

FABRIC-COVERED, PADDED, WOODEN CLOTHES HANGERS
ORIGINATING IN OR EXPORTED FROM TAIWAN AND
THE UNITED STATES OF AMERICA

Finding of the Canadian International Trade Tribunal
in Inquiry No. CIT-4-88
under Section 42 of the *Special Import Measures Act*

Place of Hearing: Ottawa, Ontario

Public Hearing: March 20 and 21, 1989

Participants: Brian J. Barr
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Brotav Investments Inc.
Downsview, Ontario
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(Manufacturers)

Richard A. Wagner
for Trendex Marketing and Sales Inc.
Lachine, Quebec
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and for Samuel Sales Agencies Limited
Markham, Ontario
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(Importers)

April 14, 1989

CANADIAN INTERNATIONAL TRADE TRIBUNAL*

Panel:

Presiding Member:	Raynald Guay
Member:	Robert J. Bertrand, Q.C.
Member:	Arthur B. Trudeau

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*The Canadian Import Tribunal ceased to exist on December 31, 1988, and was replaced by the Canadian International Trade Tribunal.

Friday, the 14th day of April 1989

PANEL: RAYNALD GUAY, PRESIDING MEMBER
ROBERT J. BERTRAND, Q.C., MEMBER
ARTHUR B. TRUDEAU, MEMBER

INQUIRY UNDER SECTION 42 OF
THE *SPECIAL IMPORT MEASURES ACT* RESPECTING:

FABRIC-COVERED, PADDED, WOODEN CLOTHES HANGERS
ORIGINATING IN OR EXPORTED FROM TAIWAN AND
THE UNITED STATES OF AMERICA

FINDING

The Canadian Import Tribunal, pursuant to paragraph 57(2)(a) of the *Canadian International Trade Tribunal Act*, has conducted an inquiry under the provisions of subsection 42(1) of the *Special Import Measures Act* consequent upon the issue by the Deputy Minister of National Revenue for Customs and Excise of a preliminary determination of dumping dated December 15, 1988, and of a final determination of dumping dated March 13, 1989, respecting fabric-covered, padded, wooden clothes hangers originating in or exported from Taiwan and the United States of America.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Tribunal hereby finds that the dumping in Canada of the aforementioned goods from Taiwan and the United States of America has not caused, is not causing and is not likely to cause material injury to the production in Canada of like goods.

In accordance with subsection 43(1.1) of the *Special Import Measures Act* with respect to the aforementioned goods of the United States, the Tribunal finds that, pursuant to subsection 43(1) of the *Special Import Measures Act*, the dumping in Canada of the goods originating in or exported from the United States of America has not caused, is not causing and is not likely to cause material injury to the production in Canada of like goods, as found in the preceding paragraph.

Presiding Member: Raynald Guay
Raynald Guay

Member: Robert J. Bertrand, Q.C.
Robert J. Bertrand, Q.C.

Member: Arthur B. Trudeau
Arthur B. Trudeau

Witnessed: Robert J. Martin
Robert J. Martin
Secretary

The Statement of Reasons will be issued within 15 days.

Statement of reasons to accompany the findings issued on April 14, 1989.

Ottawa, April 28, 1989

Robert J. Martin,
Secretary

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THE *SPECIAL IMPORT MEASURES ACT* RESPECTING:

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PANEL: RAYNALD GUAY, PRESIDING MEMBER
ROBERT J. BERTRAND, Q.C., MEMBER
ARTHUR B. TRUDEAU, MEMBER

STATEMENT OF REASONS

The Canadian Import Tribunal, pursuant to subsection 42(1) of the *Special Import Measures Act*, has conducted an inquiry subsequent to the preliminary determination of dumping made by the Deputy Minister of National Revenue for Customs and Excise respecting the importation into Canada of fabric-covered, padded, wooden clothes hangers originating in or exported from Taiwan and the United States of America.

The Secretary of the Tribunal was given notice of the preliminary determination in a letter from the Director General, Assessment Programs Division, National Revenue for Customs and Excise, dated December 15, 1988, and received on the same day. The notice was published in Part I of the Canada Gazette of December 31, 1988.

The Deputy Minister's investigation was initiated as a result of a complaint filed by LNK Manufacturing Agencies Inc. and Brotav Investments Inc. (LNK/Brotav). The investigation period covered imports of the subject goods from September 1, 1987, to August 31, 1988.

Upon receipt of the Notice of Preliminary Determination of Dumping, the Secretary sent a Notice of Commencement of Inquiry to the Deputy Minister, the governments of the countries of export, the Canadian manufacturers, the importers and exporters of the subject goods, and others on the Tribunal's mailing list. This notice was published in Part I of the Canada Gazette of January 7, 1989.

