



Ottawa, Thursday, July 9, 1992

Inquiry No.: NQ-91-007

IN THE MATTER OF an inquiry under section 42 of the *Special Import Measures Act* respecting:

SINGLE ROW TAPERED ROLLER BEARINGS, INCLUDING CUPS AND CONE ASSEMBLIES, IN THE SIZES FROM 1.000 INCH (25.4 mm) UP TO AND INCLUDING 6.625 INCHES (168.275 mm) OUTSIDE DIAMETER, ORIGINATING IN OR EXPORTED FROM JAPAN

FINDING

The Canadian International Trade Tribunal, under the provisions of section 42 of the *Special Import Measures Act*, has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise of a preliminary determination of dumping dated March 11, 1992, and of a final determination of dumping dated June 9, 1992, respecting the importation into Canada of single row tapered roller bearings, including cups and cone assemblies, in the sizes from 1.000 inch (25.4 mm) up to and including 6.625 inches (168.275 mm) outside diameter, originating in or exported from Japan.

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

W. Roy Hines

W. Roy Hines
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member

Robert J. Martin

Robert J. Martin
Secretary

The statement of reasons will be issued within 15 days.

Inquiry No.: NQ-91-007

Place of Hearing: Ottawa, Ontario
Dates of Hearing: June 15 to 18, 1992, and
June 22, 1992

Date of Finding: July 9, 1992

Tribunal Members: W. Roy Hines, Presiding Member
Robert C. Coates, Q.C., Member
Desmond Hallissey, Member

Director of Research: Peter Welsh
Research Officers: Anis Mahli
Douglas Allen

Statistical Officer: Margaret Saumweber

Counsel for the Tribunal: David Attwater

Registration and Distribution
Officer: Margaret J. Fisher

Participants: Ronald C. Cheng and
Gregory O. Somers
for Canadian Timken, Limited

(Complainant)

Brian J. Barr
Ronald I. Benn and
Suzette Cousineau
for Koyo Canada Inc. and
Koyo Seiko Co., Ltd.

(Importer/Exporter)

Richard S. Gottlieb and
Peter E. Kirby
for NTN Bearing Corporation of Canada Ltd. and
NTN Corporation

(Importer/Exporter)

Richard G. Dearden and
John P. O'Toole
for Federal-Mogul Canada Limited and
Federal-Mogul Corporation

(Importer/Exporter)

Donald J. Goodwin and
Peter W. Collins
for NSK Bearing Canada Ltd.

(Importer)

C.J. Michael Flavell and
Geoffrey C. Kubrick
for Nissan Canada Inc. and
Nissan Motor Company, Ltd.

(Importer/Exporter)

Robert Rueter
for Mazda Canada Inc. and
Mazda Motor Corporation

(Importer/Exporter)



Ottawa, Friday, July 24, 1992

Inquiry No.: NQ-91-007

SINGLE ROW TAPERED ROLLER BEARINGS, INCLUDING CUPS AND CONE ASSEMBLIES, IN THE SIZES FROM 1.000 INCH (25.4 mm) UP TO AND INCLUDING 6.625 INCHES (168.275 mm) OUTSIDE DIAMETER, ORIGINATING IN OR EXPORTED FROM JAPAN

Special Import Measures Act - Whether the dumping of the above-mentioned goods has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

DECISION: The Canadian International Trade Tribunal hereby finds that the dumping in Canada of the above-mentioned goods from Japan has not caused, is not causing and is not likely to cause material injury to the production in Canada of like goods.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	June 15 to 18, 1992, and June 22, 1992
Date of Finding:	July 9, 1992
Date of Reasons:	July 24, 1992
Tribunal Members:	W. Roy Hines, Presiding Member Robert C. Coates, Q.C., Member Desmond Hallissey, Member
Director of Research:	Peter Welsh
Research Officers:	Anis Mahli Douglas Allen
Statistical Officer:	Margaret Saumweber
Counsel for the Tribunal:	David Attwater
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Geoffrey C. Kubrick and
Riyaz Dattu
for Nissan Canada Inc. and
Nissan Motor Company, Ltd.

