

Ottawa, Friday, November 8, 1996

Reference No.: RE-96-001

IN THE MATTER OF references, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by Roofmart (Ontario) Ltd. and Schuller International Canada Inc., importers, to the Canadian International Trade Tribunal;

AND IN THE MATTER OF an advice rendered by the Canadian International Trade Tribunal, under section 37 of the *Special Import Measures Act*;

RESPECTING the dumping in Canada of faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board originating in or exported from the United States of America.

ADVICE

The Canadian International Trade Tribunal hereby concludes that the evidence before the Deputy Minister of National Revenue discloses a reasonable indication that the dumping of faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board originating in or exported from the United States of America has caused material injury or is threatening to cause material injury to the domestic industry.

Charles A. Gracey

Charles A. Gracey
Presiding Member

Anthony T. Eyton

Anthony T. Eyton
Member

Desmond Hallissey

Desmond Hallissey
Member

Susanne Grimes

Susanne Grimes
Acting Secretary

Reference No.: RE-96-001

Date of Advice: November 8, 1996

Tribunal Members: Charles A. Gracey, Presiding Member
Anthony T. Eyton, Member
Desmond Hallissey, Member

Research Director: Selik Shainfarber
Research Manager: Richard Cossette
Economist: Simon Glance

Counsel for the Tribunal: David M. Attwater

Ottawa, Friday, November 8, 1996

Reference No.: RE-96-001

ADVICE rendered under section 37 of the *Special Import Measures Act* respecting:

**FACED RIGID CELLULAR POLYURETHANE-MODIFIED
POLYISOCYANURATE THERMAL INSULATION BOARD ORIGINATING
IN OR EXPORTED FROM THE UNITED STATES OF AMERICA**

TRIBUNAL: CHARLES A. GRACEY, Presiding Member
ANTHONY T. EYTON, Member
DESMOND HALLISSEY, Member

STATEMENT OF REASONS

On September 13, 1996, on the basis of a properly documented complaint filed by Exeltherm Inc. (Exeltherm), the Deputy Minister of National Revenue (the Deputy Minister) initiated an investigation into the alleged injurious dumping in Canada of faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board (polyiso insulation board) originating in or exported from the United States of America (the subject goods). The Deputy Minister was of the opinion that the evidence disclosed a reasonable indication that the alleged dumping “has caused and is threatening to cause injury to the production of like goods in Canada.”¹

On October 10, 1996, counsel for Roofmart (Ontario) Ltd. and, on October 11, 1996, counsel for Schuller International Canada Inc. referred to the Canadian International Trade Tribunal (the Tribunal), under paragraph 34(1)(b) of the *Special Import Measures Act*² (SIMA), the question of whether the evidence before the Deputy Minister disclosed a reasonable indication that the dumping of the subject goods had caused injury or retardation or was threatening to cause injury.

Paragraph 37(b) of SIMA provides that the Tribunal shall render its advice on the question without holding hearings, on the basis of the information that was before the Deputy Minister when he reached his decision or conclusion on that question, forthwith after the date on which the reference is made to it and, in any event, not later than 30 days after that date.

Polyiso insulation board has developed into the primary insulation product for commercial roof and wall applications, essentially because of its resistance to high temperatures and corresponding low combustibility. Generally, polyiso insulation board has the same physical properties whether it is used for roofing or for wall applications. Differences between the two applications usually relate only to thickness, type of facers (i.e. facing material bonded to both sides of the foam core) and board dimensions.

Polyiso **roof** insulation board is generally offered in sizes of 3 ft. x 4 ft., 4 ft. x 4 ft. and 4 ft. x 8 ft. and can be produced in a range of thicknesses from 1.0 to 4.0 in. This board is used mainly in the commercial construction sector. Polyiso **wall** insulation board is generally offered in 4 ft. x 8 ft. and 4 ft. x 9 ft. sizes and can be produced in thicknesses from 0.5 to 4.0 in. This board is generally used for construction applications in both residential and non-residential wall systems.

The evidence before the Deputy Minister when he made the decision to initiate the investigation included a confidential complaint from Exeltherm, a case analysis prepared by officers of the Department of National Revenue (Revenue Canada) and letters supporting the complaint from three other Canadian

1. Department of National Revenue, *Statement of Reasons*, September 13, 1996, at 7.

2. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47, s. 164.

producers: Isox Maritime Ltd., Cocagne, New Brunswick; Polytherm, Saint-Côme (Beauce), Quebec; and Enerlab Inc., Boucherville, Quebec. According to the information on the record, Exeltherm represents well over 50 percent of total Canadian production, and its complaint has the support of all known Canadian producers.

The Tribunal notes that Revenue Canada has estimated the margins of dumping for the largest US exporters of polyiso insulation board, accounting for 95 percent of shipments to Canada for the period from January 1 to June 30, 1996. The estimated margins of dumping, expressed as a percentage of normal values, ranged from 4 to 23 percent for the largest exporters, with an estimated weighted average margin of dumping of 16 percent.

