

**REPORT TO
THE MINISTER OF FINANCE**

**REQUESTS FOR TARIFF RELIEF BY
UNIVERSAL MANUFACTURING INC.
REGARDING
COTTON FABRIC OF YARNS OF
DIFFERENT COLOURS AND PRINTED
POLYESTER/COTTON FABRIC**

FEBRUARY 27, 1998

UNIVERSAL MANUFACTURING INC.

**REQUEST NOS.: TR-97-002
AND TR-97-003**

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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.

Pursuant to the Minister's reference, on May 30, 1997, the Tribunal received two requests from Universal Manufacturing Inc. (Universal) of Montréal, Quebec, for the removal, for an indeterminate period of time, of the customs duty on importations of cotton fabric of yarns of different colours (Request No. TR-97-002) and printed polyester/cotton fabric (Request No. TR-97-003), for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses, pyjamas, negligees, bathrobes, dressing gowns and similar articles and boxer shorts of heading No. 62.07 or 62.08 of Schedule I to the *Customs Tariff*³ (the subject fabrics).

On October 23, 1997, the Tribunal, being satisfied that the requests were properly documented, issued notices of commencement of investigation, which were distributed and published in the November 1, 1997, edition of the *Canada Gazette*, Part I.⁴

As part of the investigations, the Tribunal's research staff sent a questionnaire to potential producers of identical or substitutable fabrics. A questionnaire was 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, Universal and firms that responded to the Tribunal's questionnaires, was provided to interested parties that had filed notices of appearance for these investigations. These parties are Universal and the Canadian Textiles Institute (CTI).

Although the CTI filed a notice of appearance, it did not file a preliminary or final submission with regard to these investigations. A public hearing was not held for these investigations.

PRODUCT INFORMATION

Cotton Fabric of Yarns of Different Colours

In the notice of commencement of investigation for Request No. TR-97-002, the cotton fabric was described as woven fabric, solely of cotton, brushed on both sides, of yarns of different colours, of subheading No. 5208.43, for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses,

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. 131, No. 44 at 3452-54.

pyjamas, negligees, bathrobes, dressing gowns and similar articles and boxer shorts of heading No. 62.07 or 62.08.

Revenue Canada analyzed the sample submitted by Universal and determined that it is a plaid flannel fabric woven in a 2/2 cross twill (4-thread double faced twill) from single yarns of different colours that has been brushed on both sides. The cotton fabric is 160 cm wide and weighs 138 g/m². The yarns consist of cotton fibres which appear to be carded. There are approximately 247 yarns per 10 cm in the warp and approximately 209 yarns per 10 cm in the weft. The cotton fabric is classified under classification No. 5208.43.00.00.

Revenue Canada advised the Tribunal that, in 1997, the cotton fabric was dutiable at 15.9 percent *ad valorem* under the MFN tariff; at 15.7 percent *ad valorem* under the BPT; at 1.7 percent *ad valorem* under the US tariff; and at 10.5 percent *ad valorem* under the Mexico tariff. Revenue Canada also advised that the cotton fabric qualifies for the benefits of Code 4215⁵ and Code 4205⁶ of Schedule II to the *Customs Tariff*.

Statistics Canada data indicate that 186,295 kg of cotton fabric valued at \$1.6 million were imported under subheading No. 5208.43 in 1996. The major suppliers were the People's Republic of China (China) (72 percent) and the United States (18 percent). Of this total, 106,884 kg (57 percent) were imported under Code 4215 at a duty rate of 10 percent *ad valorem*. In addition, 30,364 kg (16 percent) of the total imports were imported duty-free under Code 4269.⁷ Due to the low response rate to the Tribunal's questionnaire, the staff was unable to estimate the volume of these imports which were used in the manufacture of sleepwear.

Printed Polyester/Cotton Fabric

In the notice of commencement of investigation for Request No. TR-97-003, the printed polyester/cotton fabric was described as woven fabric, of polyester mixed solely with cotton, printed, of a weight not exceeding 100 g/m², of subheading No. 5513.41, for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses, pyjamas, negligees, bathrobes, dressing gowns and similar articles and boxer shorts of heading No. 62.07 or 62.08.

Revenue Canada analyzed the sample submitted by Universal and determined that it is a plain printed fabric woven from single blended yarns of polyester staple fibres and cotton fibres. The polyester represents 55 percent by weight of the sample and the cotton represents 45 percent by weight. The polyester/cotton fabric is 113 cm wide and weighs 79 g/m². There are approximately 364 yarns per 10 cm in

5. Code 4215 provides for an MFN duty rate of 10 percent *ad valorem* on imports of woven fabrics of cotton of various subheadings (including subheading No. 5208.43) for use in the manufacture of apparel or apparel accessories.

