

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL



TRIBUNAL CANADIEN
DU COMMERCE
EXTÉRIEUR

TEXTILE REFERENCE

ANNUAL STATUS REPORT

**OCTOBER 1, 1995,
TO
SEPTEMBER 30, 1996**

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INTRODUCTION

On July 6, 1994, the Minister of Finance (the Minister) directed the Canadian International Trade Tribunal (the Tribunal) to conduct investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their manufacturing operations.

In the fall of 1995, in the course of preparing for its first annual status report to the Minister, the Tribunal invited its stakeholders to comment on the investigation process and to make suggestions on how it could be improved. Comments were also invited on all matters dealing with the textile reference. The consultations were reported in the first annual status report that was provided to the Minister on November 30, 1995.

On March 20, 1996, following consultations with industry officials and after having reviewed the Tribunal's first annual status report, the Minister revised the terms governing the textile reference. As a result of these revisions and past practice, the Tribunal prepared a discussion paper outlining proposed changes to the investigation process. The discussion paper was provided to stakeholders on May 9, 1996. Written comments were requested by May 24, 1996, and oral submissions were heard on June 5, 1996. In addition, on July 24, 1996, the Minister further revised the terms of reference by removing certain knitting yarns from the purview of the textile reference (see Appendix IV).

During the period covered by this report, the government implemented the Tribunal's recommendations for tariff relief contained in 12 reports to the Minister, covering imports worth \$18.9 million, on which \$3.4 million of customs duties were collected.

This report describes the activities undertaken by the Tribunal during the period from October 1, 1995, to September 30, 1996, and the resources that were allocated to the program. It also reports on the spring 1996 consultations and offers Tribunal comments regarding the program.

WORKLOAD - OCTOBER 1, 1995, TO SEPTEMBER 30, 1996**Requests by Industry Sector**

During the 12-month period from October 1, 1995, to September 30, 1996, the Tribunal received 20 requests for tariff relief from domestic producers. Forty-five percent of these requests originated from producers in the apparel industry. Requests were also received from firms in other industry sectors, such as furniture and textile. Details on the origin of these requests, by industry sector, is provided in Table 1.

| | Apparel | Furniture | Textile | Other | Total |
|----------------|----------------|------------------|----------------|--------------|--------------|
| 1995-96 | | | | | |
| Number | 9 | 4 | 2 | 5 | 20 |
| Percent | 45 | 20 | 10 | 25 | 100 |
| 1994-95 | | | | | |
| Number | 50 | 3 | 5 | 15 | 73 |
| Percent | 68 | 4 | 7 | 21 | 100 |

The number of requests (20) received this year is down significantly from last year's total (73). It should be noted that the latter number included 28 requests covering similar textile inputs.

Geographic Distribution of Requests

Seventy percent of all requests for tariff relief originated in Quebec and Ontario. Five requests originated in British Columbia and the Prairies, while none originated in the Maritimes or Newfoundland. One request from a firm in the United States was not accepted. Details on the geographic distribution of these requests is presented in Table 2.

| | Quebec | Ontario | British Columbia | Prairies | Outside Canada |
|----------------|---------------|----------------|-----------------------------|-----------------|---------------------------|
| 1995-96 | | | | | |
| Number | 9 | 5 | 3 | 2 | 1 |
| Percent | 45 | 25 | 15 | 10 | 5 |
| 1994-95 | | | | | |
| Number | 28 | 9 | 30 ¹ | 6 | 0 |
| Percent | 39 | 12 | 41 | 8 | 0 |

1. Twenty-eight of these requests covered similar textile inputs.

Requests by Type of Input

While requests for tariff relief have covered a broad spectrum of the textile inputs specified in the Minister's reference, the preponderance of requests (85 percent) have been for tariff relief on fabrics, as opposed to other textile inputs. During the year, two requests for tariff relief on nonwovens were received. Table 3 presents a breakdown of the requests by type of input.

| | Fabric | Nonwoven | Yarn | Other | Total |
|----------------|--------|----------|------|-------|-------|
| 1995-96 | | | | | |
| Number | 17 | 2 | 1 | 0 | 20 |
| Percent | 85 | 10 | 5 | 0 | 100 |
| 1994-95 | | | | | |
| Number | 66 | 0 | 5 | 2 | 73 |
| Percent | 90 | 0 | 7 | 3 | 100 |

Requests by Customs Tariff Chapter

The terms of reference limit the application of the textile program to certain chapters of Schedule I to the *Customs Tariff*.¹ Table 4 shows the distribution, by chapter, of all requests received in the last two years.

| Chapter | <u>1995-96</u> | | <u>1994-95</u> | |
|---------|--------------------|----------|--------------------|----------|
| | Number of Requests | Percent | Number of Requests | Percent |
| 39 | 1 | 4 | 2 | 3 |
| 40 | 0 | 0 | 1 | 1 |
| 51 | 1 | 4 | 3 | 4 |
| 52 | 0 | 0 | 8 | 11 |
| 53 | 0 | 0 | 1 | 1 |
| 54 | 5 | 22 | 7 | 9 |
| 55 | 4 | 17 | 10 | 14 |
| 56 | 2 | 9 | 6 | 8 |
| 58 | 2 | 9 | 2 | 3 |
| 59 | 2 | 9 | 2 | 3 |
| 60 | 5 | 22 | 32 | 43 |
| 70 | <u>1</u> | <u>4</u> | <u>0</u> | <u>0</u> |
| Total | 23 ¹ | 100 | 74 ¹ | 100 |

1. Some requests cover more than one chapter.

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

During 1995-96, 60 percent of all requests received covered textile inputs classified in three chapters: Chapter 54, "Man-Made Filaments" (22 percent); Chapter 60, "Knitted or Crocheted Fabrics" (22 percent); and Chapter 55, "Man-Made Staple Fibres" (17 percent). During 1994-95, 43 percent of all requests received covered textile inputs classified in Chapter 60.

Monthly Distribution of Requests

The number of requests received has fluctuated considerably on a month-to-month basis, as shown in Table 5. Out of the 20 requests received, 10 were received in the first two months of the period.

| | 1995 | | | 1996 | | | | | | | | | Total |
|---------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|-------------|-------------|-------------|--------------|--------------|
| | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | |
| Number | 6 | 4 | 0 | 1 | 3 | 3 | 0 | 0 | 1 | 1 | 0 | 1 | 20 |
| Percent | 30 | 20 | 0 | 5 | 15 | 15 | 0 | 0 | 5 | 5 | 0 | 5 | 100 |

Processing of Requests

During the year, the average length of time between the date of the receipt of a request and the date of the commencement of an investigation was five months. This is the result of the considerable backlog of cases that existed during most of the year. However, by assigning significant resources to the textile reference during that period, the Tribunal was able to complete 29 investigations covering 59 requests.

As of September 30, 1996, there were 7 investigations in progress (covering 9 requests), and 4 requests were awaiting commencement of investigation. Table 6 provides a summary of activities.

