



Ottawa, Monday, April 5, 1993

Reference No.: RE-92-005

IN THE MATTER OF a reference, under paragraph 34(b) of the *Special Import Measures Act*, made by Elkhart Products Corporation, an exporter from the United States, 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 solder joint pressure pipe fittings and solder joint drainage, waste and vent pipe fittings, made of cast copper alloy, wrought copper alloy or wrought copper, in diameters up to 6 inches and the metric equivalent, for use in heating, plumbing, air conditioning and refrigeration applications, originating in or exported from the United States of America and produced by or on behalf of Elkhart Products Corporation, Nibco Inc. and Mueller Industries Inc., their successors and assigns.

### ADVICE

The Tribunal hereby concludes that the evidence before the Deputy Minister of National Revenue for Customs, Excise and Taxation discloses a reasonable indication that the dumping of the subject goods from the above-named sources has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

Charles A. Gracey

Charles A. Gracey  
Presiding Member

Kathleen E. Macmillan

Kathleen E. Macmillan  
Member

Lise Bergeron

Lise Bergeron  
Member

Michel P. Granger

Michel P. Granger  
Secretary

**Reference No.: RE-92-005**

*Date of Advice:* *April 5, 1993*

*Tribunal Members:* *Charles A. Gracey, Presiding Member*  
*Kathleen E. Macmillan, Member*  
*Lise Bergeron, Member*

*Director of Research:* *Peter Welsh*  
*Research Manager:* *John Gibberd*

*Counsel for the Tribunal:* *Shelley Rowe*



Ottawa, Monday, April 5, 1993

Reference No.: RE-92-005

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

**SOLDER JOINT PRESSURE PIPE FITTINGS AND SOLDER JOINT DRAINAGE, WASTE AND VENT PIPE FITTINGS, MADE OF CAST COPPER ALLOY, WROUGHT COPPER ALLOY OR WROUGHT COPPER, IN DIAMETERS UP TO 6 INCHES AND THE METRIC EQUIVALENT, FOR USE IN HEATING, PLUMBING, AIR CONDITIONING AND REFRIGERATION APPLICATIONS, ORIGINATING IN OR EXPORTED FROM THE UNITED STATES OF AMERICA AND PRODUCED BY OR ON BEHALF OF ELKHART PRODUCTS CORPORATION, NIBCO INC. AND MUELLER INDUSTRIES INC., THEIR SUCCESSORS AND ASSIGNS**

TRIBUNAL: CHARLES A. GRACEY, Presiding Member  
KATHLEEN E. MACMILLAN, Member  
LISE BERGERON, Member

### **STATEMENT OF REASONS**

On February 5, 1993, on the basis of a properly documented complaint filed by Cello Products Inc. (Cello), the Deputy Minister of National Revenue for Customs, Excise and Taxation (the Deputy Minister) initiated an investigation into the dumping of solder joint pressure pipe fittings and solder joint drainage, waste and vent pipe fittings, made of cast copper alloy, wrought copper alloy or wrought copper, in diameters up to 6 inches and the metric equivalent, for use in heating, plumbing, air conditioning and refrigeration applications, originating in or exported from the United States of America and produced by or on behalf of Elkhart Products Corporation (Elkhart), Nibco Inc. (Nibco) and Mueller Industries Inc. (Mueller). The Deputy Minister was of the opinion that the evidence disclosed a reasonable indication that the dumping had caused, was causing or was likely to cause material injury to the production in Canada of like goods.

On March 5, 1993, Elkhart, a named exporter of the subject goods, referred to the Canadian International Trade Tribunal (the Tribunal), under paragraph 34(b) of the *Special Import Measures Act*<sup>1</sup> (SIMA), the question of whether the evidence before the Deputy Minister disclosed a reasonable indication that the dumping of the subject goods had caused, was causing or was likely to cause material injury to the production in Canada of like goods.

The Tribunal, under paragraph 37(b) of SIMA, is required to render its advice on the question without holding any hearings and solely on the basis of the information before the Deputy Minister when he reached his decision and not later than 30 days from the date of the reference.

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1. R.S.C. 1985, c. S-15.

The subject goods are solder joint pressure pipe fittings and solder joint drainage, waste and vent pipe fittings. They are made of cast copper alloy, wrought copper alloy or wrought copper, in diameters up to 6 inches and the metric equivalents of imperial dimensions. The fittings are used in heating, plumbing, air conditioning and refrigeration applications to connect pipes or tubes.

