitted substrate found in the subject fabrics, made an extremely comfortable garment and that it has been unable to find identical or substitutable fabrics domestically. The company also alleged that, while there are only a few fabric coaters operating in Canada, none produce a coated knitted fabric. The company supported the requests for tariff relief and argued that, since it cannot source identical or substitutable fabrics domestically, a reduction in the tariff would put it in a better position to compete with finished products imported from Europe.

Domestic Producers of Allegedly Substitutable Fabrics

Consoltex

Consoltex is headquartered in Montréal, Quebec, and employs over 500 people. It is the largest Canadian producer of woven man-made fabrics and produces nylon, polyester, polyester/cotton, polyester/nylon, polyester/rayon, nylon/cotton, acetate/rayon and other blends for the apparel market, as well as for the household, industrial and non-apparel markets. Consoltex submitted that it produces and sells fabrics coated with non-cellular polyurethane using woven nylon, polyester and blends as base fabrics. Moreover, Consoltex alleged that it sells base fabrics to various coaters and laminators in Canada and in the United States. Consoltex also submitted that specialty fabrics meeting specific criteria for the end uses indicated in the requests, such as Canadian Coast Guard members' jackets and bib pants or flame-retardant insulated jackets and bib pants, are one of its core businesses.

Regarding the claim of benefits made in Helly Hansen's requests, Consoltex submitted that, except where a free trade agreement exists, any manufacturer of garments has to pay duties on its imports of raw materials and that it is part of the cost of a product common to most manufacturers, not just Helly Hansen. Consoltex further argued that simply because identical fabrics are not made in Canada does not justify tariff relief when substitutable fabrics are made in Canada. Consoltex concluded that the granting of tariff relief would lead to unfair price pressure for domestic producers and a significant loss of gross profit and sales. Accordingly, Consoltex opposed the requests on the basis that it produces and sells substitutable coated fabrics.

Stedfast Inc.

Located in Granby, Quebec, Stedfast Inc. (Stedfast) coats woven fabrics with polyvinyl chloride, polyurethane or rubber, fabrics which are in turn used in the production of waterproof garments, mainly for

industrial use. Stedfast alleged that it is able to produce identical or substitutable fabrics and that, in 1993, it demonstrated its capacity to produce a coated fabric identical to or substitutable for the subject fabrics. Stedfast argued that, if tariff relief were granted, it would allow a broad range of fabrics to enter into Canada duty free, which would affect the whole range of coated fabrics produced by Stedfast. In addition, Stedfast maintained that it will be able to produce transfer-coated knitted fabrics in April 1999. Consequently, Stedfast opposed the requests.

Dominion Industrial Fabrics Company

Dominion Industrial Fabrics Company (DIFCO), located in Montréal, argued that its Canadian coater/laminator customers are capable of producing coated fabrics identical to or substitutable for the subject fabrics. The company submitted that, if its customers are placed in a position where they have to compete with duty-free imports of the subject fabrics, they will expect reduced prices from DIFCO or they will lose business, which will result in DIFCO losing sales. The company also argued that it spins all of its own yarns used to make its greige fabrics and that, thus, any loss at the fabric level would also affect this production. Accordingly, DIFCO opposed the requests.

Beckwith-Bemis Inc.

Beckwith-Bemis Inc. (Beckwith) is a manufacturer/contract converter of custom plastic-coated fabrics, film and adhesives, located in Sherbrooke, Quebec. Beckwith argued that the fabrics produced at its Sherbrooke plant are similar or identical in construction to the subject fabrics. It opposed the requests for tariff relief because it is of the opinion that the definition of the subject fabrics is too broad and that it threatens to remove trade barriers designed to protect Canadian manufacturers from unfair foreign competition. Beckwith also argued that it is capable of producing substitutable fabrics and that, if tariff relief is granted, it will have a negative effect on Canadian coaters and textile manufacturers that rely heavily on Canadian sales.

Mustang Survival Corp.

Mustang Survival Corp. (Mustang), located in Richmond, British Columbia, is a producer of survival outerwear and submitted that it competes directly with Helly Hansen for some of the products for which the subject fabrics are used. Mustang alleged that the end products are made with domestic nylon-coated fabrics that were developed and that are currently produced by Mustang. The company further submitted that granting tariff relief on the subject fabrics may put Mustang at a disadvantage when it competes with Helly Hansen and may jeopardize the development work that Mustang has done with Consoltex. Consequently, Mustang opposes the granting of tariff relief on the subject fabrics.