Table 6
SUMMARY OF ACTIVITIES

| | 1995-96 | 1994-95 |
|--|-----------------|----------------|
| Requests | | |
| Received | 20 | 73 |
| For Which Investigations Were Completed | 59 | 11 |
| For Which Investigations Were in Progress at year end | 9 | 18 |
| Terminated/Withdrawn | 7 | 3 |
| Awaiting Commencement of Investigation | 4 | 41 |
| Investigations¹ | | |
| Commenced | 19 | 27 |
| Completed | 29 | 9 |
| In Progress at Year End | 7 | 18 |
| Terminated | 1 | 0 |
| Recommendations to Minister | | |
| Tariff Relief | 22 ² | 10 |
| No Tariff Relief | <u>38</u> | <u>1</u> |
| | 60 ² | 11 |
| Reports to Minister¹ | 27 | 9 |

1. May cover more than one request and more than one investigation.

2. The recommendation with regard to Request No. TR-94-002A, which reaffirmed a recommendation for tariff relief previously made by the Tribunal in 1994-95 in Request No. TR-94-002, is included in this total. Therefore, although 59 requests were investigated during the year, the Tribunal issued 60 recommendations to the Minister, contained in 27 reports.

Length of Investigations

The length of time from the receipt of a properly documented request to the Tribunal's report to the Minister is specified in the terms of reference. The revised terms of reference stipulate that the Tribunal's recommendations should be made within 120 days from the date of receipt of a properly documented request, or within any earlier specified time frame, which the Tribunal determines to be appropriate, in cases of critical circumstances, after receipt of a properly documented request. On a number of occasions, the Tribunal's report to the Minister exceeded those time frames principally because, in the conduct of investigations, parties did not adhere to the Tribunal's deadlines. In addition, time delays were also experienced when textile inputs allegedly identical to the textile input for which tariff relief was requested were submitted by domestic producers in the latter stages of an investigation and had to be sent to the Department of National Revenue (Revenue Canada) for laboratory analysis before the investigation could proceed.

Reports to the Minister and Recommendations

During the period, the Tribunal made 60 recommendations to the Minister, contained in 27 reports. In 38 instances, the Tribunal concluded that granting tariff relief would not maximize net economic gains for Canada and, consequently, recommended that tariff relief not be granted.

In 22 instances, the Tribunal recommended that tariff relief be granted either for a specific or for an indeterminate period of time. Of those 22 recommendations for tariff relief, indeterminate or permanent tariff relief was recommended in 19 instances, temporary tariff relief for a 3-year period was recommended in 1 instance, temporary tariff relief for a 2-year period was recommended in 1 instance and, in 1 final instance, the Tribunal recommended that indeterminate tariff relief be granted for some of the textile inputs, with tariff relief for the remaining textile inputs being limited to a two-year period.

In total, in the first two years of investigating requests for tariff relief, the Tribunal issued 36 reports to the Minister, covering 70 requests. The Tribunal recommended that the tariff relief requested be granted with regard to 31 of these requests.

As of September 30, 1996, Tribunal recommendations covering 19 requests had been implemented by the Governor in Council, on the recommendation of the Minister, pursuant to paragraph 68(1)(a) of the *Customs Tariff*, and a further 11 recommendations were under consideration by the Minister. On average, it took four months to implement the Tribunal's recommendations. In one instance (Request No. TR-94-014), the Minister decided not to endorse the Tribunal's recommendation.

RESOURCE ALLOCATIONS

Members

To date, all Tribunal recommendations to the Minister have been made by three-member panels, although the *Canadian International Trade Tribunal Regulations*² allow the Chairman to appoint one-member panels to consider requests for tariff relief. However, three-member panels will likely continue to be appointed in the foreseeable future.

Staff

During the period, two research directors were assigned full-time to the textile reference, assisted by an average complement of eight research officers. This heavy commitment of resources resulted in a substantial decrease in the backlog of cases. At the end of the period, the staff assigned to the reference consisted of one research director and four research officers.

In the Legal Services Branch, all eight lawyers have been assigned textile cases. These assignments constitute an addition to the lawyers' other work in the areas of dumping, appeals and procurement.

The textile reference has also generated substantial volumes of work throughout the Secretariat Branch, principally in the Registrar's Office, Editorial Services and the Registry and Mailroom.

Overall, it is estimated that the program necessitated the expenditure of 14 full-time equivalents, excluding members who were assigned to cases. This represents over 15 percent of the Tribunal's full complement (excluding members).

Operating Expenditures

During the period from October 1, 1995, to September 30, 1996, close to \$60,000 was spent on operational activities in support of the textile reference. These expenditures covered, principally, the issuance of notices in the *Canada Gazette*, travel expenses, translation services and the provision of statistical data.

2. SOR/95-27, December 22, 1994, *Canada Gazette* Part II, Vol. 129, No. 1 at 96.

REPORT ON THE SPRING 1996 CONSULTATIONS

Participants

Following receipt of the Minister's revisions to the terms of reference in March 1996, the Tribunal informed its stakeholders, by letter, that it was in the process of revising the *Textile Reference Guide*, which incorporates a descriptive guide, the textile reference guidelines governing the program and the principal questionnaires used in tariff relief investigations. Enclosed with the letter was a discussion paper, prepared by the Tribunal's staff, which outlined proposed changes to the investigation process.

The principal stakeholders contacted were the Canadian Textiles Institute (CTI), the Canadian Apparel Manufacturers Institute (CAMI), the Ontario Furniture Manufacturers Association, the Quebec Furniture Manufacturers' Association, the Canadian Council of Furniture Manufacturers (CCFM), the Retail Council of Canada, the Retail Task Force, the Canadian Society of Customs Brokers and the Canadian Importers Association Inc. Also contacted were various brokers and trade consultants that have been active in filing requests for tariff relief on behalf of their clients. Written comments were requested by May 24, 1996, and oral submissions were heard on June 5, 1996.

Prior to the hearing of oral submissions, written submissions were received from the CTI, CAMI, The Industry Government Relations Group (IGRG), Consoltex Inc. (Consoltex), Palliser Furniture Ltd. (Palliser) and Goodman Phillips & Vineberg (GP&V). In attendance at the hearing of oral submissions were the CTI,³ CAMI⁴ and the IGRG.⁵ Lastly, a written submission was received from the CCFM on July 2, 1996.

At the end of the period, the Tribunal was finalizing revisions to the *Textile Reference Guide* to incorporate the revised terms of reference and all changes that have been made further to the public consultations. The essence of the proposed changes and decisions made by the Tribunal are summarized below.

Review of Indeterminate Tariff Relief

Under the original 1994 terms of reference, the Tribunal could make recommendations for "permanent" or "temporary" tariff relief. Under the revised 1996 terms of reference, the Tribunal must specify whether tariff relief should be granted for "a specific or indeterminate period," and "the Tribunal should establish a framework under which the recommendation would be reconsidered, if the circumstances that led to the initial recommendations have changed sufficiently to warrant such an investigation, including who may apply and when." The Tribunal asked the stakeholders to provide their comments on who may apply and when (including under what circumstances).

The stakeholders made several suggestions regarding the proposed review process. They suggested that any domestic producer should have the opportunity to request a review. In particular, the CTI proposed

3. In attendance were: Mr. Eric Barry and Ms. Elizabeth Siwicki of the CTI; Ms. Lucie Brassard of Consoltex; Mr. Jonathan R. Hurstfield-Meyer of Cleyne & Tinker Inc.; and Mr. G. Patt MacPherson of Corporation House.

