



**REPORT TO
THE MINISTER OF FINANCE**

**REVIEW OF RECOMMENDATION
REGARDING
CERTAIN RING-SPUN YARNS**

JUNE 18, 1999

REVIEW NO.: TA-98-004

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INTRODUCTION

This is a review conducted by the Canadian International Trade Tribunal (the Tribunal) further to the Notice of Expiry of Textile Tariff Relief Order and Remission Order Concerning Certain Ring-Spun Yarns (notice of expiry) that it released on November 6, 1998. The notice of expiry announced that the tariff relief concerning certain ring-spun yarns that was implemented through the *Customs Duties Reduction or Removal Order, 1988, amendment*¹ (Order in Council P.C. 1996-1088) and the *Order Respecting the Remission of Customs Duties on Certain Knitting Yarns*² (the *Knitting Yarns Remission Order, 1996*) (Order in Council P.C. 1996-1089), both made on July 10, 1996, following the Tribunal's recommendations to the Minister of Finance (the Minister) in Request Nos. TR-94-002 and TR-94-002A (Kute-Knit Mfg. Inc.), was scheduled to expire on June 30, 1999.

The notice of expiry, which was published in the November 21, 1998, edition of the *Canada Gazette*, Part I,³ was also distributed to firms that were parties in the original investigation, to firms identified as importers and users of the subject yarns, to organizations representing producers, users and importers of textile inputs and to a number of government departments. Seven parties filed letters and submissions with the Tribunal in response to the notice of expiry, including Kute-Knit Mfg. Inc. (Kute-Knit), the Canadian Textiles Institute (CTI) and the Canadian Apparel Manufacturers Institute (CAMI).

The notice of expiry indicated that Statistics Canada data show that total imports, in 1997, of the yarns covered by Codes 4117 and 4118 amounted to 11,871,381 kg, valued at \$56,142,721. Total imports of those same yarns in the first seven months of 1998 amounted to 7,624,266 kg, valued at \$34,520,269.

A public hearing was not held for the review.

BACKGROUND

On December 28, 1994, the Tribunal received a request from Kute-Knit, of Montréal, Quebec, for the immediate and permanent removal of the customs duty on importations, from all countries, of combed, ring-spun, polycotton, blended yarns in specific sizes and compositions,⁴ for use in the production of greige fabrics and, subsequently, children's clothing.

On July 5, 1995, further to its investigation in Request No. TR-94-002, the Tribunal recommended to the Minister that the customs duty on importations of combed, ring-spun, polycotton, blended yarns be removed for a three-year period.

On November 22, 1995, pursuant to section 19 of the *Canadian International Trade Tribunal Act*,⁵ the Minister requested that the Tribunal inquire into information that was submitted to him by Canadian Yarns Ltd. (CYL), a producer of certain open-end carded yarns, taking into account information previously submitted to the Tribunal in connection with its investigation in Request No. TR-94-002, together with any

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1. SOR/96-373, July 10, 1996, *Canada Gazette* Part II, Vol. 130, No. 15 at 2526.
 2. SOR/96-374, July 10, 1996, *Canada Gazette* Part II, Vol. 130, No. 15 at 2533.
 3. Vol. 132, No. 47 at 3135.
 4. Namely, four yarn sizes (12/1, 18/1, 24/1 and 30/1) in three blend compositions (52:48, 50:50 and 55:45) and one yarn size (40/1) in three blend compositions (52:48, 50:50 and 65:35); Canadian International Trade Tribunal, Request No. TR-94-002, July 5, 1995, at 1.
 5. R.S.C. 1985, c. 47 (4th Supp.).

other information that the Tribunal considered appropriate in the circumstances. The reference also directed the Tribunal to report within 60 days from the date of reference as to whether tariff relief was warranted on the subject combed, ring-spun, polycotton, blended yarns.

On January 22, 1996, on the basis of its examination of all information and submissions in Request No. TR-94-002A and its re-examination of the record in Request No. TR-94-002, the Tribunal reported to the Minister that it found no reason to change the recommendation in Request No. TR-94-002, and hence it reaffirmed its recommendation that the customs duty on importations of combed, ring-spun, polycotton, blended yarns be removed for a three-year period.

After extensive consultations with textile spinners and knitters, the Minister decided,⁶ in lieu of adopting the Tribunal's recommendation in Request No. TR-94-002, to recommend to the Governor in Council that the tariff be removed for three years on the following:

- a) certain combed or carded, ring-spun cotton and polycotton yarns, measuring 190 decitex or less (finer than 31s) for use in the manufacture of knitted fabrics or knitted garments;
- b) certain ring-spun two-ply yarns, measuring less than 125 decitex per single yarn, for use in the manufacture of knitted fabrics or knitted garments; and,
- c) certain combed, ring-spun polycotton yarns, measuring 492 decitex, 328 decitex and 246 decitex (12s, 18s and 24s), for use in the manufacture of knitted children's wear.

