

**REPORT TO
THE MINISTER OF FINANCE**

**REQUEST FOR TARIFF RELIEF BY
DISTEX INC.
REGARDING
WEFT KNIT FABRIC**

APRIL 4, 2000

DISTEX INC.

REQUEST NO.: TR-99-005

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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 with respect to those requests to the Minister.

Pursuant to the Minister's reference, the Tribunal received a request from Distex Inc. (Distex) on August 19, 1999, for the removal, for an indeterminate period of time, of the customs duty on importations of weft knit fabric for use in the manufacture of golf jerseys.

On October 18, 1999, the Tribunal, being satisfied that the request was properly documented, issued a notice of commencement of investigation that was distributed and published in the October 30, 1999, edition of the *Canada Gazette*.² The textile input was described in the notice as "weft knit fabric, solely of cotton yarns, mercerized, measuring 180 decitex or more but not exceeding 200 decitex, of a weight of 150 g/m² or more but not exceeding 200 g/m², of tariff item No. 6002.92.90, for use in the manufacture of golf jerseys" (the subject fabric).

As part of the investigation, the Tribunal's research staff sent questionnaires to potential producers of fabrics identical to or substitutable for the subject fabric. Questionnaires were also sent to potential users and importers of the subject fabric. A letter was sent to the Department of National Revenue (now the Canada Customs and Revenue Agency [CCRA]) requesting a complete description of the physical characteristics of the subject fabric, an opinion on whether the tariff relief was administrable, and suggested wording should tariff relief be recommended. In addition, the Department of Foreign Affairs and International Trade (DFAIT) was asked to provide current information on any quantitative import restrictions on the subject fabric, and the Department of Industry was informed of the request and asked to provide any relevant comments. The Department of Finance was also informed of the request.

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

A public hearing was not held for this investigation.

PRODUCT INFORMATION

The product under investigation is a "mercerized",³ weft knit fabric solely of cotton. It differs from the textile input described in the request filed by Distex, in that the latter was a "double-mercerized",⁴ weft knit fabric solely of cotton. However, the CCRA advised that any tariff relief on a fabric with the specification "double mercerization" would not be administrable. Accordingly, the Tribunal issued a notice of commencement of investigation that did not refer to double mercerization and, thus, covered a somewhat broader range of fabric than that contained in the request.

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

2. C. Gaz. 1999.I.3133.

3. Mercerization is a treatment of cotton yarn or fabric with alkali to increase its lustre, strength and affinity for dyes.

4. Double mercerization is a process whereby yarns are mercerized and knitted into a fabric, and the fabric is subsequently mercerized.

The CCRA advised the Tribunal that the subject fabric is classified under tariff item No. 6002.92.90 of the schedule to the *Customs Tariff*⁵ and is currently dutiable at 16 percent *ad valorem* under the MFN tariff and at 7.5 percent *ad valorem* under the Mexico tariff and the Chile tariff and is duty free under the U.S. tariff and the Canada-Israel Agreement tariff.

REPRESENTATIONS

Requester

Distex

Distex, located in Saint-Laurent, Quebec, is a manufacturer of men's and women's sportswear sold under the trademark "Robert Barakett". The company has been in existence for three years. All designs are developed by Distex at its facility in Saint-Laurent. Distex hires local manufacturers for the cutting and sewing of its product line.

Distex submitted that identical or substitutable fabrics are not available from domestic producers and stated that its foreign supplier mercerizes the yarn and the fabric on an automatic machine, allowing a continuous mercerization as opposed to batch mercerization. According to Distex, continuous mercerization controls the yarn thickness more evenly and is crucial to the fine yarns that it requires. Distex also stated that continuous mercerization decreases the knots and naps of the yarn and eliminates colour unevenness. Distex requested that tariff relief be effective immediately.⁶

Distex also submitted that the following other factors account for its preference for the subject fabric:

- Availability - The supplier has 24 colours of fabric available at any given time. When other colours are required, the supplier produces them on demand.
- Short production runs - In the event that a particular colour is not found in the available stock, the supplier will knit as little as 160 linear metres in a particular colour.
- Delivery time - Having such a variety of colours of fabric in stock that are ready to be shipped translates into a quicker response to Distex's orders and reduced delivery time. This also allows for fast repeat orders.
- Production requirements - The fabric used for the collar and cuffs is of a different yarn specification from the fabric used for the remainder of the golf jersey. The foreign supplier is able to dye both fabrics uniformly.