4. In attendance were Messrs. Jack Kivenko and Stephen Beatty.

5. In attendance was Mr. Michael Teeter.

that the right to request a review should be extended to any domestic producer planning to establish or reestablish production of identical or substitutable textile inputs. CAMI also suggested that the domestic producer requesting a review should establish that there has been a material change in circumstances since tariff relief was granted. It was also proposed by several stakeholders that a request for review should only be accepted after a reasonably long period after the tariff relief was granted. The suggested waiting periods varied from one to three years. The CCFM was of the view that a request for review was not in order if the only justification was that there was no further domestic use of an imported textile input.

Tribunal's Decision

The Tribunal is satisfied that the definition of an “interested party” as provided in section 2 of the Textile Reference Guidelines covers all situations that were of concern to stakeholders. Based on the revised terms of reference, the Tribunal will only consider undertaking a review when there is a reasonable indication of a change in circumstances sufficient to warrant a review of the order providing tariff relief. The review threshold will be fairly high. A change in circumstances that brings the validity of the order into question may be the appropriate threshold to initiate a review. For example, a producer planning to manufacture an identical or substitutable textile input would need to demonstrate that a “substantial commitment” to establish production has been made, not just that there exists a “wish” to establish production. Such a review will not usually be initiated within one year after implementation of the tariff relief.

Notification of a Request

During the Tribunal's 1995 consultations, the CTI suggested that the terms of reference should be amended to require the Tribunal, prior to commencing an investigation, to issue a notice of intent to commence an investigation and to provide 30 days for receipt of comments. This would allow, it was submitted, interested parties an opportunity to provide advice on possible alternatives to an investigation that would expedite a solution and reduce the cost to all parties. While the Tribunal saw merit in notifying stakeholders of a request much earlier than is currently done (i.e. only at the commencement of an investigation), it did not recommend to the Minister in its 1994-95 annual status report that the terms of reference be amended in the manner suggested. However, the Tribunal stated that it would be looking at ways to inform its stakeholders, early in the process, of the requests that have been received and of the textile inputs that they cover. The Tribunal saw various benefits to the early notification of a request. It would increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.

In the 1996 discussion paper, the Tribunal proposed to the stakeholders that, upon receipt of a request for tariff relief, and before commencement of an investigation, a brief electronic notice be issued containing basic information about the request, such as the description of the textile input, end use, tariff item and name and address of the requester. This information would be put on the Tribunal's Web site. Hard copies of the public version of the request and Revenue Canada's report would be available upon request.

The Tribunal sought comments as to the minimum period of time that should be given to interested parties to consider the request before the Tribunal commences an investigation.

Most stakeholders suggested a minimum period of 30 days. CAMI, however, held that the Tribunal should only consider a minimum notification period in the presence of a demonstrated need for such a provision or in the event that the urgency of a request required that it be considered on an expedited basis. The CTI also asked that all notifications be made available in hard copy, at least for the next year, while the IGRG suggested that a copy of the notification should be sent to trade associations until the Tribunal's Web site is in operation. The CCFM also suggested that firms should be able to receive notification by facsimile or mail if they so requested.

Tribunal's Decision

The Tribunal will implement the system as suggested in the discussion paper. The notice will be put on the Tribunal's Web site. The Tribunal will provide a six-month transitional period during which hard copies of the notification will be provided to a relevant set of industry associations. Associations will be expected to disseminate the information to their members.

Hard copies of the public version of a request for tariff relief and of Revenue Canada's report will be provided, upon request, to associations and, exceptionally, to individuals that do not belong to an association.

The minimum period of time for the notification of a request before an investigation is commenced will be 30 days.

Expansion of Scope of Investigation

In the discussion paper, the Tribunal indicated that, from time to time, it has found it appropriate to expand the scope of an investigation. This may occur because similar textile inputs are being investigated, or will be investigated, in other cases. As well, the Tribunal may amend the class of textile inputs under investigation following advice from Revenue Canada in order to be consistent with tariff nomenclature. In almost every case to date where the Tribunal has broadened the scope of an investigation, it was before commencement of an investigation. Only in a few cases did the Tribunal broaden the scope of an investigation after commencement of an investigation.

In the discussion paper, it was noted that caution must be exercised by the Tribunal when consolidating requests, particularly following commencement of an investigation where notice of the scope of the investigation had been given. Clearly, if the scope of an investigation has been expanded either before or after commencement, notice of this must be given. In most cases, it will be sufficient to simply notify interested parties. In some other cases, it may be necessary to issue a notice of the change more widely. In any event, parties should be able to comment on the action taken by the Tribunal when consolidating requests or expanding the scope of an investigation.

The Tribunal proposed that interested parties be allowed to comment when the Tribunal plans to expand the scope of an investigation. In addition, the Tribunal asked the views of the stakeholders as to which parties should be notified of an intent to expand the scope of an investigation and how this notification should take place, e.g. *Canada Gazette*, the Tribunal's bulletin board service or the Tribunal's Web site.

The CTI suggested that the Tribunal could not expand the scope of an investigation unilaterally, as it had no authority and should have no authority to expand the scope of an investigation, except in very

exceptional circumstances of common interest, based on full consultation. The CTI also agreed to consolidating requests when “similar” textile inputs are involved, as long as it does not broaden the scope of an investigation. It strongly objected to the Tribunal amending the class of textile inputs following advice from Revenue Canada.

Consoltex suggested that, when the expansion of the scope of an investigation takes place before the commencement of an investigation, notification should be sent to all interested parties with 30 days to reply, and when the expansion takes place after commencement of an investigation, the schedule of events in the investigation should be amended.

CAMI, however, suggested that, to date, the Tribunal had exercised very carefully and appropriately its discretion to consolidate requests or expand the scope of an investigation. CAMI suggested that, if the change is simply to include a subset which had previously been excluded from the request, there should be a relatively low level of further notification. However, if the scope of an investigation is expanded to include products outside of the set that formed the basis for the original request, there may be a requirement for greater notification. Except for the latter instances, CAMI suggested that there should be no notification in the *Canada Gazette*, but that interested parties and associations should be notified, e.g. through the Tribunal’s Web site. The CCFM suggested that interested parties should receive notification by facsimile or mail, if they so wished, and that they should be allowed a minimum of 45 days to respond.

Tribunal’s Decision

The Tribunal, as suggested in its discussion paper, will only expand the scope of an investigation or consolidate requests where this is deemed appropriate. As noted earlier in this report, requests for tariff relief will be announced on the Tribunal’s Web site as soon as received. If another request pertaining to a similar textile input is received, it will also be announced on the Web site. At the same time, the Tribunal will note that it is considering the feasibility of consolidating the requests into a single investigation. If the Tribunal decides to broaden the scope of the investigation prior to commencement, it will notify the requester.

During the course of an investigation, the Tribunal will only consider the feasibility of a minor expansion of the scope of an investigation, such as for slightly heavier fabric. In such instances, the Tribunal will consult with the parties that are active in the current investigation. Only in exceptional circumstances will an extension of deadlines be considered.

Parties seeking a significant expansion of the scope of an investigation will be advised to file a separate request.

Distribution of Samples

The Tribunal wished to implement rules allowing interested parties to evaluate all textile inputs submitted to the Tribunal. This would provide additional transparency in the Tribunal’s investigations.

Current procedures call for Revenue Canada to analyze the requester’s samples prior to the commencement of an investigation. Following commencement of an investigation, samples are distributed to interested parties upon request. Samples are also available for viewing at the Tribunal’s premises. The

results of Revenue Canada's analysis are distributed to domestic producers and other interested parties upon request.