According to Exeltherm, prior to 1994, the Canadian demand for roof and wall thermal insulation was largely satisfied by two products, namely, thermo-set rigid phenolic foam board and fibreglass insulation. Phenolic foam board was produced by both Domtar, Inc. (Domtar) and Owens Corning Fibreglass (Owens), while fibreglass insulation was produced only by Owens. In 1994, both Domtar and Owens exited the Canadian phenolic foam board market. Owens closed its phenolic insulation plant and also sold the marketing rights for its roofing fibreglass products. Domtar sold its phenolic insulation plant to Exeltherm, which converted the facility to produce polyiso insulation board.

Exeltherm has been manufacturing polyiso insulation board since July 1, 1994. The information before the Deputy Minister indicates that there has been an increase in the demand for polyiso insulation board since 1994. According to Exeltherm, this is largely the result of the displacement of the phenolic insulation market and a portion of the fibreglass market by the polyiso product. According to the available information, the total estimated market for polyiso insulation board was approximately 209 million board feet in 1995.

Exeltherm provided information, based on Statistics Canada import data, showing a sharp increase in the volume of imports of polyiso insulation board from the United States since 1993. In conjunction with the increase in imports, there was a corresponding decrease in the declared unit value of the imports, approximately 7 percent between the first half of 1994 and the first half of 1996, according to data compiled by Revenue Canada. Revenue Canada also noted that the exporters with the lowest prices accounted for the largest volume of imports of the subject goods.

Since 1994, the Canadian polyiso insulation market has been supplied only from imports from the United States and from domestic production. Although Exeltherm's sales have increased since it began production in 1994, it claims that it has been unable to achieve planned production, sales and market share levels despite significant increases in market demand for polyiso insulation board. More particularly, with the introduction of polyiso insulation board in the second half of 1994, Exeltherm believed that it could secure a large portion of the phenolic insulation market share previously held by Domtar and Owens, as well as a portion of the roofing fibreglass market in Canada. Exeltherm alleges that production, market shares and revenues are substantially less than originally projected, largely because of the volume of dumped US polyiso insulation board in the Canadian marketplace.

In support of its contention that the injury that it was suffering was being caused by dumped US imports, Exeltherm submitted documentation describing examples of price erosion, price suppression and lost sales to dumped imports in various Canadian regions for the period covering the second half of 1994 to 1996. Moreover, Exeltherm argues that the price declines that it has suffered have occurred despite increases in input costs over the period and increases in demand for polyiso insulation board. Based on the evidence presented, Exeltherm estimates that the dumped subject goods have directly caused it annual losses in sales of polyiso insulation board of several million dollars and annual foregone profits of over \$1 million.

In addition, Exeltherm states that it has foregone several million dollars in annual sales of products associated with the sale of polyiso insulation board.

Exeltherm also claims that, as a result of dumped US polyiso insulation board, it has not been able to capture a market share which would allow it to operate at planned capacity utilization rates. This situation, according to Exeltherm, has caused a reduction in manufacturing efficiencies and contributed to higher unit fixed costs.

Financial data filed by Exeltherm indicate that gross profit margins declined between the second half of 1994 and the first five months of 1996. Its financial position also worsened in terms of net profit before taxes during this period. According to Exeltherm, its poor financial performance is a direct result of the effect of dumped US imports on its sales and prices. With respect to the threat of injury, Exeltherm claims that the persistent price pressures from US imports, and the resulting detrimental effect on its financial results, have negatively affected its ability to raise investment capital and pursue planned growth.

Pursuant to section 34 of SIMA, in order to make a finding which supports continuation of the investigation by the Deputy Minister, the Tribunal must be satisfied that the evidence before the Deputy Minister discloses a reasonable indication that the domestic industry has suffered injury or retardation or is threatened with injury and that there is a causal link between the dumped imports and the material injury suffered by the domestic industry. The Tribunal notes that there is information on the record which appears to connect rising US import volumes with falling prices of both US imports and domestic products. At the account level, Exeltherm, the dominant producer, has submitted specific examples of lost sales to imports and price erosion and suppression. In the circumstances, the Tribunal is of the view that the evidence discloses a reasonable indication that the domestic industry has suffered injury or is threatened with injury and that there is a causal link between the injury claimed by the domestic industry and the dumping of the subject goods. However, it is only through an inquiry that the Tribunal will be able to fully explore the causation element, including other factors, apart from the dumping, that may be causing injury.

Therefore, under section 37 of SIMA, the Tribunal concludes that the evidence discloses a reasonable indication that the dumping of faced rigid cellular polyurethane-modified polyisocyanurate thermal insulation board originating in or exported from the United States of America has caused material injury or is threatening to cause material injury to the domestic industry.

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