Canadian General-Tower Ltd.

Canadian General-Tower Ltd. of Cambridge, Ontario, stated that it does not produce identical or substitutable fabrics and, therefore, did not oppose Helly Hansen's requests for tariff relief.

Other Submissions

Canadian Textiles Institute

The Canadian Textiles Institute (CTI) noted that counsel for Helly Hansen stated that the initiative to find domestic producers of identical or substitutable fabrics was characterized as unsuccessful. However, the CTI argued that several companies have indicated that they are capable of producing identical or substitutable fabrics, including Consoltex, DIFCO, Stedfast, Beckwith and Mustang.

The CTI stated that the subject fabrics are waterproof, for use in the manufacture of apparel, and that it consists of a textile fabric and a plastic component applied by coating or lamination. The CTI argued that the subject fabrics belong to a class known as waterproof fabrics. This class, according to the CTI, is well represented by fabrics made by Canadian producers such as Consoltex and Stedfast, as well as others.

The CTI submitted that, in formulating its requests in this fashion, Helly Hansen has ignored all the evidence that several domestic producers are busily engaged in the manufacture and sale of fabrics which are identical to or substitutable for the subject fabrics. The CTI also stated that it appears that Helly Hansen has taken the position that there are no “identical or substitutable” fabrics unless a domestic manufacturer is currently producing a fabric that meets the exact specifications determined by Helly Hansen’s parent company in Europe. The CTI submitted that this is an inappropriately narrow interpretation of “identical or substitutable” fabric. The CTI further argued that, apparently, the specifications of the subject fabrics are proprietary and that, consequently, no domestic producer is likely to produce identical fabrics in the absence of demand. The CTI also argued that there is wide opposition to the requests.

The CTI noted that Helly Hansen has introduced the notion that polyurethane transfer-coated knitted fabrics are neither substitutable for nor in domestic competition with the allegedly substitutable fabrics produced by Stedfast or Consoltex. The CTI disagreed with this notion and asserted that this investigation was not initiated or conducted on the basis of transfer-coated fabrics and that the notion of non-substitutability and non-competition is invalid. Furthermore, it alleged that transfer-coated fabrics (using any substrate construction, including that of the subject fabrics) will be available from Stedfast in April 1999.

The CTI submitted that Helly Hansen’s contention that the difference between a coated knitted fabric and a coated woven fabric is obvious upon examination misses the basic point that the subject fabrics are a coated fabric. The CTI further alleged that the differences which may be observed when knitted fabrics are compared with woven fabrics are not at all evident when the fabrics compared are coated fabrics because the textile substrate is masked by the coating on one side. The CTI also argued that Helly Hansen has not produced any evidence of end users specifying or requiring that the coated fabric used in rainproof apparel be produced by transfer coating.

In response to Helly Hansen’s submission that it is actively marketing its specialized product and strengthening the market niche that it has created, the CTI stated that this implies that any projected sales increase will be achieved by the displacement of apparel made from coated woven fabrics. However, the CTI alleged that there is an indication that Helly Hansen lacks the equipment needed to make apparel from coated woven fabrics. If this is the case, the CTI argued that the market opportunity for coated woven fabrics can only be filled by other rainwear manufacturers that are equipped to use coated woven fabrics in their end products.

In light of these facts, the CTI submitted that there is no reasonable basis for reducing, much less eliminating, the tariff as requested.

OTHER INFORMATION

The Department of Foreign Affairs and International Trade informed the Tribunal that Canada does not maintain quota restraints on the subject fabrics classified under tariff item No. 5903.20.29. The subject fabrics, therefore, are not subject to any quantitative import restrictions.

Revenue Canada has indicated that there would be no additional costs, over and above those already incurred by it, to administer the tariff relief requested for the subject fabrics. It also advised the Tribunal that neither the Revenue Canada laboratory nor commercial laboratories are capable of specifically identifying transfer-coated fabrics from those which are coated using other methods.

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 an imported fabric with a domestic fabric, the ability of domestic fabric producers to serve Canadian downstream industries, and the competitiveness of those downstream industries at home and abroad. Consequently, any recommendation by the Tribunal for tariff relief is based on the extent to which it considers that such tariff relief would provide net economic gains for Canada.