During the investigation, textile producers submit samples of their inputs that are allegedly identical or substitutable for the textile inputs for which tariff relief is requested. Revenue Canada analyzes those domestic samples that are allegedly identical to the subject textile inputs, while allegedly substitutable textile inputs are rarely analyzed. The results of the laboratory analysis are distributed upon request.

In practice, interested parties sometimes learn about the existence of samples late in the investigation process and request additional time to analyze the samples and make comments. This has caused significant delays in the process.

In most circumstances, all samples submitted are in the public domain. Where requests for confidentiality are made, they must be fully justified, parties are invited to respond, and the Tribunal makes the final decision about whether the samples should be allowed to remain confidential.

The Tribunal proposed to the stakeholders that all samples submitted before the commencement of an investigation be available from the Tribunal upon request, but only after the commencement of an investigation. Samples submitted after the commencement of an investigation should be served by the submitting party on all parties that have filed a notice of appearance. Samples would be made available for inspection at the Tribunal's premises from the date of receipt of a request.

The Tribunal asked the stakeholders to comment on whether it would be preferable if associations, such as the CTI, received samples and coordinated any tests on behalf of their members and whether samples should be required from domestic producers by a specified time in the investigation so the results can be made available to interested parties.

The CTI suggested that it was important that samples, in sizes for relevant testing and analysis, should be made available at the Tribunal's premises as soon as the request is made public and should be provided upon request. Revenue Canada laboratory results should automatically be provided with each sample requested. The CTI also suggested that it was prepared to receive and distribute samples, but that it did not operate a testing laboratory. The CTI also held that it must retain the possibility of filing confidential samples where warranted.

Consoltex suggested that domestic industry samples should be provided "before the final submission is completed" and kept confidential when fully justified. The IGRG suggested that small swatches of the requester's and domestic producers' samples should be available to parties, upon request, after commencement of an investigation. Palliser suggested that it would prefer to send samples to the Tribunal rather than to another party and that domestic industry samples should be required at a specified time and distributed by the Tribunal to parties that have filed a notice of appearance.

CAMI suggested that Revenue Canada's analyses should continue and that results of those analyses should be definitive. Samples should be submitted at the earliest opportunity and, when further samples are provided during the investigation, parties should be advised and asked to indicate whether they would like a sample for testing. The CCFM suggested that samples should be required from domestic producers during

the 30 days following notification that a request had been received so that the results can be made available to interested parties during the investigation.

Tribunal's Decision

The Tribunal has decided that samples submitted before commencement of an investigation will, upon request, be available for viewing only at the Tribunal's premises. After commencement of an investigation, however, samples provided by the requester, along with Revenue Canada's report, will be distributed to industry associations. Parties not belonging to an association can also obtain the requester's samples, upon request. Other samples should be submitted to the Tribunal as early as possible to be available for viewing at the Tribunal's premises. Samples will be distributed with the case material, i.e. approximately at day 60 of the investigation. Confidential samples will generally not be accepted.

Treatment of Greige Fabric

In several investigations concerning finished fabrics, argument was made by parties that unfinished fabrics that are otherwise identical to the fabrics for which tariff relief is requested should receive equivalent tariff relief. It has been submitted that reducing or removing the tariff on finished fabrics, but not on greige equivalents, results in a tariff "anomaly" that places fabric finishers or converters in an extremely uncompetitive position.

The Tribunal proposed three possible options for investigations concerning unfinished fabrics when tariff relief is requested on finished fabrics:

- (1) Include equivalent unfinished fabrics in any investigation of finished fabrics and receive submissions on both finished and unfinished fabrics.
- (2) Where the Tribunal decides to recommend tariff relief on a finished fabric, automatically extend the recommendation to include the equivalent greige fabric.
- (3) Add a greige fabric to an investigation concerning a finished fabric only when the Tribunal is requested to do so (e.g. following notification of a request relating to a finished fabric).

The Tribunal asked the stakeholders to comment on whether the issue of greige fabrics is one of universal concern which can be responded to with a universal approach (e.g. is "greige" more of an issue in the cotton and man-made woven fabric sectors than in the woolen/worsted fabric sectors or knitted sector?) and whether "greige" is a concern for inputs other than fabrics (e.g. should consideration of the "greige" issue extend to threads and nonwovens?).

The CTI suggested that there is no "universal" approach and that each case needs to be evaluated on its own merits. Physical characteristics of greige fabrics may be different from those of finished fabrics. Greige fabrics should be addressed only upon request, with an opportunity for interested parties to comment.

Consoltex also suggested that the description of a greige fabric is totally different from that of a finished fabric. To avoid any loopholes, a rigid definition of the fabrics imported free of duty must be established. It also suggested that, even if tariff relief is granted on a finished fabric, allowing the same treatment for a greige fabric may have a negative impact on vertically integrated producers of competitive fabrics. Investigations concerning a greige fabric should only take place when a specific request for tariff

relief on a greige fabric has been received. The IGRG held that all tariff relief on dyed, finished or printed woven fabrics should be automatically extended to the equivalent fabric in bleached, unbleached or prepared for dye form.

CAMI suggested adding a greige fabric to an investigation only when specifically requested to do so. It does not encourage the Tribunal to consider an across-the-board reduction of duties on greige fabrics. The CCFM suggested that recommendations for tariff relief on a finished fabric should automatically include tariff relief on the greige fabric.

Tribunal's Decision

The Tribunal has decided that it will add a greige fabric to the investigation only if a properly documented request is received prior to the commencement of the investigation. The Tribunal will not make any recommendations on a greige fabric in cases where a recommendation is made on a finished fabric, unless the greige fabric has also been the subject of the investigation.

Preliminary Submissions

The Tribunal proposed to implement rules so that preliminary submissions are submitted by all parties prior to distribution of Tribunal exhibits (usually at day 60 of the investigation). This would assist the Tribunal in its investigation and create a more open and transparent process.

One of the challenges in an investigation that is conducted without the benefit of a public hearing is providing all parties with an opportunity to know the full case that they are facing and to afford them an opportunity to comment on the evidence. It has been the Tribunal's experience that other parties will often submit new information in their final submissions, thereby leaving parties with no time, or not enough time, to respond to that information. The Tribunal has sometimes received a preliminary submission from the CTI prior to distribution of the staff investigation report, and this has proven to be quite useful.

All interested parties that become parties to an investigation are encouraged to file preliminary submissions by day 45 of the investigation. These submissions should detail, among other things, their views on the availability of identical or substitutable Canadian textile inputs, efforts made in obtaining or selling these inputs and any other information that is deemed to have an impact on the resolution of the case.

The Tribunal asked the stakeholders to comment on whether a requirement to file a preliminary submission would add a significant new burden on parties.

The stakeholders supported the suggestion of filing preliminary submissions. They did not think that it would add a significant burden on parties, but asked that it not be a requirement.

Tribunal's Decision

The Tribunal has decided that the filing of preliminary submissions will be encouraged, but remain optional.

Timeliness of Submissions

The Tribunal is concerned about delays in the investigations. This has been noted on several occasions to the stakeholders. In the discussion paper, the stakeholders were asked to comment on whether the Tribunal should require parties to seek permission to file late submissions or refuse to accept late submissions and whether, on the introduction of new evidence in final submissions, the Tribunal should either disallow it or accept it only in exceptional circumstances.

