

Reference No.: RE-89-002

IN THE MATTER OF a reference, under paragraph 34(b) of the *Special Import Measures Act*, made by the Deputy Minister of National Revenue for Customs and Excise on August 25, 1989, to the Canadian International Trade Tribunal;

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

RESPECTING the dumping in Canada of women's leather boots and shoes originating in or exported from Brazil, the People's Republic of China and Taiwan; women's leather boots originating in or exported from Poland, Romania and Yugoslavia; and women's non-leather boots and shoes originating in or exported from the People's Republic of China and Taiwan; and RESPECTING the subsidizing of women's leather boots and shoes originating in or exported from Brazil.

ADVICE

The Tribunal finds that the evidence discloses a reasonable indication that the dumping and subsidizing of the subject goods from the named countries have caused, are causing or are likely to cause material injury to the production in Canada of like goods.

Date of Advice: September 25, 1989

Panel: John C. Coleman, Presiding Member
Robert J. Bertrand, Q.C., Member
Arthur B. Trudeau, Member
Sidney A. Fraleigh, Member
W. Roy Hines, Member
Kathleen Macmillan, Member

Director of Research: Réal Roy
Research Officer: John O'Neill
Counsel for the Tribunal: Louise Sabourin-Hébert, Q.C.
Clerk of the Tribunal: Lillian E. Pharand



Ottawa, Monday, September 25, 1989

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TRIBUNAL: JOHN C. COLEMAN, Presiding Member
ROBERT J. BERTRAND, Q.C., Member
ARTHUR B. TRUDEAU, Member
SIDNEY A. FRALEIGH, Member
W. ROY HINES, Member
KATHLEEN MACMILLAN, Member

ADVICE

On August 25, 1989, the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister), pursuant to subsection 31(1) of the *Special Import Measures Act* (the Act), initiated investigations in the injurious dumping in Canada of:

- women's leather boots and shoes originating in or exported from Brazil, the People's Republic of China and Taiwan;
- women's leather boots originating in or exported from Poland, Romania and Yugoslavia; and
- women's non-leather boots and shoes originating in or exported from the People's Republic of China and Taiwan;

and the injurious subsidizing of:

- women's leather boots and shoes originating in or exported from Brazil.

(Sandals, slippers, sports footwear, waterproof rubber footwear, waterproof plastic footwear and canvas footwear are not included in the product definition.)

On the same date, pursuant to paragraph 34(b) of the Act, the Deputy Minister referred to the Canadian International Trade Tribunal (the Tribunal) the question of whether the evidence before her disclosed a reasonable indication that the dumping and subsidizing of the above-mentioned goods had caused, were causing or were likely to cause material injury to the production in Canada of like goods. The Act requires that the Tribunal render its advice on the question without holding any hearings thereon, on the basis of the information that was before the Deputy Minister when she reached her decision or conclusion on that question and not later than 30 days after such reference is made to it.

The Deputy Minister's investigations were initiated based on a complaint filed on July 11, 1989, by the Shoe Manufacturers' Association of Canada. This association claims to represent more than 75 percent of the production in Canada of women's leather and non-leather boots and shoes, and the complaint was supported by data obtained from producers whose production accounts for approximately 54 percent of the Canadian production of like goods. These producers satisfy the requirement of representing a major proportion of Canadian production of like goods.

In analysing the complaint, the Tribunal looked carefully at all of the injury factors cited by the Canadian producers. As required by the Act, the Tribunal relied exclusively on the data and information which were in the Deputy Minister's file. In the opinion of the Tribunal, the file reveals a reasonable indication of material injury in the form of losses of production, sales and employment.

Having found a reasonable indication of material injury, the Tribunal must then consider whether there is a reasonable indication of a causal link between the dumped and subsidized imports and the material injury suffered by the industry. The Tribunal observes a correlation between the injury indicators and the dumping and subsidizing of the subject goods, even though lost sales and decreased production could also be attributed, at least in part, to the increase in imports of like goods from non-subject countries, especially during 1988.

The Tribunal considers that this correlation gives a reasonable indication that the dumping and subsidizing have caused material injury. However, full proof of causation goes beyond correlation, and can only be determined through a full injury inquiry.

Based only on the information before it at this time, the Tribunal is of the opinion that the test of a "reasonable indication of material injury caused by the dumped and subsidized imports" has been met. The Tribunal attaches significance to the fact that, over the 1987-88 period, in a relatively flat market, the subject countries were able to increase their market penetration at the expense of domestic producers. These lost sales resulted in production and employment declines and, one would infer, reduced profitability, although the file is silent on this point. Imports from subject countries appear to have exerted a certain price suppressing effect.

Although the Tribunal agrees that the condition of a "reasonable indication" has been met, the information in the Deputy Minister's file raises some concerns to the Tribunal, principally in three areas. First, the scope of the complaint encompasses a very large range of goods including women's leather and non-leather boots, and women's leather and non-leather shoes. Differences in the production and sales trends experienced within these footwear classifications may be masked when analysed on an aggregate basis.

Second, the Tribunal is not entirely satisfied with the statistical information provided in the file, particularly the import statistics. These statistics are of particular importance, as they are used to estimate both the sales of imported footwear and, together with domestic shipments, the

size of the overall domestic market. As such, they have a direct bearing on the interpretation of events that might have affected the domestic industry in terms of losses of market share in 1988. The Deputy Minister's file contains data that are publicly available, through Statistics Canada publications, as well as confidential data generated internally by Revenue Canada. Both sets of data suffer from the fact that they do not pertain specifically to the class of goods covered by the complaint, necessitating a number of assumptions in analysing the data. More importantly, the import data for 1988, which are based on the Harmonized Commodity Description and Coding System of tariff nomenclature, are not fully comparable with the pre-1988 import data, which were compiled using the Canadian International Trade Classification Code.

Finally, the Tribunal notes that the market for the subject goods, during the period of time involved in the complainant's submission, was being affected by the gradual removal of global quotas for women's footwear. This issue, like the others, will require further investigation in any formal injury inquiry. In such an inquiry, public hearings and the timely provision by interested parties of all relevant information will enable the Tribunal to make a definitive finding.

Notwithstanding these reservations, on the basis of the information provided to the Tribunal by the Deputy Minister, the Tribunal advises, pursuant to section 37 of the Act, that the information and evidence disclose a reasonable indication that the dumping and subsidizing of the subject goods from the named countries have caused, are causing or are likely to cause material injury to the production in Canada of like goods.

John C. Coleman
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Presiding Member

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Robert J. Martin
Witnessed
Robert J. Martin
Secretary