

**REPORT TO  
THE MINISTER OF FINANCE**

**REQUESTS FOR TARIFF RELIEF BY  
BLUE BIRD DRESS OF TORONTO LTD.  
REGARDING  
CERTAIN WOVEN FABRICS OF POLYESTER  
FILAMENT YARNS**

**JULY 23, 1998**

**BLUE BIRD DRESS OF  
TORONTO LTD.**

**REQUEST NOS.: TR-97-004,  
TR-97-007, TR-97-008  
AND TR-97-010**

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## **INTRODUCTION**

On July 14, 1994, the Canadian International Trade Tribunal (the Tribunal) received terms of reference<sup>1</sup> from the Minister of Finance (the Minister) pursuant to section 19 of the *Canadian International Trade Tribunal Act*.<sup>2</sup> 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, the Tribunal received four requests from Blue Bird Dress of Toronto Ltd. (Blue Bird), of Toronto, Ontario. On June 9, 1997, Blue Bird requested the permanent removal of the customs duty on imports of polyester woven fabrics, satin (Request No. TR-97-004). On September 25, 1997, Blue Bird requested the permanent removal of the customs duty on imports of polyester woven fabrics, striped organdy (Request No. TR-97-007). On September 26, 1997, Blue Bird requested the permanent removal of the customs duty on imports of polyester woven fabrics, organdy (Request No. TR-97-008). Finally, on October 28, 1997, Blue Bird requested the permanent removal of the customs duty on imports of polyester woven fabrics, satin organza (Request No. TR-97-010). All of these textile inputs (the subject fabrics) are for use in the manufacture of wedding gowns.

On February 11, 1998, the Tribunal, being satisfied that the requests were properly documented, issued notices of commencement of investigation which were distributed and published in the February 21, 1998, edition of the *Canada Gazette*, Part I.<sup>3</sup>

As part of the investigation, the Tribunal's research staff sent questionnaires to potential producers of fabrics identical to or substitutable for the subject fabrics. Questionnaires were also sent to a number of manufacturers of wedding gowns and to several potential importers of the subject fabrics.

The Department of National Revenue (Revenue Canada) was asked for its advice as to the tariff classification of the subject fabrics, and samples of those fabrics were provided to assist it in its laboratory analyses. Letters were also sent to a number of other government departments for information and advice.

On April 8, 1998, a staff investigation report was issued to parties that had filed notices of appearance for this investigation. This report summarized the information received from the departments, Blue Bird, firms that responded to the questionnaires and other interested parties.

Corporation House Ltd., on behalf of the Canadian Textiles Institute (CTI), filed a final submission with the Tribunal. Blue Bird did not comment on the case material, nor did it respond to Corporation House Ltd.'s submission. A public hearing was not held for this investigation.

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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. Vol. 132, No. 8 at 374-76.

## **PRODUCT INFORMATION**

In the notice of commencement of investigation for Request No. TR-97-004, the fabrics were described as woven fabrics, of subheading Nos. 5407.51 and 5407.52 of the schedule to the *Customs Tariff*,<sup>4</sup> solely of textured polyester filament yarns, of a weight exceeding 170 g/m<sup>2</sup>, for use in the manufacture of wedding gowns.

In 1998, when classified under classification No. 5407.51.90.13, the fabrics are dutiable at 16.0 percent *ad valorem* under the MFN tariff; free under the US tariff; and at 12.5 percent *ad valorem* under the Mexico tariff. When classified under classification No. 5407.52.90.13, the fabrics are dutiable at 16.0 percent *ad valorem* under the MFN tariff; free under the US tariff; and at 12.5 percent *ad valorem* under the Mexico tariff.

In the notice of commencement of investigation for Request No. TR-97-007, the fabrics were described as woven fabrics, of subheading No. 5407.69, solely of non-textured polyester monofilament warp yarns and alternating stripes in the weft of non-textured polyester multifilament yarns, having two filaments per yarn, and of textured polyester multifilament yarns, of a weight not exceeding 70 g/m<sup>2</sup>, for use in the manufacture of wedding gowns.

