

Ottawa, Monday, October 18, 1999

Reference No.: RE-99-001

IN THE MATTER OF a reference, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by Nycomed Canada Inc. and Nycomed Amersham Canada Limited 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 certain iodinated contrast media used for radiographic imaging, in solutions of osmolality less than 900 mOsm/kg H<sub>2</sub>O, originating in or exported from the United States of America, including the Commonwealth of Puerto Rico.

**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 certain iodinated contrast media used for radiographic imaging, in solutions of osmolality less than 900 mOsm/kg H<sub>2</sub>O, originating in or exported from the United States of America, including the Commonwealth of Puerto Rico, has caused material injury or is threatening to cause material injury to the domestic industry.

Patricia M. Close  
Patricia M. Close  
Presiding Member

Raynald Guay  
Raynald Guay  
Member

Arthur B. Trudeau  
Arthur B. Trudeau  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

Date of Advice: October 18, 1999

Tribunal Members: Patricia M. Close, Presiding Member  
Raynald Guay, Member  
Arthur B. Trudeau, Member

Research Director: Peter Welsh  
Research Manager: Audrey Chapman

Counsel for the Tribunal: Michèle Hurteau  
John Dodsworth



Ottawa, Monday, October 18, 1999

Reference No.: RE-99-001

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

**CERTAIN IODINATED CONTRAST MEDIA USED FOR RADIOGRAPHIC  
IMAGING, IN SOLUTIONS OF OSMOLALITY LESS THAN 900 mOsm/kg H<sub>2</sub>O,  
ORIGINATING IN OR EXPORTED FROM THE UNITED STATES OF AMERICA,  
INCLUDING THE COMMONWEALTH OF PUERTO RICO**

TRIBUNAL: PATRICIA M. CLOSE, Presiding Member  
RAYNALD GUAY, Member  
ARTHUR B. TRUDEAU, Member

**STATEMENT OF REASONS**

On August 20, 1999, on the basis of a properly documented complaint filed by Mallinckrodt Medical, Inc. (MMI), of Pointe-Claire, Quebec, the Deputy Minister of National Revenue (the Deputy Minister) initiated an investigation into the alleged injurious dumping in Canada of certain iodinated contrast media used for radiographic imaging, in solutions of osmolality less than 900 mOsm/kg H<sub>2</sub>O (hereinafter X-ray contrast media), originating in or exported from the United States of America, including the Commonwealth of Puerto Rico (Puerto Rico).

On September 16, 1999, pursuant to paragraph 34(1)(b) of the *Special Import Measures Act*,<sup>1</sup> counsel for Nycomed Canada Inc. and Nycomed Amersham Canada Limited referred to the Canadian International Trade Tribunal (the Tribunal) the question of whether the evidence before the Deputy Minister disclosed a reasonable indication that the dumping of the subject goods, originating in or exported from the United States, including Puerto Rico, had caused or was threatening to cause material injury to the domestic industry.

Paragraph 34(1)(b) of *SIMA* requires the Tribunal to provide advice on whether there is a reasonable indication that the dumping of the goods under investigation by the Deputy Minister has caused injury or retardation or is threatening to cause injury. Paragraph 37(b) of *SIMA* provides that the Tribunal shall render its advice 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.

The Deputy Minister defined the subject goods as follows:

Certain iodinated contrast media used for radiographic imaging, in solutions of osmolality less than 900 mOsm/kg H<sub>2</sub>O, originating in or exported from the United States of America (including the Commonwealth of Puerto Rico).

There is only one Canadian manufacturer of X-ray contrast media, MMI. As such, the Deputy Minister determined that MMI represents the domestic industry for the purposes of this complaint.

---

1. R.S.C. 1985, c. S-15 [hereinafter *SIMA*].

Specific data on the volume and value of imports of the subject goods are not readily available from Statistics Canada. Therefore, to estimate the volume and value of imports of X-ray contrast media, MMI relied on available industry data. MMI noted that manufacturers provide monthly statistical data on sales to an industry service, which then summarizes the data. This statistical program is run by the Canadian Contrast Media Manufacturers and is administered by Wallace Data Comp, Inc. The data indicate that the volume of the allegedly dumped imports began to increase in early 1995 and has increased every year since that time. The Department of National Revenue (Revenue Canada) accepted MMI's estimates of the volume and value of imports.