The CTI suggested that the Tribunal must retain the flexibility of accepting late submissions, and the time frames must provide for flexibility to reflect the disparities of case complexity. It also suggested that the Tribunal should discourage the late filing of new evidence, but that interested parties must be given an opportunity to address any new evidence filed in final submissions.

Consoltex suggested that the time frames should be flexible and that parties should be able to request an extended deadline when valid arguments are presented. The IGRG is concerned about new points raised in final submissions (particularly by requesters) where there is no opportunity to respond. GP&V suggested that permission should be required for filing a late submission and that such permission should only be given in exceptional circumstances. Palliser held that late submissions should not be accepted and that it was unfair to be required to respond to new evidence provided late in the process.

CAMI also suggested that permission should be required for filing a late submission and that the extension of deadlines should be the exception rather than the rule. It also held that new evidence in a requester's final submission is acceptable when it is filed in answer to the textile industry's submissions.

Tribunal's Decision

The Tribunal has decided that, prior to a panel decision, late submissions should only be accepted if well justified and if the Tribunal's permission is sought and granted. Otherwise, late submissions will be returned to the senders.

Following a panel's decision and prior to the report being sent to the Minister, supplementary submissions will be accepted only in exceptional circumstances, e.g. the introduction of significant new facts or developments that were not previously available. The Tribunal's permission must be requested and received prior to submitting these new facts or developments.

TRIBUNAL COMMENTS ON THE PROGRAM

Effects of the Program

In the second year of the program, the government implemented the Tribunal's recommendations for tariff relief contained in 12 reports to the Minister. They covered imports worth \$18.9 million, on which \$3.4 million of customs duties were collected. These imports accounted for 0.27 percent of all imports (\$6.9 billion) reported during the year and classified in Chapters 39, 40, 52 to 56 and 58 of the *Customs Tariff*.

Workload

In last year's annual status report, the Tribunal reported that the sporadic and unpredictable nature of the timing and volume of requests for tariff relief by interested parties had placed increasing pressures on the Tribunal's ability to respond in a timely fashion to those requests. The Tribunal also reported that it responded by more than doubling the staff originally assigned to the program.

This commitment of significant resources has enabled the Tribunal to dispose almost entirely of the backlog of cases. However, the Tribunal notes that this was assisted, in no small measure, by a substantial decrease in the number of requests received during the year (20) as compared to last year's total (73). The high number of requests received last year may have been somewhat inflated, as some 28 requests covered essentially one type of knitted fabric. In addition, the large number of requests may have been the result of a pent-up demand by producers using imported textile inputs in their operations. The following are some other possible reasons for the decline in the number of requests: (1) the program is too burdensome on participants; (2) the process is not quick enough to be of real assistance to most requesters; and (3) the slow implementation of the Tribunal's recommendations, combined with the lack of retroactivity when recommendations are implemented by the government, results in requesters not obtaining enough benefits to offset the costs associated with accessing the program. In any event, it is clear that, by September 1996, the Tribunal was receiving less than one request per month.

The Tribunal also wants to acknowledge the co-operation of the CTI in resolving a number of cases. The CTI has been active in seeking the resolution of cases that are unopposed or would be unopposed if requests were modified to take into account the interest of its members. The CTI is keeping the Tribunal well informed of its actions when it is trying to resolve a case amicably. The Tribunal is then able to reassign its investigative staff to other requests, thus contributing to the resolution of the backlog problem.

Revisions to the Terms of Reference

On March 20, 1996, the Minister revised the terms of reference such that: (1) recommendations should be described as transparently as possible while respecting confidentiality, should specify whether tariff relief should be granted for a specific or an indeterminate period of time (where indeterminate tariff relief is recommended and implemented, the Tribunal should establish a framework under which the recommendations could be reconsidered or reviewed in the future), should not cover goods beyond those established at the commencement of the investigation, except where sufficient notice is given for parties to respond and should ultimately maximize net economic gains to Canada (the reference was made more explicit); and (2) with regard to timing, the previous reference to a 60-day investigation in cases of critical

circumstances has been replaced with “earlier specified time frame, which the Tribunal determines to be appropriate.”

Three changes are most significant. First, orders implementing tariff relief for an indeterminate period of time are now subject to reconsideration or review. Second, the scope of an investigation is not to be expanded except if sufficient notice is given to parties. Third, there is no longer a reference to 60-day investigations in cases of critical circumstances. These changes were recommended to the Minister by the Tribunal in last year’s annual status report.

Before developing procedures to implement the revised terms of reference, the Tribunal felt that it was also appropriate to consider additional administrative changes to improve the efficiency of the program. Some of these changes pertained to the public notification of requests as soon as filed with the Tribunal, the distribution of samples, the treatment of a greige fabric when a recommendation for tariff relief covers a finished fabric, the filing of preliminary submissions and the timeliness of submissions filed by parties. The Tribunal’s stakeholders were consulted in the spring of 1996 on all proposed changes and co-operated fully in the exercise.

On July 20, 1996, the Minister further revised the terms of reference to remove from the purview of the reference certain knitting yarns.

At year end, the Tribunal was finalizing the *Textile Reference Guide* to reflect the revised terms of reference, as well as the result of its consultations. The Tribunal is confident that the new procedures will be of immediate assistance to its stakeholders.

Time Frames

As reported earlier in this report, the Tribunal has experienced problems in a number of cases in meeting the 120-day time frame in reporting its recommendations to the Minister.

Respectful of parties’ desire to be informed of the result of the investigation in a timely manner, it is the Tribunal’s intention, in the future, to enforce vigorously the deadlines set at the commencement of the investigation.

Threshold for Filing a Request

On August 20, 1996, the Minister wrote to the Tribunal to express a concern that the terms of reference require the Tribunal to review requests even when they involve relatively small amounts of duty. The Minister asked his officials, in conjunction with their colleagues at the Tribunal, to review whether criteria may be developed for the textile reference to deal with requests involving relatively small amounts of duty and to consider whether these criteria could be formulated into changes that may be appropriate to the terms of reference. At year end, work on this issue was in progress.

Expedited Resolution of Cases

On a limited number of occasions, consultations between the requester and the textile industry during the investigation resulted in a mutually agreeable resolution of the case. In each instance, the Tribunal recommended that tariff relief be granted as agreed to by the parties. However, these cases did not result in investigations of shorter duration, nor was the filing burden on parties lessened significantly. The Tribunal would like to correct this situation and is hopeful that the electronic notification of new requests to stakeholders will help in identifying cases that could be resolved without a fullfledged investigation. Shortly, the Tribunal will be formulating, with the assistance of its stakeholders, administrative procedures to expedite the resolution of cases when there is mutual agreement between the parties, thereby saving time and effort to all involved.

Retroactivity

Last year, the Tribunal stated that only in exceptional circumstances would it consider recommending retroactive tariff relief. Notwithstanding this statement, most requests still ask that the Tribunal recommend to the Minister a specific date (e.g. retroactively) for the implementation of a recommendation for tariff relief.

Training

During the year, Tribunal members and staff attended an in-house training seminar to gain a broad understanding of the workings of the Canadian textile industry. This seminar was given by the Textiles Human Resources Council. Also, in co-operation with the CTI, visits to textile operations was organized for members.

Some members also visited a number of apparel manufacturers during the year. These visits were co-ordinated with CAMI. At year end, a second group of members was scheduled to visit these apparel manufacturers.