Revenue Canada advised the Tribunal that, in 1998, when classified under classification Nos. 5407.69.90.12 and 5407.69.90.32, with the application of a 50 percent tariff reduction under tariff item No. 9941.00.00, the fabrics are dutiable at 8 percent *ad valorem* under the MFN tariff; free under the US tariff; and at 8 percent *ad valorem* under the Mexico tariff.

In the notice of commencement of investigation for Request Nos. TR-97-008 and TR-97-010, the fabrics were described as woven fabrics, of subheading No. 5407.61, solely of non-textured polyester monofilament yarns and non-textured polyester multifilament yarns, having two filaments per yarn, of a weight not exceeding 70 g/m<sup>2</sup>, for use in the manufacture of wedding gowns.

Revenue Canada advised the Tribunal that, in 1998, when classified under classification Nos. 5407.61.99.11 and 5407.61.99.31, with the application of a 50 percent tariff reduction under tariff item No. 9941.00.00, the fabrics are dutiable at 8 percent *ad valorem* under the MFN tariff; free under the US tariff; and at 8 percent *ad valorem* under the Mexico tariff.

## **REPRESENTATIONS**

### **Users of the Subject Fabrics**

Blue Bird's requests are for the removal of the customs duty, for an indeterminate period of time, on imports of the subject fabrics. Blue Bird has been designing, manufacturing and distributing wedding gowns across North America for the past 50 years. It has been purchasing the subject fabrics from a supplier in Japan and alleges that identical or substitutable fabrics are not made domestically.

Blue Bird claims that lower fabric costs resulting from tariff relief on the subject fabrics would allow it to lower prices and increase sales, both domestically and in the United States, and possibly outside

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

North America. The duty savings would also allow Blue Bird to invest in new machinery and increase employment.

David E. Rea Dresses Limited, a domestic manufacturer of wedding gowns, expressed support for the requests for tariff relief made by Blue Bird, arguing that there should be no taxation on fabrics which are not available in Canada.

### **Domestic Textile Producers**

Consoltex Inc. (Consoltex), of Montréal, Quebec, produces and sells sheer and solid fabrics, made from polyester filament yarns (textured and non-textured). Sheer fabrics are sold mainly to produce household decoration items, but also to manufacture fashion apparel, such as party or cocktail dresses and blouses. Solid fabrics are also sold to manufacture wedding apparel (mainly bridesmaid dresses).

Consoltex argues that duty-free entry of the subject fabrics used to manufacture party and cocktail dresses would have a negative impact on the sale of its own fabrics. In its view, it is essential that any provision that provides for the duty-free entry of imports by Blue Bird be restricted to the end use of “wedding gowns.” Consoltex supported the additional suggestions, made by the CTI, to narrow the definition of the fabrics and end uses pertaining to these requests.

Textiles Monterey 1996 Inc. (Monterey) is only concerned about Blue Bird’s requests if the bridal wear end use is expanded in any way to include (or interpreted to include) party dresses, mother-of-the-bride dresses, bridesmaid dresses, etc., or if the government could not confidently limit the end use to wedding gowns. If duty-free fabrics imported by Blue Bird found their way into the production of the above-mentioned dresses, it could have a negative impact on Monterey’s business.

Monterey supports the recommendations made by the CTI in its submission and would be reassured if tariff relief were restricted to “white” or “off-white” fabrics.

### **Other Submissions**

The CTI submitted that Consoltex, Monterey and Doubletex Inc. (Doubletex) produce fabrics that are identical to, or compete with, those described in the requests by Blue Bird. In particular, it claimed that Consoltex produces voile fabrics for home furnishings and apparel end uses, such as lightweight sheer and sheer-solid fabrics for party or cocktail dresses and dress and blouse inserts, that Monterey produces satin fabrics for party dresses, including mother-of-the-bride dresses and those worn by bridal party members, as well as for linings, and that Doubletex dyes and finishes a variety of polyester fabrics for apparel and home furnishings.