Besides Cello, there are two other domestic producers of the subject goods. They are Streamline Copper & Brass Ltd. (Streamline), which is related to Mueller, one of the named exporters, and Bow Metallics (Bow). In 1991, Streamline switched from producing mainly imperial-sized fittings (imperial fittings) in Canada to making mainly metric-sized fittings (metric fittings) destined for export. Streamline now fills a large part of its requirements for imperial fittings in Canada with imports from Mueller. In 1991, Bow purchased part of the operations of Emco, which ceased production of the subject goods in 1991. Neither Streamline nor Bow expressed an interest in supporting the complaint.

The evidence provided to the Tribunal by the Deputy Minister included the documented complaint submitted by Cello. The complainant provided information on total sales, sales to major customers, production, pricing, employment and financial performance. As well, the evidence included information supplied by the two other Canadian producers of the subject goods.

The Tribunal considers that the information contained in the Deputy Minister's file discloses a reasonable indication of material injury caused by the dumping of the subject goods. The Tribunal notes that the Deputy Minister has determined that metric solder joint fittings are not like goods to the imperial solder joint fittings sold in Canada. The Tribunal is satisfied, based on the evidence before the Deputy Minister, that metric fittings are not like goods, but that the equivalent metric sizes of imperial dimensions are like goods. However, if the Deputy Minister issues a preliminary determination for this case, the inclusion or exclusion of metric fittings could become an issue in the subsequent injury inquiry. The Tribunal examined the data on the domestic production of imperial fittings and is satisfied that the complainant's domestic production constitutes a major proportion of total domestic production of imperial fittings for the purposes of this complaint.

The Tribunal notes that the value of imports of the subject goods from the three named sources increased by 17 percent in 1990 and 64 percent in 1991, for a total increase of 92 percent. In the first nine months of 1992, imports from the three companies grew by 41 percent over the same period in 1991. The Deputy Minister calculated a weighted average margin of dumping of 40.5 percent for the period covering January to August 1992.

The value of the apparent market for the subject goods decreased by 19 percent in 1991. Complete data for 1992 are not available, but based on a simple extrapolation of data for the first nine months of 1992, it appears that the value of domestic sales in 1992 was higher than that in 1991, but lower than that in 1990. The domestic producers' market share declined from 65 percent in 1990 to 24 percent in the first nine months of 1992. This decline reflects, in large part, the switch of Streamline's domestic operations to producing mainly metric fittings for export and Emco's cessation of production of the subject goods in 1991. Cello's market share grew in 1991 and then declined in the first three quarters of 1992, to below where it stood in 1990.

Cello's quarterly sales data indicate that sales to certain large accounts dropped significantly in 1992, and the company's financial statements show that gross margins declined by 19 percentage points between 1989 and the period from April to September 1992. Cello's employment decreased by 31 employees in the second quarter of 1992, and there is evidence that the utilization of the company's production capacity has declined.

The Deputy Minister concluded, on the basis of a decline in discount price factors between February 1991 and July 1992, that there is price erosion. If the case proceeds to an injury inquiry, the Tribunal will want to examine more closely trends in published prices, as well as trends in discount factors.

In order to meet the requirements of section 37 of SIMA, the Tribunal must be satisfied that there is a reasonable indication of a causal link between the dumped imports and the material injury suffered by the domestic industry. The Tribunal observes a correlation between several of the injury indicators and the dumping of the subject goods. The Tribunal considers that this correlation provides a reasonable indication that the dumping has caused material injury. However, it is only through an inquiry that the Tribunal will be able to fully explore the causation element and satisfy itself that dumping of the subject imports is causing material injury. In making this assessment, the Tribunal will examine the effects of other factors in the performance of the industry.

On the basis of the evidence before it, the Tribunal advises, under section 37 of SIMA, that the evidence discloses a reasonable indication that the dumping of solder joint pressure pipe fittings and solder joint drainage, waste and vent pipe fittings, made of cast copper alloy, wrought copper alloy or wrought copper, in diameters up to 6 inches and the metric equivalent, for use in heating, plumbing, air conditioning and refrigeration applications, originating in or exported from the United States of America and produced by or on behalf of Elkhart, Nibco and Mueller has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

Charles A. Gracey

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Presiding Member

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