(Importer/Exporter)

Robert Rueter
for Mazda Canada Inc. and
Mazda Motor Corporation

(Importer/Exporter)

Witnesses:

Jerry C. Begue
President
Canadian Timken, Limited

W.D. (Bill) Husband, C.M.A.
Treasurer
Canadian Timken, Limited

B.N. (Napier) Simpson, B.A., M.B.A.
Buyer
Champion Road Machinery Limited

Joe F. Cassar
Marketing
Canadian Bearings Ltd.

Frederick M. Graham
General Manager
Federal-Mogul Canada Limited

S.A. (Steve) Rose
Purchasing Activities Staff
Commodity Manager
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General Motors Corporation
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Rick Brown
Sr. Purchasing Agent
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Chrysler Corporation
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Earl Sibbett
Plant Manager
Hayes-Dana Inc.
Weatherhead Plant

J.K. (Ken) Fee
General Sales Manager
Koyo Canada Inc.

R.L. (Rick) Thomas
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Ottawa, Friday, July 24, 1992

Inquiry No.: NQ-91-007

IN THE MATTER OF an inquiry under section 42 of the *Special Import Measures Act* respecting:

SINGLE ROW TAPERED ROLLER BEARINGS, INCLUDING CUPS AND CONE ASSEMBLIES, IN THE SIZES FROM 1.000 INCH (25.4 MM) UP TO AND INCLUDING 6.625 INCHES (168.275 MM) OUTSIDE DIAMETER, ORIGINATING IN OR EXPORTED FROM JAPAN

TRIBUNAL: W. ROY HINES, Presiding Member
ROBERT C. COATES, Q.C., Member
DESMOND HALLISSEY, Member

STATEMENT OF REASONS

THE CONDUCT OF THE INQUIRY

The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act* (SIMA), has conducted an inquiry following the issuance by the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister) of a preliminary determination of dumping dated March 11, 1992, and of a final determination of dumping dated June 9, 1992, respecting the importation into Canada of single row tapered roller bearings, including cups and cone assemblies, in the sizes from 1.000 inch (25.4 mm) up to and including 6.625 inches (168.275 mm) outside diameter (the subject goods), originating in or exported from Japan. The Deputy Minister's investigation into dumping covered importations of the subject goods between September 1 and November 30, 1991.

The notices of preliminary and final determinations of dumping were published in Part I of the March 28, 1992, and June 20, 1992, editions of the Canada Gazette, respectively. The Tribunal's notice of commencement of inquiry issued on March 19, 1992, was published in Part I of the March 28, 1992, edition of the Canada Gazette. The Tribunal's notice of change of date of public hearing issued on April 29, 1992, was published in Part I of the May 9, 1992, edition of the Canada Gazette.

As part of the inquiry, the Tribunal sent detailed questionnaires to the Canadian manufacturer and importers of the subject goods, requesting production, financial, import and market information, as well as other information, covering the period from January 1, 1989, to December 31, 1991. The Tribunal also sent questionnaires to six major original equipment manufacturers (OEMs) requesting data on their purchases of the subject goods. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports.

The record of this inquiry consists of all Tribunal exhibits, including the public and protected replies to questionnaires, all exhibits filed by the parties at the hearing, as well as the transcript of all proceedings. All public exhibits were made available to the parties. Protected exhibits were made available only to independent counsel who had given undertakings.

Public and *in camera* hearings were held in Ottawa starting on June 15, 1992. The complainant, Canadian Timken, Limited (CTL), was represented by counsel, submitted evidence and made arguments in support of an injury finding. Counsel for Koyo Canada Inc. (Koyo) (importer) and Koyo Seiko Co., Ltd. (exporter); NTN Bearing Corporation of Canada Ltd. (NTN) (importer) and NTN Corporation (exporter); Federal-Mogul Canada Limited (importer) and Federal-Mogul Corporation (exporter) (Federal-Mogul); NSK Bearing Canada Ltd. (NSK) (importer); Nissan Canada Inc. (importer) and Nissan Motor Company, Ltd. (Nissan) (exporter); and Mazda Canada Inc. (importer) and Mazda Motor Corporation (Mazda) (exporter) submitted evidence and made arguments in support of a finding of no injury.