On March 13, 1989, the Tribunal received the Notice of Final Determination of Dumping dated the same day. The notice was made available to participants at the commencement of the hearings and was published in Part I of the Canada Gazette of April 1, 1989.

On December 31, 1988, sections 16 to 37 and 41 to 62 of the *Canadian International Trade Tribunal Act* (Bill C-110) came into effect. As a result, the Canadian International Trade Tribunal (the Tribunal) was established and the Canadian Import Tribunal ceased to exist on that day. Transitional provisions of the Act provide, however, that members of the Canadian Import Tribunal continue to have jurisdiction with respect to any matter pending before it. Such powers are contained in section 57 of the *Canadian International Trade Tribunal Act*. It is, therefore, in accordance with such transitional provisions that the findings were made.

Public and *in camera* hearings were held in Ottawa, Ontario, on March 20 and 21, 1989.

THE PARTICIPANTS

The complainants, LNK/Brotav, of Downsview, Ontario, were represented by counsel at the hearing, filed public and protected statements of the witnesses, submitted evidence and called witnesses who testified in support of their claim of material injury caused by dumping of the subject goods.

The two importers represented by counsel at the hearing were Samuel Sales Agencies Limited (Samuel Sales), an importer of the subject goods from Taiwan, and Trendex Marketing and Sales Inc. (Trendex), an importer of padded hangers from the United States of America. Counsel for these importers submitted public and protected statements of the witnesses on their behalf and called witnesses who testified that any injury experienced by the Canadian industry was caused by factors other than the importation of the dumped subject goods.

Moreover, representatives of Shoppers Drug Mart and another from the T. Eaton Company Limited were subpoenaed by the Tribunal to answer questions regarding the policies and practices followed in the procurement of the subject goods.

THE PRODUCT

The products under consideration in this inquiry are described in the Deputy Minister's preliminary determination as fabric-covered, padded, wooden clothes hangers (padded hangers) originating in or exported from Taiwan and the United States of America.

Padded hangers are made from satin in a range of sizes, colours and packs. The domestic industry produces five sizes: regular, skinny, baby, children and jumbo. These are available in seven styles: ruffled, pleated, smooth, lace, pins, shirt and printed ribbon. The raw

materials consist of wooden hangers, vinyl tubings, scented pellets, felt-like or plastic foam padding, bows, staples and plastic sheets for shrink-wrapping.

Padded hangers are manufactured in three stages. In the first stage, the satin cloth is cut into pieces, ruffled and serged to form fabric sleeves to fit each half of the hanger. When padded hangers are ordered in lace, the lace is cut and sewn to the sleeves at this stage. In phase two, a plastic sleeve is placed over the metal hook of the hanger and the wooden part is covered with the padding. Also, at this point, scented pellets may be added. In the third stage, the cut satin sleeves are inserted to cover the padding, and the cut ribbon is then hand-tied around the hook of the hanger. Finally, the finished hangers are usually encased by machine in shrink-wrap packages of two, three or five, with three-packs being the most common.

Padded hangers from Taiwan and the United States of America are imported by either large retail merchandisers such as Woodward's and Eaton's or by importers/distributors who may use them as instore display items or market them along with cosmetics and fashion accessories.

THE DOMESTIC INDUSTRY

Brotav was incorporated in 1981 and is the only Canadian producer of padded hangers. LNK was incorporated in 1979 and markets the major proportion of Brotav's products in Canada. The companies share premises in Downsview, Ontario, and both are operated by the same family. Since LNK/Brotav began operations in June 1985, they have produced several different lines of padded hangers. In addition to the subject goods, LNK/Brotav also produce scented drawer liners, scented pots, scented sachets and candles. Prior to 1985, LNK/Brotav were engaged in the importation and distribution of materials for the cosmetic industry.

Sales of the subject goods are made directly to customers. Customers include department stores, mass merchandisers and major retail chains in Canada. Padded hangers are often used as promotional items at Christmas and Mother's Day; and, for this reason, sales tend to peak at these periods of the year. Finally, for purposes of this inquiry, the Tribunal considers that LNK/Brotav constitute the domestic industry as the sole domestic manufacturers of the subject goods.

THE COMPLAINT

In their public and protected statements of witnesses, LNK/Brotav alleged that the dumped padded hangers from Taiwan and the United States of America caused material injury in the form of price suppression, reduced profitability and postponed investment. LNK/Brotav decided to enter the padded hanger business in 1985, after they determined that they could sell padded hangers profitably in Canada. They tested the market with imported hangers from the United States of America, and then began production in 1985. During the latter part of that year, the companies alleged that they came under price pressure from American padded hangers. To maintain their client base, they decided to meet competition head on and began reducing their prices in 1985 and 1986 by offering discounts and other rebates. In 1987, the average net prices dropped by several points, remaining at that level in the ensuing years. LNK/Brotav also claimed that price competition from Taiwanese padded hangers, which were sold at very low prices, forced them to continue their strategy of matching prices to maintain their client base.