Nevertheless, the CTI and its member companies were amenable to the requests for tariff relief provided a number of modifications were made to the product descriptions in order to address their main concerns.

The CTI proposed that:

- the wording for request No. TR-97-004 make reference to “satin” weave fabrics;
- the wording for all the subject fabrics make reference to “white” and “off-white” shades;

- the fabric weights be restricted to the actual tested weights by Revenue Canada for the subject fabrics covered by request Nos. TR-97-008 and TR-97-010;
- the subject fabrics covered by request No. TR-97-007 be “of a weight not exceeding 62 g/m<sup>2</sup>;
- all the subject fabrics be for use in the manufacture of “bride’s” wedding gowns.

The Department of Foreign Affairs and International Trade (DFAIT) advised that the subject fabrics are subject to quantitative import restrictions. Canada maintains quota restraints on polyester filament fabric, including any fabric mixed mainly or solely with polyester filaments (category 35.0) imported from the Republic of Poland, the Republic of Korea and Taiwan.<sup>5</sup>

The DFAIT also 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.

## **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.

It is noted that, from the outset, the CTI did not object to the requests for tariff relief provided the product descriptions were modified to take into account certain concerns put forward by its member companies. As stated earlier, those concerns pertained principally to the weight ranges, colour and composition of the fabrics and the use of more specific terminology for the end products manufactured from the subject fabrics, i.e. “bride’s wedding gowns” rather than “wedding gowns.” To that end, the CTI made specific recommendations for modifications to the product descriptions which would alleviate those concerns and, at the same time, provide Blue Bird with the tariff relief that it requested.

Blue Bird indicated that it was agreeable to the changes in definition proposed by the CTI.

Revenue Canada indicated that it could administer tariff relief that takes into account those changes in definition, but suggested that a minor modification be made to one of the weight ranges proposed by the CTI. Revenue Canada also indicated that there would be no costs, over and above those presently incurred by it, to administer the tariff relief, should it be granted.

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5. Bilateral agreements, which provide for these restrictions, between the Government of Canada and the Government of the Republic of Korea and the Taiwan Textile Federation have been in place since 1978. The bilateral agreement between the Government of Canada and the Government of the Republic of Poland has been in place since 1979.

The information presented indicates that granting the requests for tariff relief would provide benefits for Blue Bird in excess of \$50,000 per annum, while no identified costs would be incurred by the domestic fabric industry. Accordingly, the Tribunal finds that the net economic benefits of granting tariff relief would be positive.

### **RECOMMENDATION**

The Tribunal recommends to the Minister that tariff relief be granted, for an indeterminate period of time, on importations from all countries of:

- (1) five-harness satin weave fabrics, white or off-white, of subheading Nos. 5407.51 and 5407.52, solely of textured polyester filament yarns, of a weight exceeding  $170 \text{ g/m}^2$ , for use in the manufacture of bride's wedding gowns (Request No. TR-97-004);
- (2) woven fabrics, white or off-white, of subheading No. 5407.69, solely of non-textured polyester monofilament warp yarns, and alternating stripes in the weft of non-textured polyester multifilament yarns, having two filaments per yarn, and textured polyester multifilament yarns, of a weight not exceeding  $62 \text{ g/m}^2$ , for use in the manufacture of bride's wedding gowns (Request No. TR-97-007); and
- (3) woven fabrics, white or off-white, of subheading No. 5407.61, solely of non-textured polyester monofilament yarns, and non-textured polyester multifilament yarns, having two filaments per yarn, of a weight not exceeding  $45 \text{ g/m}^2$ , for use in the manufacture of bride's wedding gowns (Request Nos. TR-97-008 and TR-97-010).

Patricia M. Close  
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Presiding Member

Raynald Guay  
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Member

Anita Szlazak  
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Member