Distex submitted that, due to the absence of domestically produced substitutes, it must import the subject fabric and incur unnecessary duty costs. Should tariff relief be granted, Distex stated that it would achieve substantial duty savings, lower its cost of production, price its end product more competitively and increase sales.

Distex submitted that greater sales volumes would mean that it would hire more staff to manage business expansion and that higher production volumes would encourage its contractors to employ more people in Canada. Distex also asserted that domestic companies that import finished golf jerseys would be

5. R.S.C. 1985 (3d Supp.), c. 41.

6. Understood by the Tribunal to mean the date on which the request was filed.

encouraged to manufacture in Canada and pointed to the conclusion by the Tribunal in its previous recommendation⁷ that net economic gains would be realized in Canada from the elimination of the tariff on that textile input.

In its final submission to the Tribunal, Distex stated the following:

- The specifications supplied by Agmont Inc. (Agmont) for its fabric samples are substantially different from those found by the CCRA laboratory when it analysed the same samples.
- Distex is prepared to accommodate Agmont and suggested that the request be amended, that is, narrowed, to specify that it covers “2-ply mercerized yarns” having “a yarn count ranging from 30/2 to 32/2”.⁸ According to Distex, these amendments should be sufficient to exclude and protect all of Agmont’s production of identical or substitutable fabrics.
- Regarding Agmont’s claims that it is capable of producing fabrics identical to the subject fabric, Distex argued that the Tribunal has stated, numerous times, that only actual production can be considered when determining whether a domestic producer will be affected by tariff relief.
- The particular mercerization technology used by foreign suppliers has allowed Distex to penetrate the high-end segment of the golf jersey market. The very fine details offered by mercerization technology play a determining role when it sells its golf jerseys.
- Agmont’s fabrics are not substitutable because double-mercerized golf jerseys constitute a specific segment of the market, and fabrics made of non-mercerized yarns are not substitutable for the subject fabric. Distex’s golf jerseys command a much higher retail price and, therefore, do not compete with products made from Agmont fabrics.
- Even if Agmont made identical or substitutable fabrics, Distex would not be able to source these fabrics because Agmont is either unwilling or incapable of selling to it.
- Agmont has never sold, or even offered to sell, fabrics to Distex. Therefore, Agmont cannot argue that its investments will be jeopardized if tariff relief is granted.
- Although Agmont claims that one of its customers is making golf jerseys that retail at approximately the same prices as those of Distex, these jerseys are made of Jacquard fabrics and, therefore, are outside the scope of this investigation.
- Given the commercial reality for the market segment under consideration, Distex stated that Canada is not an attractive place to manufacture high-end golf jerseys. Implementing a recommendation for tariff relief would remedy the situation and put Canada at an advantage.
- Although the Canadian Textiles Institute (CTI) claimed that the textile reference “denies textile producers any avenue of appeal”, the fact is that, under section 19 of the *Textile Guidelines*, Agmont is free to file a request for the termination of the order.
- Canadian manufacturers, such as Distex, are too small to merit consideration by domestic knitters; therefore, they have no option but to purchase from foreign knitters.

Finally, Distex stated that it disagreed with the CCRA’s position that, if the definition of the subject fabric referred to double-mercerized fabrics, it would not be administrable because of the inability of the

7. *Distex Inc.* (8 February 1999), TR-98-002. The recommendation was in respect of a Jacquard weft knit double-mercerized fabric.

8. Equivalent to 187 to 195 decitex per single yarn.

CCRA laboratory to detect double mercerization. Distex maintained that there are other ways of ensuring that the fabric has been double mercerized, such as affidavits, questionnaires, production records and onsite verifications. According to Distex, exporter certification is being used in the administration of other tariff initiatives and does not seem to impose an overwhelming financial burden on the CCRA.

After the receipt of the final submissions, Agmont filed additional samples of a fabric that, it alleged, was double mercerized and identical to the subject fabric. In response, Distex stated that it was still of the opinion that a fabric identical to or substitutable for the subject fabric was not available in Canada. Distex argued that there did not appear to be any evidence that Agmont was actually selling the sample fabric, nor was there any evidence that Agmont's sales of this particular fabric would be jeopardized if tariff relief were granted. Distex also argued that there was still no evidence on the record to demonstrate that it would be able to source fabrics identical to or substitutable for the subject fabric in Canada. Distex concluded by stating that there would be no cost to Agmont if relief were granted and that tariff relief would provide net economic gains to Canada.