The Tribunal invited witnesses from Champion Road Machinery Limited and Canadian Bearings Ltd. to answer questions put to them by the Tribunal and counsel. Witnesses from General Motors Corporation (GM) and Chrysler Corporation (Chrysler) also appeared on the invitation of counsel for NTN.

On July 9, 1992, the Tribunal issued a finding that the dumping of the subject goods has not caused, is not causing and is not likely to cause material injury to the domestic production of like goods.

THE PRODUCT

The products that are the subject of this inquiry are described by the Deputy Minister in the preliminary determination of dumping as single row tapered roller bearings, including cups and cone assemblies, in the sizes from 1.000 inches (25.4 mm) up to and including 6.625 inches (168.275 mm) outside diameter, originating in or exported from Japan.

Bearings are used in a variety of mechanical applications to limit friction. Of the six classes of roller bearing categories, single row tapered roller bearings are, by far, the most widely used. A tapered roller bearing has two principal components. They are the cup (outer ring) and cone assemblies. Cone assemblies, usually referred to in the trade as the cone, comprise an inner ring, a series of tapered rollers which roll freely between the cup and cone, and a cage which serves as a retainer to maintain the proper spacing between the rollers.

Single row tapered roller bearings are produced in several stages. In the first stage, the inner and the outer rings are machined from seamless steel tubing, and the part number, manufacturer and country of origin are stamped on the two rings. To carburize, harden and temper the steel, the parts are heat treated in the second stage. The finishing of the parts takes place in the third stage. At this point, the internal and external sides of the rings are ground, honed and finished. In the fourth stage, the inner ring, rollers and retainer are combined into an inseparable cone assembly. In the final stage, the cup and cone are lubricated before being packed in bulk or assembled into sets

in individual cartons for shipment to OEMs and aftermarket users (OEM and consumer service centres).

Single row tapered roller bearings are designed and produced to both imperial and metric measurements. Metric-designed bearings may also be identified by an International Organization for Standardization (ISO) number. Most bearings produced in North America are designed to imperial measurements.

Cups and cones are allotted individual part numbers. The part numbers are universally recognized once assigned by a manufacturer. This facilitates the interchangeability of the cups or cones of one bearing manufacturer with those of another. A wheel manufacturer, for example, may purchase cups to assemble into a wheel hub, while an axle manufacturer may purchase only the cones for mounting onto the axle assembly. In the final assembly of a vehicle, the cone and cup match, even though they are manufactured by two different organizations.

Tapered roller bearings are engineered to give both vertical and horizontal support. Historically, these bearings were designed for use in the wheels of vehicles. The largest market for such bearings has been the automotive industry for passenger cars and trucks, where they are not only used in wheel and axle assemblies, but also as components of transmissions, transaxles and differentials. The subject goods are also used in non-automotive applications. Any moving apparatus in an environment of combined radial and thrust forces may require such a component. Some examples are agricultural combines, recreational vehicles, motorcycles and utility trailers, or industrial machinery such as large conveyance systems or specialty vehicles in the mining and forestry industries.

THE DOMESTIC INDUSTRY

CTL is the only manufacturer of the subject goods in Canada. CTL is a wholly owned subsidiary of The Timken Company (Timken) of Canton, Ohio.

CTL's plant is located in St. Thomas, Ontario, where it started manufacturing in 1947. The St. Thomas plant manufactures about 70 single row tapered roller bearing part numbers, one third of which accounts for the bulk of its production. CTL's exports consist of direct sales to the OEM trade level, mainly in the United States, and in other countries. These sales are made through the parent and the related companies in the United States and around the world. To supply the broad range of part numbers required in the Canadian market, CTL imports from Timken affiliates, primarily in the United States. CTL acts as an agent and receives a commission on sales of products (indirect imports) shipped directly to Canadian users, primarily in the OEM segment of the market. In addition, CTL imports (direct imports), for its own account, the subject bearings for resale in the Canadian aftermarket. CTL markets its products through authorized distributors from its regional service centres in Toronto and Edmonton and through sales offices in Montréal and Vancouver.

CTL imports its raw materials (tubing, rollers, cages, etc.) from the Timken plants in the United States. Timken has a tubing mill in Canton which supplies CTL with specialty-grade seamless steel tubing.