Helly Hansen's requests cover a specific type of fabric, namely, waterproof knitted fabrics that are coated using a transfer coating process. The subject fabrics are non-proprietary and are sourced, principally, in Belgium. As explained before, transfer-coated knitted fabrics are used to produce lightweight stretchy waterproof garments that are preferred and requested by many end users. Helly Hansen argued that there are no domestic fabrics that are identical to or substitutable for the subject fabrics and that, in at least two instances, Helly Hansen was awarded major contracts on the basis that its garments were manufactured using a transfer-coated knitted fabric.

In response, a number of domestic producers argued that they are able to produce identical or substitutable fabrics. These companies include Consoltex, Stedfast, DIFCO and Beckwith. In addition, Mustang, a producer of survival outerwear,⁶ opposes the granting of tariff relief on the subject fabrics because, allegedly, it competes directly with Helly Hansen for some of the same customers. Many of these companies have alleged that they would suffer substantial losses in both sales and profits should tariff relief be granted. For its part, the CTI submitted that the requests are based on an inappropriately narrow concept of substitutability and that there cannot be any "identical or substitutable" fabrics available from a domestic producer unless it meets the exact specifications determined by Helly Hansen's parent company in Europe.

Central to the requests are two characteristics of the subject fabrics: namely, its substrate must be a knitted fabric and the coating must be applied by a process called transfer coating. In the Tribunal's view, upon examination of the various samples as well as evidence submitted by domestic producers, there are no fabrics identical to the subject fabrics produced in Canada. However, before completing its analysis, the

6. These products are used by the crew and passengers in helicopters and in some marine applications.

Tribunal must determine whether the coated fabrics (using a direct coating process) available from domestic producers are substitutable for the subject fabrics.

One of the primary reasons that Consoltex opposed these requests is that it produces and sells coated fabrics that, it believes, compete with the subject fabrics for use in the manufacture of apparel. However, all the sample fabrics provided by Consoltex are direct coated woven fabrics, whereas the subject fabrics are both knitted and transfer coated. The Tribunal is of the opinion that direct coated woven fabrics have substantially different physical characteristics from transfer-coated knitted fabrics. In particular, transfer-coated knitted fabrics are much more stretchy. In addition, the Tribunal notes that, of the five large accounts identified by Consoltex as users of their fabrics and, thus, competitors of Helly Hansen, the first two do not manufacture any garments that compete with those of Helly Hansen. The other three major accounts produce garments for the forestry industry, in which Helly Hansen has minimal presence. Based on the evidence, therefore, in the Tribunal's view, there is only a limited degree of substitutability between the fabrics produced by Consoltex and the subject fabrics.

While Stedfast alleged that it coats fabrics that are substitutable for the subject fabrics, in fact three out of the six fabrics which Stedfast identified as substitutable are actually woven rather than knitted. Furthermore, the three knitted fabrics which Stedfast coats are high-end waterproof, breathable fabrics that are not usually substitutable for the subject fabrics. Compared to the Stedfast fabrics, the subject fabrics are not breathable, are generally lighter and are more flexible. Moreover, all of the Stedfast fabrics were direct coated as opposed to transfer coated. Accordingly, the Tribunal is not convinced that the fabrics coated by Stedfast are substitutable for the subject fabrics.

Although Beckwith alleged that it produces knitted fabrics that are substitutable for the subject fabrics, these are much heavier than the subject fabrics. As such, the Tribunal found no evidence to support the conclusion that the fabrics produced by Beckwith are substitutable for the subject fabrics and compete for the same end uses.

DIFCO's argument that it will suffer losses if tariff relief is granted is based on the notion that its coater/laminator customers are capable of producing direct coated fabrics that are substitutable for the subject fabrics. However, DIFCO failed to provide any evidence in support of this argument.

Finally, Mustang alleged that it competes in the same end-product markets as Helly Hansen. While the Tribunal accepts that this may be the case, it notes that, where such competition occurs, it is only for Helly Hansen products which are not made with the subject fabrics. Accordingly, the Tribunal does not believe that Mustang will suffer any losses should tariff relief be granted.