Importers and Users

Ardent Sportswear Inc. (Ardent)

Ardent is a Canadian manufacturer of sportswear that produces men's cotton golf jerseys. The company indicated that it was not able to complete the questionnaire because it has not had any orders for golf jerseys using the subject fabric.

Hathaway Canada Limited (Hathaway)

Hathaway indicated that, although it does not import the subject fabric at the present time, it supported the request for tariff relief.

Wing Son Garments (Wing Son)

Wing Son indicated that it did not import the subject fabric and had no intention of doing so in the upcoming year.

Fountain Set Textiles (Ontario) Ltd. (Fountain Set)

Fountain Set did not complete the importer's questionnaire, but indicated that it supported the request for tariff relief because such relief would assist it in making future sales and in creating more job opportunities for the local apparel industry.

Position of Domestic Producers of Allegedly Substitutable Fabrics

Agmont

Agmont, of Montréal, Quebec, has been in business for 30 years and is a manufacturer of circular knit fabrics serving customers in Canada and the United States.

Agmont stated that it operates a state-of-the-art knitting factory and that it has the most advanced dyeing and finishing plant for knitted fabrics in North America (Agmont America Dyeing Inc.). The company stated that it specializes in the production of cotton, polyester/cotton, cotton/lycra and specialty-blend knitted fabrics for use in the manufacture of sportswear and children's, men's and women's

wear, bodywear and swimwear. It alleged that it has the capability and capacity to produce the fabric as specified in Distex's request.

Agmont opposed the request for tariff relief, arguing that it produces fabrics that are identical to the subject fabric described in the notice of commencement of investigation. Agmont submitted that it also produces fabrics that are virtually identical to the sample fabrics submitted by Distex and that it has the capability to produce fabrics identical in all respects to these samples by using identical yarns. Agmont also alleged that it produces a variety of fabrics that compete directly with those specified in Distex's request.

Agmont argued that, if Distex is permitted to import the subject fabric duty free, Distex will compete directly with Agmont's customers in the U.S. market, causing them to lose market share. According to Agmont, this would cause a reduction of employment in its customers' plants in the United States, a loss of market share by Agmont in the U.S. market and reduced employment at Agmont's Canadian production facilities.

Agmont stated that North American fabric producers are actively trying to recapture market share from high-quality imported garments and submitted that it is switching its production to higher-valued products. Agmont submitted that, in support of this shift, it invested in mercerizing equipment to develop the market for mercerized fabrics and argued that this investment will be jeopardized if Agmont loses market share to the subject fabric.

Agmont made the following additional points in response to the statement made by Distex that the Tribunal recognized that "domestic manufacturers cannot duplicate" the characteristics of the fabrics that they import when it made its recommendation on the previous case:⁹

- The new request covers dyed fabrics, not Jacquards.
- It is absolutely untrue that Canadian manufacturers, and specifically Agmont, cannot produce fabrics identical to those imported by Distex, whether yarn-dyed Jacquards or dyed fabrics. Agmont submitted that it purchases mercerized yarns and knits them into fabrics and that it mercerizes both Jacquards and dyed fabrics. Regarding "double-mercerized" fabrics, Agmont argued that the reason that these do not show up in large volumes in its current or past production numbers is that there has been little demand for them from their customers and from the marketplace.
- Agmont is greatly alarmed that the CCRA, by not allowing the use of the double-mercerization specification in the product definition, has proposed wording that would allow the duty-free importation of a substantially broader range of golf jersey fabrics into Canada, in direct competition with Canadian knit fabric production.

Agmont also argued that its total sales to the golf jersey market are significant and that allowing duty-free imports of mercerized fabrics would negatively affect this area of its business. Furthermore, Agmont submitted that one of its customers in the United States is making golf jerseys that retail at approximately the same price as those of Distex.

Agmont submitted that, while market demand is predominantly for fabrics made from single yarns, it also produces fabrics made from 2-ply yarns for customers that request them.

9. *Supra* note 7.