6. Code 4205 provides for the duty-free entry of woven fabrics of various headings or of narrow woven fabrics of heading No. 58.06 for use in the manufacture of neckties, matching necktie and puff sets, scarves or mufflers, other than such fabrics for use as linings or interlinings; and of scarves, in rolls, merely needing separation by cutting dividing threads, of heading No. 62.14.

7. Code 4269, which was implemented as a result of the Tribunal's recommendation in Request Nos. TR-94-013 and TR-94-016 (MWG Apparel Corp.) respecting shirting fabrics, provides for the duty-free entry of woven flannel fabrics, brushed on both sides, solely of single cotton yarns, of tariff item No. 5208.42.90, 5208.43.00 or 5208.49.00.

the warp and approximately 246 yarns per 10 cm in the weft. The warp yarns measure 123 decitex and the weft yarns measure 127 decitex. The polyester/cotton fabric is classified under classification No. 5513.41.00.10.

Revenue Canada advised the Tribunal that, in 1997, the polyester/cotton fabric was dutiable at 17.5 percent *ad valorem* under the MFN tariff; at 12.7 percent *ad valorem* under the Australia and New Zealand tariffs; at 2.5 percent *ad valorem* under the US tariff; and at 15.0 percent *ad valorem* under the Mexico tariff. Revenue Canada also advised that the polyester/cotton fabric qualifies for the benefits of Code 4205.

Statistics Canada data indicate that 2.3 million kg of polyester/cotton fabric valued at \$22.6 million were imported under subheading No. 5513.41 in 1996. The major suppliers were the United States (51 percent) and Pakistan (28 percent). Since no replies to the Tribunal's questionnaire were received with respect to the polyester/cotton fabric, the staff was unable to estimate the volume of these imports which were used in the manufacture of sleepwear.

REPRESENTATIONS

Users of the Subject Fabrics

Universal's requests are for the removal of the customs duty, for an indeterminate period of time, on importations of the subject fabrics. Universal, with its head office and production facilities in Montréal, has been manufacturing apparel in Canada since 1946 and has specialized in the production of women's and children's sleepwear since 1952. It has been purchasing the subject fabrics primarily from Chinese suppliers and performs a complete manufacturing process, including design, marking, spreading, cutting, sewing, trimming and finishing. Marker making and a small percentage of cutting and sewing are subcontracted to Quebec-based companies.

With respect to the availability of identical or substitutable fabrics, Universal claims that there are no known domestic producers of cotton fabric as defined in Request No. TR-97-002. Universal claims that Dominion Industrial Fabrics Company, the only domestic producer of cotton fabric, has been unable to supply the aforementioned cotton fabric or an acceptable substitute. Universal also notes that the Tribunal recommended tariff relief on a virtually identical fabric in Request Nos. TR-94-013 and TR-94-016 and in Request No. TR-95-004.⁸

Similarly, with respect to the printed polyester/cotton fabric, as defined in Request No. TR-97-003, Universal states that there are domestic converters of plain, dyed polyester/cotton fabric made from imported greige fabric. However, Universal claims that this is a substantially more expensive fabric and that it is not offered in the range of design possibilities available from the imported printed fabric. Universal notes that the

8. Code 4250, which was implemented as a result of the Tribunal's recommendation in Request No. TR-95-004 (Lingerie Bright Sleepwear (1991) Inc.) respecting printed cotton flannelette, provides for the duty-free entry of woven fabrics, solely of cotton, brushed on both sides, of tariff item No. 5208.12.00 or 5208.52.90, for use in the manufacture of sleepwear.

Tribunal recommended tariff relief on a virtually identical fabric with a wrinkle finish in Request No. TR-95-005.⁹

Universal claims that lower fabric costs resulting from tariff relief on the subject fabrics would allow it to be more competitive with imported ready-made garments in both domestic and export markets. It is submitted that increased sales would translate into the hiring of new employees, the purchase of new equipment and spinoffs for local support industries. Universal claims that the added duty costs for the subject fabrics decrease its sales potential. Moreover, the removal of the duty drawback on non-NAFTA textiles, beginning in 1998, will place Universal at a distinct disadvantage when competing in the US market.

In replies to the Tribunal's questionnaire, MWG Apparel Corp. of Winnipeg, Manitoba, and Adorable Kids Inc. of Montréal expressed support for Universal's request for tariff relief in Request No. TR-97-002. Both companies claim that woven yarn-dyed 100 percent cotton fabric is not produced in Canada and that there are no acceptable substitutes for this fabric.