After considering all the submissions and evidence, the Tribunal concludes that there is only a limited degree of substitutability in relatively narrow end-use markets between domestically produced fabrics and the subject fabrics. In most applications, a direct coated woven fabric will not be substitutable for the subject fabrics, nor vice versa. This conclusion is reinforced by the fact that the five major purchasers of fabric, which Consoltex argues is substitutable for the subject fabrics, did not compete against Helly Hansen for a major contract. While the Tribunal recognizes that the two types of fabric may experience some competition in forestry industry applications, the Tribunal is of the opinion that the level of overall substitutability is minimal.

Turning to the cost benefit analysis, the domestic producers of allegedly substitutable fabrics have suggested that the granting of tariff relief could lead to substantial costs in the form of reduced sales and

gross profits. These estimates are based upon two assumptions: that domestic producers are actually producing a high volume of fabrics that are directly and closely substitutable for the subject fabrics and that tariff relief would allow a broad range of coated fabrics to enter Canada duty free, with a consequential lowering of selling prices and a reduction of sales volumes for domestic producers. In the Tribunal's view, only the latter assumption may have some, albeit limited, validity.

To ensure that only the fabrics covered by the requests are subject to tariff relief, the Tribunal is of the view that adding a requirement that the subject fabrics be certified by the exporter to have been transfer-coated will considerably narrow the range of fabrics that can be imported free of duty if tariff relief is granted. Accordingly, the Tribunal finds that the domestic industry's assertions of the costs of granting tariff relief are largely without merit.

In addition, Helly Hansen has claimed that, if tariff relief is granted, its sales of Techmaflex products will be substantially higher than those foreseen in the requests. This would result in higher benefits over the longer run. These benefits are expected to be significantly higher than \$100,000 and will also increase opportunities for sales in Canada, as well as in export markets.

Accordingly, the Tribunal finds that, although there may be modest costs and downward price pressures experienced by Canadian textile producers on some product lines, these costs will be more than offset by the projected benefits. Consequently, there will be net economic gains to Canada should tariff relief be granted.

During the investigation, the Tribunal was informed that, by April 1999, Stedfast expects to have machinery in place to produce transfer-coated knitted fabrics. However, the Tribunal notes that Stedfast did not provide any evidence that would assist the Tribunal in determining the credibility of this information. In a number of previous cases,⁷ the Tribunal has indicated that it is the responsibility of the domestic producers to provide evidence, not just assertions or allegations, of their ability to produce identical or substitutable fabrics. Accordingly, the Tribunal is not prepared to accept the domestic producers' statements that there will be, in the near future, commercial quantities of domestically produced fabrics identical to or substitutable for the subject fabrics. However, the Tribunal would be prepared to consider, in the future, a request for a review, if tariff relief is granted, whenever Stedfast is in a position to provide evidence that it is able to produce and sell commercial quantities of fabrics that are identical to or substitutable for the subject fabrics.

Finally, concerning the CTI's submission that the investigation was not initiated on the basis of transfer-coated knitted fabrics, the Tribunal notes that the requests filed by Helly Hansen quite clearly indicated that the subject fabrics were a transfer-coated knitted fabric. Furthermore, the samples provided to participants in this investigation were transfer-coated knitted fabrics, which these participants would have recognized upon examination. Consequently, the Tribunal concludes that all participants were, or should have been, aware that the subject fabrics were a transfer-coated knitted fabric.

7. See, for example, *Report to the Minister of Finance: Request for Tariff Relief by Camp Mate Limited Regarding Certain Woven Fabrics of Non-textured Nylon Filament Yarns*, Request No. TR-95-051, June 10, 1996; *Report to the Minister of Finance: Requests for Tariff Relief by Lady Americana Sleep Products Inc. and El Ran Furniture Ltd. Regarding Certain Stitch-bonded Warp-knit Fabrics*, Request Nos. TR-95-064 and TR-95-065, February 12, 1997; and *Report to the Minister of Finance: Request for Tariff Relief by Cambridge Industries Regarding Netting*, Request No. TR-98-001, February 12, 1999.

RECOMMENDATION

In light of the foregoing, the Tribunal hereby recommends to the Minister that tariff relief be granted, for an indeterminate period of time, on importations, from all countries, of weft-knit fabric of polyester, nylon or poly(m-phenylene-isophthalamide), coated on one side with a non-cellular polyurethane, certified by the exporter to have been transfer coated, of subheading No. 5903.20, for use in the manufacture of apparel.

Patricia M. Close

Patricia M. Close
Presiding Member

Raynald Guay

Raynald Guay
Member

Peter F. Thalheimer

Peter F. Thalheimer
Member