Edward Textile Inc. (Edward)

Edward indicated that it did not produce identical or substitutable fabrics and did not oppose the request.

Glenoit Corporation of Canada (Glenoit)

Glenoit indicated that it did not oppose the request for tariff relief.

Position of Other Interested PartiesCanadian Apparel Federation (CAF)

The following are the major points made by the Canadian Apparel Manufacturers Institute, on behalf of CAF, in support of the request:

- There is no domestic production of fabrics identical to or substitutable for the subject fabric and, therefore, tariff relief would not have an impact on domestic textile manufacturers.
- Agmont has little, if any, supplier presence in the market niche in which Distex is operating, and there would be no impact on Agmont if the tariff were eliminated. Furthermore, net economic benefits would be maximized if tariff relief were granted on double-mercerized cotton fabric for golf jerseys, as requested by Distex.
- CAF questioned whether Agmont is currently supplying mercerized fabrics at all or, for that matter, whether it has the capability to produce double-mercerized fabrics.
- CAF pointed out that, although Agmont alleged that it can produce substitutable fabrics, the Tribunal has stated, in many of its recommendations, that the fashion industry operates on a lower degree of substitutability and attaches considerable importance to even small differences between fabrics, which would allow it to offer distinctive new products.
- Domestic textile knitters themselves recognize that there are critical differences between knitted polyester/cotton, cotton and cotton/lycra. They also recognize that there are business reasons for making these three fabrics, namely, that the market demands such diversification.
- It is not clear if Agmont's double-mercerized fabrics of single cotton yarns compare well with the subject fabric. It is CAF's understanding that the Distex yarns have more tensile strength and, therefore, can be used for knitting finer-gauge fabrics.
- It appears as if Agmont wants to establish that it purchases mercerized yarns, knits them into fabrics and subsequently mercerizes the fabrics. CAF saw no evidence of Agmont carrying out a yarn mercerizing operation.
- Distex and Ardent provided evidence that non-mercerized fabrics were used for low- to mid-priced jerseys. These are the market niches occupied by lower end golf jersey manufacturers using Canadian-made non-mercerized fabric. Agmont has not demonstrated that it is occupying a specialty supplier niche, and there is no proof that Agmont has the capability to produce high-quality double-mercerized fabrics, as specified by Distex in its request.
- Only one of Agmont's samples is double mercerized and the others are single-mercerized fabrics that should be excluded from further consideration.

- Agmont has not provided any evidence that it can make and supply double-mercerized fabrics. Furthermore, Agmont supplies manufacturers that make low-end golf jerseys and will not use the subject fabric for this type of golf jersey. If, and when, Agmont moves into double-mercerized fabrics, then this issue might become more legitimate and could be re-examined.
- CAF saw no reason why import certificates would not work, even if additional import controls were also needed.

In response to Agmont's final submission of a fabric sample that, it alleged, was identical to the subject fabric, CAF stated that Distex has not had a trial run of this fabric and that there have been no sales to, or orders from, Distex.

Canadian Textiles Institute (CTI)

The CTI opposed the request for tariff relief. The CTI stated that, in the first Distex case, the Tribunal's recommendation was made over the objections of the CTI and two major knitters, disregarding the domestic industry's production capabilities and recent investments in the industry. The CTI submitted that the textile reference induces textile importers to attack domestic textile production and denies textile producers any avenue of appeal.

The CTI agreed that the subject fabric should not be described as double-mercerized because this fabric characteristic cannot be administered by the CCRA. The CTI submitted that Distex's allegations as to the superiority of the subject fabric over Canadian fabrics are unsupported by comparative evidence on the performance of Distex's supplier in Italy and Canadian knitters.

The CTI submitted that Agmont has the equipment, yarn sources and knowledge to produce fabrics identical to the subject fabric. The CTI also stated that the range of fabrics covered by the description of the "subject fabric", on which the case is based, is substantially broader than the range of Distex samples.

The CTI argued that Agmont can produce weft knit mercerized fabrics in the following ways:

- from mercerized yarns to produce single-mercerized fabric;
- from regular yarns to produce fabric that is mercerized in the finishing process; and
- from mercerized yarns to produce fabric which is mercerized in the finishing process.