Public Hearing

During the year, the Tribunal held its first public hearing in the course of an investigation (Beco Industries Ltd., Request Nos. TR-95-035, TR-95-043 and TR-95-044). The proceedings lasted one day, were non-confrontational and were strictly focused on the case issues which had been communicated to the parties before the hearing.

Appendix I
SUMMARY OF INVESTIGATIONS COMPLETED BETWEEN OCTOBER 1, 1995, AND
SEPTEMBER 30, 1996

| Request No. | Requester | Textile Input | Tariff Item/ Classification No. | Date of Commencement of Investigation | Date of Recommendation | Status/ Recommendation |
|-------------------------|---------------------------------------|---------------|--|---------------------------------------|------------------------|---|
| TR-94-002A ¹ | Kute-Knit Mfg. Inc. | Yarn | 5509.53.00 | November 22, 1995 | January 22, 1996 | Three-year tariff relief |
| TR-94-008 | Château Stores of Canada Ltd. | Fabric | 6002.93.00 | April 7, 1995 | February 13, 1996 | No tariff relief |
| TR-94-012 | Peerless Clothing Inc. | Fabric | 5309.29.00 | April 21, 1995 | January 17, 1996 | Indeterminate tariff relief |
| TR-94-013 | MWG Apparel Corp. | Fabric | 5513.31.00 5513.32.00 5513.33.00 | May 26, 1995 | November 30, 1995 | Permanent tariff relief |
| TR-94-014 | Hi Fibre Textiles (Sugoi) Ltd. | Fabric | 6002.93.00 | May 15, 1995 | January 29, 1996 | Indeterminate tariff relief |
| TR-94-015 | Healtex Manufacturing Inc. | Fabric | 5407.92.00 | June 2, 1995 | October 2, 1995 | No tariff relief |
| TR-94-016 | MWG Apparel Corp. | Fabric | 5208.42.90 5208.43.00 5208.49.00 | May 26, 1995 | November 30, 1995 | Permanent tariff relief |
| TR-94-020 | Sunsoakers Inc. | Fabric | 6002.30.90 | June 9, 1995 | January 17, 1996 | No tariff relief |
| TR-95-002 | J.A. Besner & Sons (Canada) Ltd. | Fabric | 5407.52.00 | June 30, 1995 | N/A | Investigation was terminated ² |
| TR-95-003 | Landes Canada Inc. | Fabric | 5603.00.99 | July 12, 1995 | October 4, 1995 | Permanent tariff relief |
| TR-95-004 | Lingerie Bright Sleepwear (1991) Inc. | Fabric | 5208.52.90 | July 28, 1995 | March 6, 1996 | Indeterminate tariff relief |
| TR-95-005 | Lingerie Bright Sleepwear (1991) Inc. | Fabric | 5513.41.00 | August 15, 1995 | March 6, 1996 | Indeterminate tariff relief |
| TR-95-006 | Pelion Mountain Products Ltd. | Fabric | 5903.20.20.21 | August 11, 1995 | February 16, 1996 | No tariff relief |

1. Reference from the Minister of Finance received on November 22, 1995, pursuant to section 19 of the *Canadian International Trade Tribunal Act* to reconsider the original investigation and report dated July 5, 1995 (TR-94-002). On January 22, 1996, the Tribunal reaffirmed the recommendation made in Request No. TR-94-002.

2. Investigation was terminated, as the requester did not comply with the Tribunal's request for additional information.

| Request No. | Requester | Textile Input | Tariff Item/ Classification No. | Date of Commencement of Investigation | Date of Recommendation | Status/ Recommendation |
|---|--|---------------|---|---------------------------------------|--|--|
| TR-95-007 | Parapad Inc. | Fabric | 5603.00.99.51 | August 17, 1995 | April 1, 1996 | No tariff relief |
| TR-95-008 | Parapad Inc. | Fabric | 5602.10.99.00 | August 17, 1995 | April 1, 1996 | No tariff relief |
| TR-95-009 | Peerless Clothing Inc. | Fabric | 5408.22.10.00 5408.22.90.90 5408.32.00.90 | August 25, 1995 | April 12, 1996 | Indeterminate and two-year tariff relief |
| TR-95-010, TR-95-033 and TR-95-034 | Freed & Freed International Ltd., E. & J. Manufacturing Ltd. and Fen-nelli Fashions Inc. | Fabric | 5111.19.00.10 5111.30.92.00 | October 31, 1995 | August 27, 1996 (TR-95-033 withdrawn on November 23, 1995) | Indeterminate tariff relief |
| TR-95-011 | Louben Sportswear Inc. | Fabric | 5408.22.90.81 5408.32.00.22 | September 20, 1995 | March 21, 1996 | Indeterminate tariff relief |
| TR-95-012 | Perfect Dyeing Canada Inc. | Yarn | 5509.32.00 | September 29, 1995 | February 26, 1996 | Indeterminate tariff relief |
| TR-95-014 | Palliser Furniture Ltd. | Fabric | 5801.35.00.19 | November 22, 1995 | May 1, 1996 | Two-year tariff relief |
| TR-95-015 to TR-95-032, TR-95-038 to TR-95-042, TR-95-046, TR-95-048 to TR-95-050 and TR-95-055 | Fantastic-T Knitter Inc., B.C. Garment Factory Ltd. and Global Garment Factory Ltd. | Fabric | 6001.91.00 6002.30.90 6002.92.90 | December 5, 1995 | July 11, 1996 | No tariff relief |
| TR-95-035, TR-95-043 and TR-95-044 | Beco Industries Ltd. | Fabric | 5208.51.00.00 5208.52.90.90 5210.51.00.00 | December 13, 1995 | July 4, 1996 | No tariff relief |
| TR-95-036 | Canadian Mill Supply Co. Ltd. | Fabric | 5208.21.00.10 | December 15, 1995 | May 27, 1996 | Indeterminate tariff relief |
| TR-95-037 | Paris Star Knitting Mills Inc. | Fabric | 5408.10.00.00 5408.24.10.00 5408.24.90.81 5408.34.00.81 5516.14.00.10 5516.14.00.90 5516.24.00.00 | December 28, 1995 | July 31, 1996 | Indeterminate tariff relief |
| TR-95-047 | B.C. Garment Factory Ltd. | Yarn | 5508.10.00.10 | March 25, 1996 | August 20, 1996 | No tariff relief |
| TR-95-051 | Camp Mate Limited | Fabric | 5903.20.20 | February 9, 1996 | June 10, 1996 | Indeterminate tariff relief |

| Request No. | Requester | Textile Input | Tariff Item/ Classification No. | Date of Commencement of Investigation | Date of Recommendation | Status/ Recommendation |
|-------------------------|--|---------------|---|---------------------------------------|------------------------|-----------------------------|
| TR-95-053 and TR-95-059 | Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd. | Fabric | 5802.19.00.10 | March 1, 1996 | June 27, 1996 | Indeterminate tariff relief |
| TR-95-056 | Sealy Canada Ltd. | Fabric | 3921.19.90.00 5407.73.00.21 5407.94.00.91 5516.23.00.90 6002.43.90.23 | January 31, 1996 | June 28, 1996 | Indeterminate tariff relief |
| TR-95-060 | Triple M Fiberglass Mfg. Ltd. | Fabric | 7019.59.90.21 | April 30, 1996 | September 26, 1996 | Indeterminate tariff relief |
| TR-95-061 | Camp Mate Limited | Fabric | 6002.43.90.23 | May 8, 1996 | September 3, 1996 | Indeterminate tariff relief |

