

Ottawa, Monday, January 24, 2000

Reference No.: RE-99-003

IN THE MATTER OF a reference, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by White Consolidated Industries Inc. and WCI Canada Inc. 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 top-mount electric refrigerators, electric household dishwashers, and gas or electric laundry dryers, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns.

### ADVICE

The Canadian International Trade Tribunal hereby concludes that the evidence before the Commissioner of Customs and Revenue discloses a reasonable indication that the dumping of certain top-mount electric refrigerators, electric household dishwashers, and gas or electric laundry dryers, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns, has caused injury or is threatening to cause injury to the domestic industry.

Patricia M. Close  
Patricia M. Close  
Presiding Member

Pierre Gosselin  
Pierre Gosselin  
Member

Zdenek Kvarda  
Zdenek Kvarda  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

Date of Advice: January 24, 2000

Tribunal Members: Patricia M. Close, Presiding Member  
Pierre Gosselin, Member  
Zdenek Kvarda, Member

Research Director: Peter Welsh  
Research Manager: Audrey Chapman

Counsel for the Tribunal: Gilles B. Legault  
John Dodsworth

Ottawa, Monday, January 24, 2000

Reference No.: RE-99-003

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

**CERTAIN TOP-MOUNT ELECTRIC REFRIGERATORS, ELECTRIC  
HOUSEHOLD DISHWASHERS, AND GAS OR ELECTRIC LAUNDRY  
DRYERS, ORIGINATING IN OR EXPORTED FROM THE UNITED  
STATES OF AMERICA AND PRODUCED BY, OR ON BEHALF OF, WHITE  
CONSOLIDATED INDUSTRIES INC. AND WHIRLPOOL CORPORATION,  
THEIR RESPECTIVE AFFILIATES, SUCCESSORS AND ASSIGNS**

TRIBUNAL: PATRICIA M. CLOSE, Presiding Member  
PIERRE GOSSELIN, Member  
ZDENEK KVARDA, Member

**STATEMENT OF REASONS**

On November 30, 1999, on the basis of a properly documented complaint filed by Camco Inc. (Camco), the Commissioner of Customs and Revenue (the Commissioner) initiated an investigation respecting the dumping in Canada of certain top-mount electric refrigerators, electric household dishwashers, and gas or electric laundry dryers, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries Inc. (WCI) and Whirlpool Corporation (Whirlpool), their respective affiliates, successors and assigns. The Commissioner was of the opinion that there was evidence that the subject goods had been dumped and that there was a reasonable indication “that such dumping has caused or is threatening to cause material injury to the Canadian industry”.<sup>1</sup>

On December 23, 1999, pursuant to paragraph 34(1)(b) of the *Special Import Measures Act*,<sup>2</sup> counsel for WCI, an exporter, and WCI Canada Inc. (WCI Canada), an importer, referred to the Canadian International Trade Tribunal (the Tribunal) the question of whether the evidence before the Commissioner disclosed a reasonable indication that the dumping had caused injury or was threatening to cause injury to the domestic industry.<sup>3</sup>

1. Canada Customs and Revenue Agency, *Statement of Reasons*, November 30, 1999, at 15.
2. R.S.C. 1985, c. S-15 [hereinafter *SIMA*]. Paragraph 34(1)(b) of *SIMA* states that, in the case of an investigation initiated pursuant to subsection 31(1), the Commissioner may, on the date of the notice given to the complainant pursuant to paragraph (a), or any person or government that was given notice pursuant to paragraph (a) may, within 30 days from the date of the notice, refer to the Tribunal the question whether the evidence discloses a reasonable indication that the dumping or subsidizing of any goods in respect of which the Commissioner has caused the investigation to be initiated has caused injury or retardation or is threatening to cause injury.
3. On December 23, 1999, an additional reference pursuant to paragraph 34(1)(b) of *SIMA* was made to the Tribunal by counsel for Whirlpool, another exporter of the subject goods. Whirlpool referred to the Tribunal, for its consideration, the question of whether the evidence disclosed a reasonable indication that the dumping had caused or was threatening to cause injury to the domestic industry. On December 24, 1999, the Tribunal notified counsel for Whirlpool that the Tribunal had already been seized to render its advice in this matter in response to the reference made on December 23, 1999, by counsel for WCI and WCI Canada.

Section 34 of *SIMA* requires the Tribunal to provide advice on whether the evidence before the Commissioner discloses a reasonable indication that the dumping of goods has caused injury<sup>4</sup> or is 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 Commissioner 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.

The Commissioner defined the subject goods as follows:

Top-mount electric refrigerators, in sizes greater than 14.5 cubic feet (410.59 litres) and less than 22 cubic feet (622.97 litres), electric household dishwashers, built-in or portable, greater than 18 inches (45.72 centimetres) in width, and gas or electric laundry dryers, originating in or exported from the United States of America and produced by or on behalf of, White [Consolidated] Industries Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns.

The information before the Commissioner, with respect to injury, when he made the decision to initiate the investigation, included a public and confidential complaint filed by Camco of Mississauga, Ontario, as well as an analysis of the complaint and certain customs data prepared by departmental officers.

In its complaint, Camco submits that the dumping of the subject goods by WCI and Whirlpool has caused or is threatening to cause injury to its production in Canada of refrigerators, dishwashers and dryers. The injury indicators cited by Camco are price suppression, price erosion, margin erosion, loss of profitability, declining market share and lost sales.