The CTI further submitted that Agmont had undertaken to produce a fabric identical to the Distex fabric samples to demonstrate that it can produce fabrics identical to the subject fabric.¹⁰

Other Information

DFAIT informed the Tribunal that Canada does not maintain quota restrictions on the subject fabric classified in subheading No. 6002.92. Therefore, the subject fabric is not subject to any quantitative import restrictions.

The CCRA stated that there would be no additional costs, over and above those already incurred by it, to administer tariff relief on the subject fabric.

10. The fabric was submitted on February 16, 2000.

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.

This investigation concerns a dyed, weft knit, mercerized fabric that is used to produce golf jerseys in Canada, mainly for export to the high-end golf jersey market in the United States. The purchasers of these jerseys are individuals who spend considerably more money on golfing activities than the bulk of the golfing public and who seek a degree of exclusivity in their apparel. Distex alleges that it has been able to capture some of this market because of the use of continuous, rather than batch, mercerization by its supplier, the use of double mercerization and the use of 2-ply yarns to knit the fabric. Distex has asked that tariff relief be provided on a fabric that is double-mercerized and dyed, but not produced on a Jacquard weft-knitting machine.¹¹ As explained earlier, because it was unable to determine whether a fabric had been mercerized more than once, the CCRA recommended that the fabric not be described as having been double mercerized. In addition, the CCRA recommended against the addition of any wording such as "certified by the exporter".¹² In the CCRA's opinion, any tariff relief on a product described as "double-mercerized" would not be administrable because double mercerization could not be confirmed by laboratory analysis. Consequently, the Tribunal commenced an investigation that covered only a single-mercerized fabric, not a double-mercerized fabric as requested by Distex.

Agmont, the only Canadian producer to oppose this request, argued that it produces fabrics which are identical to or substitutable for the fabric described in the notice of commencement of investigation (i.e. single-mercerized) and that it is capable of producing fabrics that are identical in all respects to the samples provided by Distex with its request (i.e. double-mercerized). Agmont stated that tariff relief would cause it to lose market share in the United States and cause reduced employment at Agmont's Canadian production facilities. Agmont also submitted that its investment in mercerizing equipment would be jeopardized, if tariff relief were granted. Agmont further stated that allowing the use of the single mercerization specification in the product definition would allow the duty-free importation of a substantially broader range of golf jersey fabrics into Canada, in direct competition with Canadian knit production. In response, Distex proposed a modification to the definition of the subject fabric to include the words "2-ply yarns" and "double-mercerized". Distex pointed to the fact that, because its golf jerseys are made from 2-ply mercerized yarns, they are also able to command a higher price when they are sold at retail. Distex also alleged that fabrics made of 2-ply mercerized yarns offer greater durability and suppleness and alleged that identical or substitutable fabrics are not produced in Canada. According to Distex, this modification would ensure that Agmont's fabrics are protected from any adverse effects caused by tariff relief.

As evidence, Agmont submitted various samples of single- and double-mercerized fabrics that, it argued, could be used by Distex to produce golf jerseys. However, Agmont did not produce any evidence of

11. *Supra* note 7.

12. *Supra* note 7. Further to the Tribunal's recommendation in the previous Distex case, tariff relief was granted on a double-mercerized fabric produced on a Jacquard weft-knitting machine. In order to obtain tariff relief on this fabric, an importer has to provide, upon importation, exporter certification that the fabric has been both double-mercerized and knitted on a Jacquard weft-knitting machine.

its single-mercerized fabrics being sold in the same market as the one supplied by Distex (i.e. high-end golf jerseys) and, consequently, the Tribunal does not view any of these single-mercerized fabrics to be substitutable for the subject fabric. With regard to the double-mercerized fabrics produced by Agmont, one is a fabric produced on a Jacquard weft-knitting machine, while the other is a sample fabric that has not yet been offered for sale.

A double-mercerized Jacquard-knit cotton fabric is generally viewed as being of a higher quality than the subject fabric.¹³ While Agmont reports modest sales of its Jacquard fabric to a U.S. golf jersey producer, it is not clear whether this producer operates in the same market as Distex.¹⁴ In any case, this fabric clearly falls outside the scope of the Tribunal's present investigation.

Agmont's sample fabric has no established sales record and, therefore, the Tribunal is of the view that it cannot be considered to be a product that is currently available in commercial volumes. The Tribunal has stated many times in the past¹⁵ 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. In the Tribunal's view, the creation of a small customized sample for purposes of the Tribunal's investigation, without any other production or sales experience, does not constitute sufficient evidence of the ability of a domestic producer to produce identical or substitutable fabrics.

