



Ottawa, Friday, April 28, 1995

Reference No.: RE-94-002

IN THE MATTER OF a reference, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by Kerr Group Inc., Consumer Products Division, an exporter, 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 caps, lids and jars suitable for home canning, whether imported separately or packaged together, 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 caps, lids and jars suitable for home canning, whether imported separately or packaged together, originating in or exported from the United States of America, has caused injury or is threatening to cause injury to the production in Canada of like goods.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Desmond Hallissey

Desmond Hallissey
Member

Lise Bergeron

Lise Bergeron
Member

Michel P. Granger

Michel P. Granger
Secretary

Reference No.: RE-94-002

Date of Advice: *April 28, 1995*

Tribunal Members: *Robert C. Coates, Q.C., Presiding Member*
Desmond Hallissey, Member
Lise Bergeron, Member

Director of Research: *Sandy Greig*
Lead Researcher: *W. Douglas Kemp*

Counsel for the Tribunal: *Robert Desjardins*

Ottawa, Friday, April 28, 1995

Reference No.: RE-94-002

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

**CAPS, LIDS AND JARS SUITABLE FOR HOME CANNING,
WHETHER IMPORTED SEPARATELY OR PACKAGED TOGETHER,
ORIGINATING IN OR EXPORTED FROM THE UNITED STATES OF AMERICA**

TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member
DESMOND HALLISSEY, Member
LISE BERGERON, Member

STATEMENT OF REASONS

On March 24, 1995, on the basis of properly documented complaints filed by Bernardin of Canada, Ltd. (Bernardin) and Consumers Packaging Inc. (Consumers), the Deputy Minister of National Revenue (the Deputy Minister) initiated an investigation into the alleged injurious dumping into Canada of caps, lids and jars suitable for home canning, whether imported separately or packaged together, originating in or exported from the United States of America. The Deputy Minister was of the opinion that the evidence disclosed a reasonable indication that the alleged dumping, "has caused, is causing and is threatening to cause injury to the production of like goods in Canada."¹

On March 30, 1995, Kerr Group Inc., Consumer Products Division (Kerr), one of the exporters named in the investigation, 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 discloses a reasonable indication that the dumping of the subject goods has caused, is causing or is likely to cause material injury to Canadian production of like goods."³

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, and forthwith after the date on which the reference is made to it and, in any event, not later than 30 days after that date.

Jars (Mason jars) suitable for home canning are manufactured with two sizes of opening: 70 mm (standard) and 86 mm (wide mouth). The jars generally come in 125 mL, 250 mL, 500 mL and 1 L sizes. The corresponding caps and lids also come in 70 mm and 86 mm sizes. The lids and bands may be sold

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1. Department of National Revenue, Statement of Reasons, March 24, 1995, at 7.
 2. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47, s. 164.
 3. Letter of referral dated March 30, 1995, to the Tribunal from Mr. L. Herman.

together (caps), as replacement lids (lids), and in flat packages of 12 caps, known as "bacon packs," that are packed with the Mason jars and sold as a unit.

The Mason jar is a standard throughout the industry, and caps and lids made for Mason jars, by any company, will fit Mason jars made by any glass manufacturer. Mason jars are made by forming molten glass in molds. The glass is produced by heating a mixture of sand, limestone, soda ash and cullet (crushed, recycled glass). Lids for Mason jars are made of tin plate which is coated on the inner surface with a ring of plastic compound to help make an air-tight seal. The lids are held in place over the jar opening by a metal band threaded to match the canning jar. The band and jars are normally reusable, while the lids are normally used only once. Caps and lids produced by different manufacturers are similar, but are not necessarily identical. However, the caps and lids are identical in terms of end use.

In Canada, caps and lids are manufactured by Bernardin, and Mason jars are manufactured by Consumers. Until 1994, Bernardin produced and sold caps and lids to the retail trade. It also sold bacon packs of caps and lids to Consumers for sale with its Mason jars. In 1995, Consumers will manufacture Mason jars under an exclusive contract with Bernardin. Bernardin will be responsible for the sale and distribution of the product.

In the United States, Kerr and Alltrista Corporation (Alltrista) manufacture caps and lids, while Ball Corporation (Ball) manufactures Mason jars. In an arrangement similar to that between Bernardin and Consumers, Ball sells Mason jars to both Kerr and Alltrista.

According to Bernardin, the market for this product is mature, and significant sales growth is not expected. The demand for caps, lids and jars for home canning is closely correlated with changes in the weather. Good weather increases crop yields and home canning activity, while bad weather has the opposite effect.

The evidence before the Deputy Minister when he made the decision to initiate the investigation included confidential complaints from Bernardin and Consumers, a case analysis prepared by officers of the Department of National Revenue (Revenue Canada), three confidential letters from Kerr to Revenue Canada before the investigation was initiated and a copy of Revenue Canada's statement of reasons dated March 24, 1995.

The Tribunal finds that the evidence contained in the Deputy Minister's file discloses a reasonable indication that the dumping of caps, lids and jars from the United States has caused injury or is threatening to cause injury to the domestic production of caps, lids and jars suitable for canning. The Deputy Minister estimated that, in 1994, caps, lids and jars were being dumped by Kerr and Alltrista at margins of dumping ranging from 9.1 to 45.5 percent. During the same year, the estimated value of caps and lids imported from the United States jumped by 29 percent, and the estimated value of jars imported from the United States increased by about 17 percent. While increases in the value of imports could be indicative only of higher unit prices, the evidence relating to increasing competition generated by low-priced imports gives the Tribunal reason to believe that the increased value of imports is a result of greater import volumes. This is an area that the Tribunal will assess to a greater extent during the inquiry process.

Evidence provided by Bernardin and Consumers demonstrated that, in the market for home canning products, the influx of low-priced product from the United States captured exclusive rights of sale at a

growing number of accounts and either won a portion of the sales to other accounts or caused the domestic suppliers to lower their prices to retain some accounts.

The Tribunal notes that, in 1994, the financial performance of Consumers and, especially, Bernardin worsened as the value and volume of their respective net sales dropped. Declining sales at Bernardin also appear to have led to considerable reductions in both the utilization of the firm's capacity and the numbers of permanent and temporary employees engaged in the production of caps and lids.

Pursuant to section 34 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. Upon reviewing the evidence before the Deputy Minister in this case, the Tribunal observes an apparent 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 the dumping of the subject imports is causing material injury.

Therefore, under section 37 of SIMA, the Tribunal advises that the evidence discloses a reasonable indication that the dumping of caps, lids and jars suitable for home canning, whether imported separately or packaged together, originating in or exported from the United States of America has caused injury or is threatening to cause injury to the production in Canada of like goods.

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