As outlined in the above definition, this case involves three distinct and separate products, specifically, refrigerators, dishwashers and dryers. Therefore, the Tribunal, in its consideration of the matter before it, has reviewed the question of whether the evidence before the Commissioner discloses a reasonable indication that the dumping of each of the goods separately has caused injury or is threatening to cause injury.

## **REFRIGERATORS**

The information before the Commissioner respecting refrigerators indicates that Camco's shipments and market share declined from 1997 to 1998. The evidence indicates that Camco's share of the estimated apparent market for 16- and 18-cubic-foot refrigerators decreased by close to 6 percent between 1997 and 1998 and that the decrease continued into the first quarter of 1999. Its average prices for refrigerators also declined from 1997 to 1998. Over the same period, it is estimated that the combined imports of the subject refrigerators from WCI and Whirlpool increased by 3.5 percent.

To support its complaint, Camco provided the Commissioner with a description, on an account-by-account basis, across all market segments, of the price competition that it faced from WCI and Whirlpool on its sales of refrigerators. Evidence of price erosion, price suppression, lost sales and lost accounts were also provided by Camco in its complaint. Camco documented numerous instances where it either lost sales or was forced to discount prices to remain competitive with low-priced imports from the named U.S. companies. Camco's declining financial position with respect to its sales of refrigerators, which allegedly ensued from declining shipments and prices, was documented by an analysis of its contribution margins and income before tax that was also submitted with the complaint.

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4. Subsection 2(1) of *SIMA* states that "injury" means material injury to a domestic industry.

In determining the causal relationship between the dumping and injury, the Tribunal is of the view that there is a correlation between the timing of the increasing presence of dumped imports of refrigerators in the Canadian market and the declining prices, decreasing sales and declining financial performance experienced by Camco on its sales of refrigerators. The Tribunal is of the view that this correlation provides a reasonable indication that the dumping of the subject refrigerators has caused injury or is threatening to cause injury.

### **DISHWASHERS**

The information before the Commissioner respecting dishwashers indicates that Camco's shipments, market share and average prices for dishwashers declined from 1996 to 1998. The evidence shows that Camco's shipments of dishwashers decreased by over 12 percent between 1996 and 1998. Its share of the estimated apparent market for dishwashers decreased by close to 7 percent over the same period and this decrease in market share continued into the first quarter of 1999. Between 1996 and 1998, it is estimated that imports of the subject dishwashers from WCI and Whirlpool increased by almost 43 percent.

To support its complaint, Camco provided the Commissioner with a description, for a number of accounts, across all market segments, of the price competition that it faced from WCI and Whirlpool on its sales of dishwashers. Evidence of price erosion, price suppression, lost sales and lost accounts were provided by Camco in its complaint. Camco documented instances where it either lost sales or was forced to discount prices to remain competitive with low-priced imports of dishwashers from WCI and Whirlpool. Camco's declining financial position with respect to its sales of dishwashers, which allegedly resulted from declining shipments and prices, was documented by an analysis of its contribution margins and income before tax that was also submitted with the complaint.

In determining the causal relationship between the dumping and injury, the Tribunal is of the view that there is a correlation between the increasing presence of dumped imports of dishwashers in the Canadian market and the declining prices, decreasing sales and declining financial performance experienced by Camco on its sales of dishwashers. This correlation provides a reasonable indication that the dumping of the subject dishwashers has caused injury or is threatening to cause injury.

### **DRYERS**

The information before the Commissioner respecting dryers indicates that Camco's shipments, market share and average prices for dryers declined from 1996 to 1998. The evidence shows that Camco's shipments of dryers decreased by over 6 percent between 1996 and 1998. Its share of the estimated apparent market for dryers decreased by approximately 3 percent over the same period and this decrease in market share continued into the first quarter of 1999. Between 1996 and 1998, it is estimated that imports of the subject dryers from WCI and Whirlpool increased by 23 percent.

To support its complaint, Camco provided the Commissioner with a description, for various accounts, across all market segments, of the price competition that it faced from WCI and Whirlpool on its sales of dryers. Evidence of price erosion, price suppression, lost sales and lost accounts were also provided by Camco in its complaint. Camco documented instances where it either lost sales or was forced to discount prices to remain competitive with low-priced imports from the named U.S. companies. Camco's declining financial position with respect to its sales of dryers, which allegedly ensued from declining shipments and prices, was documented by an analysis of its contribution margins and income before tax that was also submitted with the complaint.

In determining the causal relationship between the dumping and injury, the Tribunal is of the view that there is a correlation between the increasing presence of dumped imports of dryers in the Canadian market and the declining prices, decreasing sales and declining financial performance experienced by Camco on its sales of dryers. This correlation provides a reasonable indication that the dumping of the subject dryers has caused injury or is threatening to cause injury.

### **CONCLUSION**

On the basis of the information before it, the Tribunal concludes, pursuant to section 37 of *SIMA*, that the evidence before the Commissioner discloses a reasonable indication that the dumping of certain top-mount electric refrigerators, electric household dishwashers, and gas or electric laundry dryers, originating in or exported from the United States of America and produced by, or on behalf of, WCI and Whirlpool, their respective affiliates, successors and assigns, has caused injury or is threatening to cause injury to the domestic industry.

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