In summary, while Agmont may have the capacity to produce a sample of a fabric identical to or substitutable for the subject fabric, it has not demonstrated to the Tribunal that its fabrics compete in the same market as that of Distex. Therefore, the Tribunal concludes that the allegedly identical or substitutable fabrics produced by Agmont are either not substitutable for the subject fabric or not yet available in commercial volumes. Accordingly, there would be no economic cost to domestic producers if tariff relief were granted. For these reasons, and considering the benefits to Distex, the Tribunal concludes that tariff relief would result in net economic benefits to Canada.

In administering a new tariff item to provide the tariff relief requested, a concern was raised respecting the ability to detect whether an imported fabric has been double mercerized. As stated earlier, the CCRA reported that it could not ascertain whether the fabric samples that it analyzed had been double mercerized and, therefore, recommended against making this feature a characteristic of the product description and against using the words "certified by the exporter". However, the Tribunal believes that both double mercerization and 2-ply yarns are critical for Distex to be able to sell its golf jerseys in the high-end golf jersey market. Furthermore, there has been no evidence submitted before the Tribunal to indicate that Agmont is supplying double-mercerized dyed, weft knit fabrics that compete in the same market segment as Distex. In this regard, the Tribunal notes that there is no evidence on the record showing that Agmont, or any other domestic knitter, has ever attempted to sell double-mercerized fabrics to Distex. Accordingly, the Tribunal is of the view that amending the definition of the subject fabric to include a reference to 2-ply yarns and to double mercerization is appropriate. Not only would this definition protect Agmont's production but it would also satisfy both Agmont's and the CTI's concerns regarding the broad scope of the definition of the subject fabric in the Tribunal's notice of commencement of investigation.

13. *Supra* note 7 at 7 and 8.

14. Agmont's letter to the Tribunal dated January 17, 2000.

15. See, for example, *Camp Mate* (10 June 1996), TR-95-051 (CITT); *Lady Americana Sleep Products* (12 February 1997), TR-95-064 and TR-95-065 (CITT); *Cambridge Industries* (12 February 1999), TR-98-001 (CITT); *Helly Hansen Canada* (19 March 1999), TR-97-015, TR-97-016 and TR-97-020 (CITT); *Jones Apparel Group Canada* (8 July 1999), TR-98-017 (CITT); *Tribal Sportswear* (24 August 1999), TR-98-019 (CITT); and *Western Glove Works* (4 February 2000), TR-99-003 (CITT).

The Tribunal is of the view that, in the circumstances of this particular case, the most effective way of providing tariff relief while protecting the interests of domestic knitters is for the exporter to be required to provide acceptable certification of certain characteristics that make the imported fabric special. The CCRA, itself, implemented the previous Distex recommendation by using exporter certification, without any problems or abuse being reported to the Tribunal. Furthermore, there is some evidence that exporter certification is being used by the CCRA in the monitoring and administration of other trade and tariff arrangements.¹⁶

With respect to Distex's request for retroactive tariff relief, the Tribunal has stated in previous cases that it will not consider recommending such relief other than in exceptional circumstances. Distex has provided no evidence to justify such a request. The Tribunal, therefore, is not persuaded that the current circumstances are so exceptional as to warrant a recommendation for retroactive relief.

In the event that the Minister makes an order implementing the Tribunal's recommendation for tariff relief, and should the circumstances that led to the initial recommendation change at some point in the future, textile producers may request that the Tribunal review the recommendation that led to the Minister's order.

RECOMMENDATION

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, solely of 2-ply cotton yarns, measuring, per single yarn, 180 decitex or more but not exceeding 200 decitex, of a weight of 150 g/m² or more but not exceeding 200 g/m², certified by the exporter to have been "double-mercerized" (i.e. the yarns have been mercerized, knit into a fabric and subjected to a second mercerization process), of subheading No. 6002.92, for use in the manufacture of golf jerseys.

Richard Lafontaine
Richard Lafontaine
Presiding Member

Peter F. Thalheimer
Peter F. Thalheimer
Member

Zdenek Kvarda
Zdenek Kvarda
Member

16. Distex's final submission dated January 28, 2000, at 14.