As a result of the Minister's recommendation, the Governor in Council approved, on July 10, 1996, tariff reductions for the yarns that are outlined above through the adoption of the *Customs Duties Reduction or Removal Order, 1988, amendment* and the *Knitting Yarns Remission Order, 1996*. The *Customs Duties Reduction or Removal Order, 1988, amendment* introduces Codes 4117 and 4118, which eliminate the tariff on these yarns for use in the manufacture of knitted fabrics or garments; the *Knitting Yarns Remission Order, 1996* provides for the remittance of duty on certain blends of combed, ring-spun polycotton yarns for use in the manufacture of knitted children's wear. In addition, the Minister informed the Tribunal that he had removed from the textile reference, for about three years, cotton and polycotton knitting yarns measuring more than 190 decitex (31s and coarser).

TARIFF RELIEF

The *Customs Duties Reduction or Removal Order, 1988, amendment* added, among other things, two codes in Schedule II to the *Customs Tariff* with respect to the following yarns for use in the manufacture of knitted fabrics or knitted garments⁷:

- Ring-spun yarns (other than mock twist), single, unbleached or bleached, solely of cotton or solely of cotton and polyester staple fibres, containing not more than 80% by weight of polyester staple fibres, measuring 190 decitex or less, of subheading No. 5205.14, 5205.15, 5205.24, 5205.26, 5205.27, 5205.28, 5206.14, 5206.15, 5206.24, 5206.25 or 5509.53 [Code 4117].
- Ring-spun yarns, two-ply, unbleached or bleached, solely of cotton, measuring less than 125 decitex per single yarn, of subheading No. 5205.35, 5205.46, 5205.47 or 5205.48 [Code 4118].

6. The Minister provided this information to the Tribunal by letter dated July 24, 1996.

7. *Supra* note 1 at 2527; it should be noted that Order in Council P.C. 1996-1088 created a number of codes in Schedule II to the *Customs Tariff*, only two of which (Codes 4117 and 4118) pertain to ring-spun yarns.

On the other hand, the *Knitting Yarns Remission Order, 1996* provided for the remittance of duties with respect to the following yarns, for use in the manufacture of knitted children's wear:

- (a) combed, ring-spun yarns, of 50% polyester and 50% cotton, measuring 492 decitex, 328 decitex and 246 decitex (12s, 18s and 24s cotton count);
- (b) combed, ring-spun yarns, of 52% polyester and 48% cotton, measuring 492 decitex, 328 decitex and 246 decitex (12s, 18s and 24s cotton count); or
- (c) combed, ring-spun yarns, of 55% polyester and 45% cotton, measuring 492 decitex, 328 decitex and 246 decitex (12s, 18s and 24s cotton count).⁸

Both the tariff relief provided by Codes 4117 and 4118 (which were superseded in 1998 by tariff item Nos. 5205.14.20, 5205.15.20, 5205.24.20, 5205.26.20, 5205.27.20, 5205.28.20, 5206.14.10, 5206.15.10, 5206.24.10, 5206.25.10, 5509.53.10, 5205.35.20, 5205.46.20, 5205.47.20 and 5205.48.20⁹) and the remission of duties provided by the *Knitting Yarns Remission Order, 1996* are scheduled to cease on June 30, 1999.

ANALYSIS

In the Tribunal's view, the *Customs Duties Reduction or Removal Order, 1988, amendment* (as it regards ring-spun yarns) and the *Knitting Yarns Remission Order, 1996*, which sum up the compromise that was reached by textile spinners and knitters, were both made as a result of the Minister's decision pursuant to the Tribunal's investigations, reports and recommendations to the Minister in Request Nos. TR-94-002 and TR-94-002A, and are thus reviewable by the Tribunal.

In considering whether tariff relief should be continued, with or without amendment, the Tribunal will look, first, at whether all relevant factors that led it to recommend tariff relief continue to apply and, second, at whether extending tariff relief under such conditions will continue to provide net economic gains for Canada.

In its original report to the Minister, dated July 5, 1995, the Tribunal stated its concern with the issues of, first, whether combed, ring-spun yarns were still produced in Canada and, second, whether carded yarns and combed, open-end and air-jet yarns were substitutable for the combed, ring-spun yarns subject to the request. On the first point, the Tribunal found that it could not conclude that combed, ring-spun yarns were still produced in Canada; on the second point, the Tribunal believed that carded yarns and combed, open-end and air-jet yarns were not substitutable for the yarns subject to the request. In light of the forecasted positive economic benefits, the Tribunal recommended that tariff relief be granted. In order to provide a degree of stability for Kute-Knit and other users of combed, ring-spun, polycotton, blended yarns, the Tribunal recommended that this tariff relief be granted for a period of three years. However, as noted earlier, further to consultations with the industries, the Minister put forward his own recommendation to the Governor in Council.