Moreover, they claimed that prices of Taiwanese padded hangers remained at the same low levels during the inquiry period (1985 to 1988). Finally, it was submitted that despite their efforts to rationalize their operations and control production costs, price pressures from American and Taiwanese padded hangers forced the erosion and suppression of their prices during the inquiry period, and adversely affected their profitability.

In argument, counsel contended that although it may have been true that their clients may have contributed to the price war, they had no alternative if they were to maintain their client base. It was submitted also that an importer can follow a domestic price downwards, but it cannot retaliate with dumped prices.

THE RESPONSE

In response to the allegations made by LNK/Brotav, Samuel Sales and Trendex attributed the complainants' injury to factors other than dumping.

In its public and protected statements of witnesses, Trendex informed the Tribunal that, when it formed its company in 1983, the only line it carried was a collection of padded hangers manufactured by Moonbeams and Rainbows Inc. of New York. In 1984, Trendex became a distributor for this manufacturer. While in 1986 padded hanger sales represented the major proportion of total Trendex sales, by the end of 1987 this business dropped to less than one quarter of total sales and became negligible in 1988. Trendex attributed the erosion in market share to serious price undercutting by LNK/Brotav. Trendex claimed that its padded hangers sold under the "jewel line" brand were of the highest quality and commanded premium prices. For promotional sales, it sold a lower priced padded hanger under the "star line" brand. Finally, this importer submitted pricing data to refute LNK/Brotav's allegations of price erosion and price suppression.

Samuel Sales stated that since 1986 its sales and market share have declined dramatically as a result of LNK/Brotav's pricing. According to this importer, LNK/Brotav took from it an important account with Simpson's in 1986. For this importer, sales of padded hangers represented a minor proportion of its total sales.

Counsel representing Trendex and Samuel Sales maintained that the evidence did not disclose past, present or future material injury to production in Canada of like goods. He suggested that, between 1985 and 1988, the domestic industry's economic indicators (production, sales, exports, employment, capacity and utilization rate) have increased markedly. It was further contended that, during this period, LNK/Brotav's pricing to major accounts did not involve a major decline in prices. Counsel also stated that there is no evidence of lost sales, price erosion or price suppression caused by Trendex. With respect to padded hangers from Taiwan, counsel argued that they constitute a lesser quality product and that their landed cost is cheaper than the production cost of domestic products. Finally, it was submitted that the financial performance of the domestic industry has been good despite the questionable allocations of expenses among the goods produced and sold by LNK/Brotav.

CONSIDERATION OF MATERIAL INJURY

To develop a perspective on the impact of the dumping of padded hangers on the production in Canada of like goods, the Tribunal analyzed the qualitative and quantitative data which were provided by the importers and LNK/Brotav.

Prior to the third quarter of 1985, imports from the United States of America supplied the major proportion of domestic demand. At the same time, some Taiwanese padded hangers were also available in the marketplace. Trendex managed to become the largest importer/distributor of U.S. padded hangers of the "jewel line" brand during a period when LNK/Brotav were still testing the marketability of this product in Canada. Moreover, because of the superior quality of the "jewel line" hanger, it commanded a premium price that was higher than the one with which LNK/Brotav had initially quoted when they went into domestic production in 1985. The witness for Trendex testified that the severe price undercutting initiated by LNK/Brotav during the inquiry period caused Trendex the loss of sales to several major accounts which, in turn, forced the importer/distributor to wind up the padded hanger business in the fourth year of the inquiry period. It is estimated that, between 1985 and 1988, Trendex's market share plummeted by about 84 points. Padded hangers from Taiwan continued to enter the market in significant quantities and were sold at price points considerably lower than those charged by both Trendex and LNK/Brotav.