Appendix II
SUMMARY OF INVESTIGATIONS IN PROGRESS AS OF SEPTEMBER 30, 1996

| Request No. | Requester | Textile Input | Tariff Item/ Classification No. | Date of Commencement of Investigation |
|----------------------------|--|---------------|--|---|
| TR-95-013 | Doubletex | Fabric | 5208.11.10 5208.11.90 5208.12.00 5208.13.00 5208.19.00 5208.21.00 5208.22.10 5208.22.90 5208.23.00 5208.29.00 5209.11.00 5209.12.00 5209.19.00 5209.21.00 5209.22.00 5209.29.00 | September 27, 1995 |
| TR-95-054 | Handler Textile (Canada) Inc. | Nonwoven | 5603.92.90.20 | January 18, 1996 |
| TR-95-057 and TR-95-058 | Doubletex | Fabric | 5407.51.00 5407.60.90 5407.71.00 5515.11.00 5516.21.00 5516.91.00 | May 27, 1996 |
| TR-95-063 | Buckeye Industries | Fabric | 5514.22.00.10 | July 3, 1996 |
| TR-95-064 and TR-95-065 | Lady Americana Sleep Products Inc. and el ran Furniture Ltd. | Fabric | 6002.43.90 | September 25, 1996 |
| TR-95-066 | Lenrod Industries Ltd. | Nonwoven | 5603.93.90 | August 6, 1996 |
| TR-96-003 | Venture III Industries Inc. | Fabric | 5407.61.90 | August 27, 1996 |

Appendix III
TARIFF RELIEF RECOMMENDATIONS IN PLACE AS OF SEPTEMBER 30, 1996

| Request No. | Requester | Order in Council | Date | Duration |
|-------------|--|--|---------------|--------------------------|
| TR-94-001 | Canatex Industries (Division of Richelieu Knitting Inc.) | Partially oriented filament yarn (POY), solely of nylon, unbleached or solution-dyed, measuring less than 50 tex, of tariff item No. 5402.41.10, for use in Canadian manufactures (Code 4077) | May 30, 1995 | Permanent tariff relief |
| TR-94-004 | Woods Canada Limited | Woven flannel fabric, solely of cotton, printed, of tariff item No. 5208.52.90, for use as inner lining in the manufacture of sleeping bags (Code 4232) | July 26, 1995 | Permanent tariff relief |
| TR-94-005 | Hemisphere Productions Inc. | Woven fabric, pointed twill weave, dyed, solely of polyester filament yarns measuring 155 decitex or more, with a twist of 960 or more turns per metre, having in the warp 157 or more yarns per 10 cm, and in the weft 315 or more yarns per 10 cm, of tariff item No. 5407.60.90, for use in the manufacture of women's apparel (Code 4242) (Amended on December 13, 1995, to remove the word "dyed" in Code 4242.) | July 26, 1995 | Three-year tariff relief |
| TR-94-009 | Équipement Saguenay (1982) Ltée | Woven fabric, containing 83% or more by weight of vinal staple fibres and 13% or more of polynosic staple fibres, of tariff item No. 5512.99.00, for use in the manufacture of protective outerwear worn in high-temperature applications in aluminum plants (Code 4282) | July 26, 1995 | Three-year tariff relief |

| Request No. | Requester | Order in Council | Date | Duration |
|-------------------------|---|--|----------------|--------------------------|
| TR-94-002A | Kute-Knit Mfg. Inc. | <p>The following for use in the manufacture of knitted fabrics or knitted garments:</p> <p>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)</p> <p>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)</p> | July 10, 1996 | Three-year tariff relief |
| TR-94-010 | Palliser Furniture Ltd. | Narrow woven fabrics, of a width of 4.5 cm or more but not exceeding 8 cm, containing 25% or more but not exceeding 40% by weight of rubber thread and 60% or more but not exceeding 75% by weight of polypropylene, of tariff item No. 5806.20.00, for use in the manufacture of upholstered furniture (Code 4397) | April 30, 1996 | Permanent tariff relief |
| TR-94-011 and TR-94-019 | Château Stores of Canada Ltd. and Hemisphere Productions Inc. | Five-harness satin weave fabrics, containing 65% by weight of polyester staple fibres and 35% by weight of viscose rayon staple fibres, with a twist exceeding 1,000 turns per metre, of a weight of 255 g/m ² or more but not exceeding 275 g/m ² , of tariff item No. 5515.11.00, for use in the manufacture of women's waistcoats (vests), trousers, skirts, dresses, shorts, jackets or blazers and men's waistcoats (vests), trousers, jackets or blazers (Code 4263) | April 30, 1996 | Two-year tariff relief |

| Request No. | Requester | Order in Council | Date | Duration |
|-------------------------------|--------------------------|---|-------------------|-----------------------------|
| TR-94-012 | Peerless Clothing Inc. | Woven fabrics, containing 50% or more but not exceeding 85% by weight of flax, of tariff item No. 5309.29.00, for use in the manufacture of men's fine tailored suits, jackets (sports coats), tailored waistcoats (vests), trousers and walking shorts (Code 4393) | April 30, 1996 | Indeterminate tariff relief |
| TR-94-013 and TR-94-016 | MWG Apparel Corp. | The following for use in the manufacture of tailored collar shirts: Woven fabrics, of blended single yarns, measuring 124 decitex or more but not exceeding 138 decitex, containing 58% or more but not exceeding 67% by weight of polyester staple fibres and 33% or more but not exceeding 42% by weight of mercerized cotton fibres, having in the warp 374 yarns or more but not exceeding 414 yarns per 10 cm and in the weft 256 yarns or more but not exceeding 296 yarns per 10 cm, of subheading No. 5513.31, 5513.32 or 5513.33 (Code 4268) Woven flannel fabrics, brushed on both sides, solely of single cotton yarns, measuring 267 decitex or more but not exceeding 295 decitex, having in the warp 305 yarns or more but not exceeding 335 yarns per 10 cm and in the weft 208 yarns or more but not exceeding 248 yarns per 10 cm, of tariff item No. 5208.42.90, 5208.43.00 or 5208.49.00 (Code 4269) | April 30, 1996 | Permanent tariff relief |
| TR-94-017 and TR-94-018 | Elite Counter & Supplies | The following for use in the manufacture of footwear: Felts and nonwovens, impregnated with or having a bonding agent composed of rubber, of heading No. 40.05, 40.08 or 56.03 (Code 4495) Felts and nonwovens, impregnated with or having a bonding agent composed of a styrene-butadiene copolymer, coated on one or both sides with plastics, of heading No. 39.21 or 56.03 (Code 4496) | December 13, 1995 | Permanent tariff relief |

| Request No. | Requester | Order in Council | Date | Duration |
|-------------|---------------------------------------|--|-------------------|-----------------------------|
| TR-95-003 | Landes Canada Inc. | Nonwovens of textile materials, impregnated with or having a bonding agent of rubber, certified by the exporter to have been buffed on one or both surfaces, of tariff item No. 5603.00.99, for use in the manufacture of labels, badges and similar articles of a kind normally sewn to the outer part of wearing apparel (Code 4288) | December 13, 1995 | Permanent tariff relief |
| TR-95-004 | Lingerie Bright Sleepwear (1991) Inc. | 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 women's, boys' or girls' nightshirts, nightdresses, pyjamas, négligés, bathrobes, dressing gowns and similar articles (Code 4250) | July 10, 1996 | Indeterminate tariff relief |
| TR-95-005 | Lingerie Bright Sleepwear (1991) Inc. | 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/m ² , of subheading No. 5513.11 or 5513.41, for use in the manufacture of women's, boys' or girls' nightshirts, nightdresses, pyjamas, négligés, bathrobes, dressing gowns and similar articles (Code 4251) | July 10, 1996 | Indeterminate tariff relief |