Domestic Textile Producers

The CTI identified Consoltex Inc., Doubletex and Dominion Industrial Fabrics Company as possible manufacturers of fabrics identical to or substitutable for the subject fabrics. The companies were sent Tribunal questionnaires, but no replies were filed. Consoltex Inc., however, advised the Tribunal that it had no comments to make with respect to the two requests.

Other Submissions

With regard to the investigation concerning cotton fabric of yarns of different colours, the Department of Foreign Affairs and International Trade (Foreign Affairs and International Trade Canada) informed the Tribunal that Canada currently maintains quota restraints on woven cotton fabric, finished (subcategory 32.2), imported from China, Hong Kong and Taiwan. Accordingly, this coverage includes cotton fabric of subheading No. 5208.43. The bilateral agreement, which provides for this restriction, between the Government of Canada and the Government of China has been in place since 1987. The bilateral agreements between the Government of Canada and the Government of Hong Kong and with the Taiwan Textile Federation have been in place since 1979.

With regard to the investigation concerning printed polyester/cotton fabric, Foreign Affairs and International Trade Canada informed the Tribunal that Canada currently maintains quota restraints on polyester staple/cotton woven fabric (category 36.0), imported from China, Hong Kong, the Republic of Korea and Taiwan. Accordingly, this coverage includes polyester/cotton fabric of subheading No. 5513.41. Bilateral agreements, which provide for these restrictions, between the Government of Canada and the Government of China and the Government of Hong Kong have been in place since 1987. The bilateral agreement between the Government of Canada and the Government of the Republic of Korea has been in place since 1978 and with the Taiwan Textile Federation since 1979.

9. Code 4251, which was implemented as a result of the Tribunal's recommendation in Request No. TR-95-005 (Lingerie Bright Sleepwear (1991) Inc.), provides for the duty-free entry of woven fabrics, of polyester staple fibres mixed solely with cotton, of a seersucker or similar crinkle stripe appearance, of a weight not exceeding 100 g/m², of subheading No. 5513.11 or 5513.41, for use in the manufacture of sleepwear.

Foreign Affairs and International Trade Canada has indicated that it will consider requests for ex-quota entry on textile inputs where recommendation has been made by the Tribunal to remove customs duties on the basis of non-availability. Ex-quota treatment will only be granted in cases where it can be demonstrated that there is an extra charge for using products under quota or where goods are not otherwise available in Canada.

Revenue Canada has indicated that there would be no costs, over and above those presently incurred by it, to administer the tariff relief on the subject fabrics, should it be granted.

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 the Canadian downstream industries and the competitiveness of those downstream industries at home and abroad. 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.

Cotton Fabric of Yarns of Different Colours

Universal and other users of the cotton fabric claim that there is no domestic production of a fabric identical to or substitutable for the subject cotton fabric of yarns of different colours. These claims were not contested by any domestic fabric producers. Therefore, other than the corresponding duty revenues foregone by the government, the Tribunal does not believe that there will be any direct commercial costs associated with the removal of the customs duty on importations of the cotton fabric.

It is estimated that the net economic benefits of granting tariff relief for all users would have been approximately \$100,000 in 1996 and, based on the projected level of imports, similar net economic benefits would have accrued to users in 1997. In addition, should tariff relief be granted, cost reductions by users of the cotton fabric would result in increased employment, the purchase of new equipment and spinoffs for local support industries. In summary, the Tribunal finds that the net economic benefits of granting tariff relief will be positive.

Printed Polyester/Cotton Fabric

As in the investigation concerning cotton fabric of yarns of different colours, claims were advanced by Universal that there is no domestic production of a fabric identical to or substitutable for the subject printed polyester/cotton fabric. These claims were not contested by any domestic fabric producers. Therefore, other than the corresponding duty revenues foregone by the government, the Tribunal does not believe that there will be any direct commercial costs associated with the removal of the customs duty on importations of the polyester/cotton fabric.

It is estimated that the net economic benefits of granting tariff relief for all users would have been approximately \$50,000 in 1996 and, based on the projected level of imports, similar net economic benefits would have accrued to users in 1997. In addition, should tariff relief be granted, cost reductions by users of the polyester/cotton fabric would result in increased employment, the purchase of new equipment and

spinoffs for local support industries. In summary, the Tribunal finds that the net economic benefits of granting tariff relief will be positive.

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:

- (1) woven fabric, solely of cotton, brushed on both sides, of yarns of different colours, of subheading No. 5208.43, for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses, pyjamas, negligees, bathrobes, dressing gowns and similar articles and boxer shorts of heading No. 62.07 or 62.08; and
- (2) woven fabric, of polyester mixed solely with cotton, printed, of a weight not exceeding 100 g/m², of subheading No. 5513.41, for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses, pyjamas, negligees, bathrobes, dressing gowns and similar articles and boxer shorts of heading No. 62.07 or 62.08.

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