THE IMPORTERS AND EXPORTERS

The Deputy Minister, in the preliminary determination of dumping, identified several importers of the subject goods from Japan. The three largest were Koyo, Federal-Mogul and NTN, accounting for over 90 percent of total imports of the subject goods. They import from manufacturers in Japan, while Federal-Mogul also imports the subject goods from NTN-Bower Corporation in the United States. Koyo's Japanese parent also has manufacturing facilities in the United States.

Importers market their products in much the same way as CTL. They have warehouses and sales offices across Canada. Koyo and NTN sell to both non-automotive OEMs and the aftermarket, while Federal-Mogul serves only the automotive aftermarket. Affiliates of Japanese auto manufacturers also have a significant presence in the aftermarket to service their own products. In addition, FAG Bearings Ltd. and SKF Canada Ltd., two major European manufacturers, participate in this segment of the market for the subject goods.

The major consumers of the subject goods are, by far, GM, Ford and Chrysler (the Big Three). They account for the major proportion of the bearings consumed in Canada. Other major users of bearings are OEMs of agricultural, mechanical, industrial and construction equipment such as John Deere Welland Works of John Deere Ltd., Versatile Farm Equipment and Caterpillar of Canada.

THE RESULTS OF THE DEPUTY MINISTER'S INVESTIGATION

The period of investigation chosen by the Deputy Minister covered imports of single row tapered roller bearings from Japan between September 1 and November 30, 1991.

In the final determination, the Deputy Minister made determinations of dumping in respect of cups, cones and sets of the cups and cones. In addition, he indicated that the major proportion of the Japanese exports had been dumped at a weighted average margin of dumping of 36.17 percent.

THE ECONOMIC INDICATORS

CTL's production of single row tapered roller bearings declined by about one fifth from 1989 to 1991. During this period, CTL exported about two thirds of its production. The value of Canadian consumption of the subject goods declined steadily from 1989, contracting by more than one quarter in the following two years. Over the same period, CTL's share of the market, including both sales from domestic production and imports, rose in 1990 and then declined in 1991 to the 1989 level. The drop in CTL's market share is attributable to a steady decline in indirect imports. CTL's total sales account for about three fifths of the value of the Canadian market for the subject goods. They have been split about evenly between imports and domestic production, with the major proportion of these sales being made to OEMs.

Sales of imports from Japan dropped during the same period. Their market share declined marginally in 1991 over 1990 and did not exceed about one fifth of the total market for the subject goods between 1989 and 1991. Over the same period, imports

from other countries (most of which were non-Timken products from the United States) supplied about one quarter of the market.

The decline in the market for the subject goods can be traced to a severe drop of about 17 percent in total Canadian and U.S. production of passenger cars and trucks. For example, annual production of these vehicles plummeted from 12.8 million vehicles in 1989 to 10.7 million vehicles in 1991. Declines in sales of non-automotive OEMs in Canada using bearings were of similar magnitudes, or even greater for agricultural implements.

CTL has reported significant losses on domestic sales from domestic production of single row tapered roller bearings during the period of this inquiry. CTL has also incurred losses on export sales since 1989 that were comparable to those on Canadian sales of domestic production. On the other hand, CTL has earned high profits on sales from imports. According to CTL's financial data, its losses on domestic sales for domestic consumption were totally the result of losses on sales to the OEM segment of the market. CTL's profitable aftermarket sales from domestic production in each of the three years were not high enough to offset the losses from OEM sales.

CTL's evidence indicated that prices for the subject goods in the OEM segment of the market generally declined in 1991 from those of 1990. Over the same period, average prices of Japanese bearings were comparatively higher than CTL's prices. Average prices in the aftermarket have been much higher than those in the OEM market and have tended to increase. Moreover, the evidence showed that CTL's OEM export prices were comparable to those quoted on domestic sales.