Further to the notice of expiry, two users of the subject yarns, Stanfield's Limited and Main Knitting Inc., indicated their wish for the continuation of tariff relief. Promptex Yarns Inc. (Promptex), a major importer of ring-spun yarns into Canada, recommended that tariff relief be renewed on an indeterminate basis. In addition, Promptex asked that the Tribunal look into the number of imported garments coming into

8. *Supra* note 2.

9. *Customs Tariff*, R.S.C. 1985, c. 41 (3rd Supp.).

Canada with a view to imposing quotas and/or higher duties, as well as into the importation of greige fabric. Metco Fashions Inc., for its part, asked that the tariff relief be continued and, additionally, that the Tribunal consider the removal of duty on coarser ring-spun yarns for all end-use applications and not only for yarns used for making children's knit wear, as is currently the case. Finally, Kute-Knit, the original requester, asked that tariff relief be continued on an indeterminate rather than on a temporary basis.

On April 19, 1999, the CTI informed the Tribunal that it was in agreement that tariff relief be extended for a three-year period now that it had obtained the following commitments from the Department of Finance:

- a) to continue the existing exemption from the textile reference for specified knitting yarns;
- b) to provide monthly aggregate data on the volumes and values of importations of the subject yarns; and
- c) to analyze these data and to meet with the CTI to discuss the situation and possible courses of action should the subject yarns be imported at such prices and in such quantities as to be of concern.¹⁰

On April 28, 1999, CAMI indicated that, based on discussions with Kute-Knit, it was prepared to proceed with the compromise as set out above by the CTI. However, while it believed that the compromise is a reasonable approach at the present time, CAMI wanted to ensure that, when this matter resurfaces in early 2002, the issue of the exclusion of certain knitting yarns from the reference will also be addressed.

While there may not be unanimous agreement among all parties as to what its final recommendation to the Minister should be, the Tribunal is persuaded that there is a broad consensus in the textile spinning and knitting industries that, as a minimum, the tariff relief for certain ring-spun yarns, as currently implemented, should be continued for an additional period of three years. The Tribunal notes in this regard that, as a result of the July 1996 compromise between textile spinners and knitters that led to the adoption of the *Customs Duties Reduction or Removal Order, 1988, amendment* and the *Knitting Yarns Remission Order, 1996*, the scope of the tariff relief that is provided on ring-spun yarns is significantly different from both the tariff relief that was originally sought by Kute-Knit and that which was contemplated in the Tribunal's 1995 recommendation. However, it now appears that the tariff relief that was recommended by the Tribunal and that which resulted from the 1996 compromise are so closely linked that any attempt to dissociate them would be impracticable, if not impossible, especially in light of the broad consensus that seems to continue to exist in the industries which are affected by the measures which are currently in place. On the other hand, the Tribunal notes that parties wishing to obtain tariff relief for yarns which are not encompassed by the two Orders of July 10, 1996, still have the option of filing a properly documented request with the Tribunal, provided that the yarns fall within the Tribunal's terms of reference.

Furthermore, notwithstanding that some parties suggested that tariff relief be continued on an indeterminate basis, the Tribunal is of the view that the industries' consensus was only possible, at this time, by limiting the application of its recommendation to a fixed period.

With regard to the continuation of the exclusion of certain knitting yarns from the purview of the textile reference, the Tribunal is of the view that this issue rests entirely within the authority of the Minister

10. Tribunal Exhibit TE-98-002.

and that the Tribunal cannot, in any recommendation, specify which textile inputs should or should not be included in the reference.

From an economic point of view, tariff relief has provided domestic users of the subject yarns with benefits that are worth millions of dollars each year. Furthermore, the Tribunal did not receive any evidence that could allow it to conclude that the factors that led it to recommend that tariff relief be granted have significantly changed since it issued its recommendation, or that there would be any costs, other than foregone federal revenues, in recommending that tariff relief be extended for a further three-year period. In the absence of such evidence, extending tariff relief should continue to provide net economic gains to Canada.

RECOMMENDATION

In light of the foregoing, the Tribunal hereby recommends to the Minister that tariff relief, as provided by tariff item Nos. 5205.14.20, 5205.15.20, 5205.24.20, 5205.26.20, 5205.27.20, 5205.28.20, 5206.14.10, 5206.15.10, 5206.24.10, 5206.25.10, 5509.53.10, 5205.35.20, 5205.46.20, 5205.47.20 and 5205.48.20, and the remission of duties provided by the *Knitting Yarns Remission Order, 1996*, be continued beyond June 30, 1999, for an additional period of three years.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Richard Lafontaine
Richard Lafontaine
Member