In 1985, the sudden popularity of this product in Canada as a gift item and complement for cosmetic and fashion accessories caught buyers for major Canadian chain merchandisers by surprise. It is clear to the Tribunal that the broad acceptance by the consumer of this product signalled to the complainants the beginning of substantial and continuing growth. In volume terms, the facts before the Tribunal indicate that the apparent market for the subject goods has undergone a tremendous growth and more than quadrupled between 1985 and 1988. Although production in Canada did not begin until the latter part of 1985, sales from domestic production for domestic consumption captured about two-fifths of overall sales volume during that year; the balance was split between imports from Taiwan and the United States of America. In the following year, the increase in the volume of padded hangers sold represented about 168 per cent over 1985. Despite the fact that 1986 was LNK/Brotav's first full year of operation, their sales volume kept pace with market growth. LNK/Brotav doubled their sales of hangers and gained one point in market share. In comparison, sales of imports from Taiwan, which became increasingly popular in the medium and lower price sectors of the market, grew proportionately, gaining eight points in market share. The facts suggest that those gains were made at the expense of U.S. products because the market share held by U.S. imports slipped by about 10 points. Between 1986 and 1987, the apparent market grew by 26 per cent and the market share estimated for the domestic producer rose by one point again, increasing by a further three points in 1988. By the end of that year, LNK/Brotav established a record high level of sales volume and became the largest single supplier of the subject goods in Canada. Imports from the United States of America, however, continued to trend downward, losing a further 10 points in 1987, and had virtually disappeared by the end of 1988. Meanwhile, imports from Taiwan picked up nine points in 1987 and another point in 1988. Finally, it is estimated that over seven million hangers were sold in Canada during the inquiry period. The major proportion of this total was sold in 1985 and 1986, while the balance was sold during 1987 and 1988.

In spite of the growth in sales volumes, the complainants claimed in their submission that dumped imports suppressed prices. The evidence on price erosion indicates to the Tribunal that LNK/Brotav's pricing strategy, upon entering the market in 1985, destabilized the pricing structure which had existed in the market during the pre-1986 period. To gain entry into the marketplace for their domestic production, LNK/Brotav offered the major retailers a regular padded hanger, the quality of which was described by the witnesses as matching that of the "jewel" hanger, at a price which was situated between those quoted for the Taiwanese and U.S. padded hangers. LNK/Brotav's pricing strategy resulted in growing sales with an initial decline in market prices, followed by some recovery.

With respect to price suppression, the evidence has shown that LNK/Brotav had to compete increasingly with Taiwan, which became the second major source of the subject goods in 1986, 1987 and 1988. The availability of low-cost padded hangers from Taiwan exerted indirect pressure on the complainants in the low and medium price sectors of the market to make sales at price levels acceptable to retailers rather than on the basis of costs of production. Briefly stated, it would appear that, after having driven Trendex out of the high-price sector, LNK/Brotav began to compete on price and quality with Taiwanese padded hangers in the other sectors of the market.

Concerning LNK/Brotav's allegations that they suffered reduced profitability, the evidence does not support that claim. Examination of the financial data submitted in evidence and detailed review of the cost method employed by the complainants indicated that the ratio of gross profits to net sales increased in 1986-87 as compared to that of 1985-86, and remained at about that level in 1987-88. This was indicative of LNK/Brotav's ability to pass on to their customers the full increases in their cost of production. Similarly, the ratio of pre-tax profits to net sales for the subject goods trended upward from a loss position in fiscal year 1985-86 to a fairly profitable one during the following three fiscal years. Although the growth in this ratio did not parallel those exhibited by the sales volume, this may be attributable to marked increases in the cost of borrowing and selling the subject goods. This evidence leads the Tribunal to the conclusion that the dumped imports from Taiwan and the United States of America did not have a serious adverse influence on the profitability of these companies.

The performance of other economic indicators, such as production capacity, employment, utilization of capacity and exports, has kept pace with a growing sales volume. Indeed, LNK/Brotav's production and exports by the end of 1988 were greater than the volume they attained during 1986, their first full year of operation. This reflected not only LNK/Brotav's sales growth in the Canadian market, but also their swift and successful entry into the U.S. market, starting at a modest level in 1986 and gaining considerable momentum by 1988.

On the basis of the foregoing, the Tribunal determines that the dumping of padded hangers from Taiwan and the United States of America has not been the cause of material injury to the complainants. However, any inability to increase prices and improve profitability results primarily from the substantial difference between the price of the Canadian product and the landed prices of the Taiwanese product, a difference which exceeds the margin of dumping.

In the absence of past and present injury, and taking into account Trendex's exit from the marketplace and the existing disparity in prices between the domestic product and those imported from Taiwan, the Tribunal is unable to conclude any likelihood of material injury due to continued dumping.

CONCLUSION

Based on all the evidence before it, the Tribunal concludes that the dumping of fabric-covered, padded, wooden clothes hangers originating in or exported from Taiwan and the United States of America has not caused, is not causing and is not likely to cause material injury to the production in Canada of like goods.

Presiding Member: Raynald Guay
Raynald Guay

Member: Robert J. Bertrand, Q.C.
Robert J. Bertrand, Q.C.

Member: Arthur B. Trudeau
Arthur B. Trudeau

Witnessed: Robert J. Martin
Robert J. Martin
Secretary