| Request No. | Requester | Order in Council | Date | Duration |
|-------------|----------------------------|--|-----------------|-----------------------------|
| TR-95-009 | Peerless Clothing Inc. | <p>The following for use as lining in the manufacture of men's suits, jackets, blazers and vests (waistcoats):</p> <p>Woven fabrics, solely of cuprammonium rayon filament yarns measuring less than 200 decitex, of a weight not exceeding 100 g/m², of tariff item No. 5408.21.00 or 5408.22.10 (Code 4271)</p> <p>Woven fabrics, solely of viscose rayon filament yarns measuring less than 200 decitex, of a weight not exceeding 100 g/m², of tariff item No. 5408.21.00 or 5408.22.90 (Code 4272)</p> <p>Woven fabrics, of rayon filament yarns and non-textured polyester filament yarns, each yarn measuring less than 200 decitex, of a weight not exceeding 100 g/m², of tariff item No. 5408.31.00 or 5408.32.00, for use as lining in the manufacture of men's trousers (Code 4273)</p> | August 28, 1996 | Indeterminate tariff relief |
| TR-95-011 | Louben Sportswear Inc. | Woven fabrics, of cellulose triacetate filaments mixed solely with polyester filaments, containing 70% or more by weight of cellulose triacetate filaments, with a yarn twist of 900 or more turns per metre, of a weight of 165 g/m ² or more but not exceeding 310 g/m ² , of subheading No. 5408.31 or 5408.32, for use in the manufacture of women's jackets, blazers, dresses, skirts, trousers or waistcoats (vests) (Code 4218) | July 10, 1996 | Indeterminate tariff relief |
| TR-95-012 | Perfect Dyeing Canada Inc. | Yarns, solely of acrylic staple fibres, unbleached, in hanks, measuring 450 decitex or less per single ply, of subheading No. 5509.32, for use in the manufacture of bulk, dyed, acrylic yarn for use in Canadian manufactures (Code 4155) | July 10, 1996 | Indeterminate tariff relief |

Appendix IV
TRANSMITTAL LETTER REVISING TERMS OF REFERENCE

July 24, 1996

Mr. Anthony Eyton
Chairman
Canadian International Trade Tribunal
17th Floor, Standard Life Center
333 Laurier Avenue, West
Ottawa, Ontario
K1A 0G7

Dear Mr. Eyton:

I am writing further to my letters of July 6, 1994 and March 20, 1996, which establish the terms of reference for the Tribunal to follow in conducting, under section 19 of the *Canadian International Trade Tribunal Act*, investigations into requests from Canadian producers for tariff relief on imported textile inputs that they use in their manufacturing operations.

I am directing the Tribunal, when initiating new investigations on requests for tariff relief on imported textile inputs, within the rules of procedures developed for this reference, to:

- a) examine any properly documented request that it receives from a domestic producer for tariff relief on any of the following textile inputs used in its downstream manufacturing activities: fibres, yarns¹ and fabrics of Chapters 51, 52, 53, 54, 55, 56, 58, 59, or 60 of the *Customs Tariff*; certain monofilaments or strips and textile and plastic combinations of Chapter 39; rubber thread and textile and rubber combinations of Chapter 40; and, products of textile glass fibres of Chapter 70;
- b) conduct open and transparent investigations of these requests, ensuring that reasonable steps are taken to advise interested parties of any properly documented request for tariff relief and that all parties that have indicated an intention to participate in an investigation have the opportunity to make their views know[n], through written submissions or public hearings, as the Tribunal may determine to be necessary;
- c) assess the economic impact on domestic textile and downstream producers (on a commercial cost/benefit basis) of reducing or removing the tariff; and,

1. Knitting yarns, solely of cotton or solely of cotton and polyester staple fibres, measuring more than 190 decitex, of Chapter 52 or subheading No. 5509.53. other than those used to make sweaters, having a horizontal self-starting finished edge and the outer surfaces of which are constructed essentially with 9 or fewer stitches per 2 centimetres (12 or fewer stitches per inch) measured in the horizontal direction, are not included in the textile tariff reference, at least until July 1, 1999.

- d) make recommendations:
- with reasons described as transparently as possible, while respecting the confidentiality of commercially-sensitive business information, on the appropriateness of reducing or removing the tariff;
 - which are administrable on a cost effective basis and which could include company, textile input, time and/or “end-use” specific tariff provisions;
 - specifying whether relief should be granted for a specific or indeterminate period, which could include elements such as duration and initiation procedures
 - who and when - for renewal, extension or amendment investigations, as circumstances warrant. (Where indeterminate relief is recommended, the Tribunal should establish a framework under which the recommendation would be reconsidered, if the circumstances that led to the initial recommendations have changed sufficiently to warrant such an investigation, including who may apply and when);
 - which should not cover goods beyond those established at the initiation of the investigation, except where sufficient notice is given for interested parties to respond;
 - which should be consistent with Canada’s international rights and obligations under its bilateral and multilateral trade agreements; and,
 - which, ultimately, should maximize net economic gains to Canada.

In performing its economic impact assessments, the Tribunal is directed to take into account all relevant economic factors, including, where appropriate:

- a) the extent to which the current and requested textile tariff structures represent, or would represent, a significant factor in investment and/or business decisions by domestic producers;
- b) the impact of tariff rate differentials, particularly those between Canada and the U.S., on competitiveness and investment;
- c) a domestic versus foreign price comparison, of the relevant textile input, based on recent attempts by the applicant to source the specific textile input from domestic and foreign producers;
- d) substitutability of imported textile inputs with domestic textile inputs (in terms of such factors as commercial availability of directly competing textile products and market acceptance); and,
- e) the ability of domestic producers, vis-à-vis foreign producers, to serve the Canadian downstream industries (bearing in mind such things as: industry sourcing patterns/market share; history of company sales; marketing and service history; repeat orders; delivery and other technical requirements; investment and business plans of current and potential suppliers; and, any extenuating circumstances).

The Tribunal should ensure that its recommendations are made as soon as practicable:

- i) within 120 days from the receipt of a properly documented request, and,
- ii) within any earlier specified time frame, which the Tribunal determines to be appropriate, in cases of critical circumstances, after receipt of a properly documented case.

In assessing requests for tariff relief, the Tribunal should bear in mind:

- a) the effect on domestic textile and downstream producers of tariff and non-tariff liberalization flowing from the Canada-U.S. Free Trade Agreement, the North American Free Trade Agreement and the GATT 1994 Agreement; and,
- b) the effect of the elimination of full manufacturing duty drawback on non-NAFTA inputs post-1996, in the case of exports to the U.S. and 2001, in the case of exports to Mexico.

Finally, I would ask that the Tribunal continue to provide, on an annual basis, a status report on this investigation process and make recommendations for changes that may be appropriate to maximize net economic gains for Canada.

Sincerely,

The Honourable Paul Martin, P.C., M.P.