MMI provided estimated margins of dumping by calculating estimated normal values and export prices for the allegedly dumped products in the 100-mL size and in the 300 mg I/mL concentration. The estimated margins of dumping ranged from 52 to 65 percent, expressed as a percentage of the normal value. The Deputy Minister considered the complainant's basis of estimation of the normal values and export prices to be acceptable.

In its complaint to Revenue Canada, MMI submitted that the dumping of the subject goods is directly responsible for suppressed and eroded prices, lost sales, loss of market share, reduced margins, delays in the introduction of new products and the impediment to the competitiveness of export sales. MMI provided evidence and documentation in support of its allegations of injury on sales of like goods in the Canadian market.

The information before the Deputy Minister with respect to injury, when he made the decision to initiate the investigation, included public and confidential versions of the complaint filed by MMI; evidence of price suppression, price erosion, lost sales and allegations of sales lost to specific accounts by MMI; the domestic production and shipment volume of like goods from 1994 to June 1999; data on the domestic market from 1994 to 1998; information concerning production capacity and capacity utilization; an analysis of the complaint prepared by officers of Revenue Canada; and certain background data, such as product descriptions.

The estimated market for X-ray contrast media consists of the domestic shipments made by MMI and imports of X-ray contrast media primarily from the United States and, to a lesser extent, from Germany. The information available to the Deputy Minister indicated that the market volume of X-ray contrast media increased by close to 35 percent from 1994 to 1998. Estimated imports of X-ray contrast media from the United States increased by approximately 23 percent over the same period. The data show that MMI's share of the market declined in 1995 and 1996, before increasing in 1998 to a level slightly higher than its share of the market in 1994.

The information in the Deputy Minister's file, however, shows that the value of the Canadian market in 1998 was estimated to be down about one third from its value in 1994. The average unit price of all X-ray contrast media sold in the Canadian market decreased by approximately 50 percent from 1994 to 1998. MMI's prices declined by significant margins throughout the period from 1994 to 1998 and these price declines continued in the first half of 1999.

MMI provided names of customers in Canada, the types of products sold to those customers and the selling prices for those products, documenting instances of price suppression for the period from 1994 to 1998. MMI submits that this price suppression led to deep price discounting and price erosion in 1997 and 1998. In addition to examples of the injury caused by price suppression and erosion, MMI provided examples of lost sales to many specific accounts across Canada.

Based on the evidence contained in the file before the Deputy Minister, the Tribunal is of the view there is a reasonable indication that the domestic industry has suffered injury.

With regard to the issue of causality, MMI maintains that the injury that it is experiencing began when imports of certain X-ray contrast media entered the Canadian market in increasing volumes and at steadily decreasing prices. MMI claims that it was forced to lower prices or lose sales to the allegedly dumped X-ray contrast media being sold on the Canadian market. In addition, due to the nature of the terms of a supply contract for X-ray contrast media, MMI maintains that the injury caused by the alleged dumping will extend several years into the future.

The information in the Deputy Minister's file shows a correlation between the price erosion and lost sales experienced by MMI and the increase in imports of the subject goods at declining prices. In the Tribunal's view, this correlation provides a reasonable indication that the dumping of the subject goods has caused or is threatening to cause injury.

In conclusion, based on a review of the information that was before the Deputy Minister, the Tribunal is satisfied that, for the purposes of sections 34 and 37 of *SIMA*, the evidence discloses a reasonable indication that the alleged dumping of X-ray contrast media, originating in or exported from the United States, including Puerto Rico, has caused material injury or is threatening to cause material injury to the domestic industry.

Patricia M. Close

Patricia M. Close  
Presiding Member

Raynald Guay

Raynald Guay  
Member

Arthur B. Trudeau

Arthur B. Trudeau  
Member