THE COMPLAINT

Canadian Timken, Limited

Counsel for CTL submitted that dumped imports from Japan have forced their client to forgo price increases and, in many instances, to discount its book prices over the range of single row tapered roller bearings offered. In support of this contention, counsel noted that prices of Japanese bearings in the United States increased when they became subject to an anti-dumping finding by the United States International Trade Commission in 1987. However, because of the availability in Canada of dumped Japanese bearings, CTL could not obtain any price relief. Counsel maintained that the multinational OEMs, whose Canadian consumption is about 30 percent of their annual North American requirements of the subject goods, refused to pay the full U.S. price increase for bearings sourced from CTL. As a consequence of the pressure on prices, CTL experienced significant losses in production, sales revenue and profitability. Moreover, the decline in production volume led to reduced employment and underutilization of production capacity.

According to counsel, while CTL was losing market share on sales of bearings from both domestic production and imports, the market share captured by imports from Japan increased. Moreover, this dumping has induced CTL to export a greater proportion of its domestic production. Counsel added that CTL's evidence on lost orders shows that, until the imposition of provisional measures, competition from low-priced Japanese imports had continued to exert pressures on CTL's profitability. As a

consequence, between 1986 and 1991, even during the boom year of 1988, CTL's pre-tax income declined significantly.

Counsel cautioned that, because of the high margins of dumping and volumes of dumped imports from NTN, Koyo, NSK and Federal-Mogul, the Tribunal should not exclude any of these companies' products from its finding, irrespective of the unit of measure involved or the range of sizes produced only intermittently by CTL. They added that, if a finding of material injury did not cover the range of products specified in the Deputy Minister's final determination of dumping, the effectiveness of the finding would be compromised. Counsel agreed to requests from counsel for Nissan and Mazda to exclude, from a finding of material injury, complete sets of single row tapered roller bearings imported only for sale to dealers for the warranty repairs of motor vehicles designed by these companies or their affiliates.

THE RESPONSE

Koyo Canada Inc. and Koyo Seiko Co., Ltd.

Counsel submitted that CTL's injury has been caused by factors other than the dumping of the subject goods from Japan. They are the worldwide recession, traditional and rigid marketing practices, major design and technology changes, competitive pressures from major users, imports from countries other than Japan, increased capacity in the United States and strategic alliances between major users and bearing suppliers.

Counsel argued that the market for the subject goods can be described as a North American market. This fact is borne out by the similarity in CTL's economic indicators (market share, prices and gross margins) on domestic and export sales. Counsel noted that, according to data provided by CTL, the drop in CTL's market share, between 1989 and 1991, was captured by non-Timken imports from the United States and not by imports from Japan. Over the same period, the market share held by Japanese imports declined as well. With respect to the allegations of price suppression and price erosion, counsel stated that CTL's evidence showed that comparable prices were charged for the same Canadian-made part numbers sold domestically and in the export market. Counsel further noted that, according to CTL, the drop in the domestic prices was caused by dumping, but the drop in export prices resulted from competitive pressures in the export market. According to counsel, these competitive pressures were pervasive in both the Canadian and U.S. markets for the subject goods and induced Timken to lower its prices on both sides of the border. Because domestic prices fluctuated at the same level as export prices, CTL earned the same gross margins on export and domestic sales. Moreover, in contrast with the losses incurred on sales to OEMs, CTL's aftermarket sales from domestic production have remained profitable.

Counsel asked the Tribunal, if it found injury, to exclude part numbers not currently produced in Canada.

NTN Bearing Corporation of Canada Ltd. and NTN Corporation

After endorsing the argument by counsel for Koyo, counsel noted that, notwithstanding the declared losses by its Canadian operation, Timken may not, in fact, be losing money on the production of the subject goods in Canada. CTL is closely integrated with its parent company. The extent of this integration allows Timken to

choose the means by which it transfers profits to the United States. Moreover, counsel questioned CTL's method of allocating general selling and administrative expenses among the various profit centres, suggesting that CTL's pre-tax losses on domestic and export sales of the subject goods were overstated. In addition, they attributed part of these losses to currency variations.

Counsel reviewed and rejected CTL's evidence of lost sales and price suppression which included 25 price offerings to OEMs. Counsel claimed that, in nearly all of the cases, CTL was not a viable contender. In their opinion, CTL could not match the service offered by importers of bearings from Japan or other countries, particularly those supplying the full range of bearings, including ball bearings. Counsel further claimed that CTL had a rigid marketing approach. It quoted prices in U.S. dollars and required customers to source all or a large proportion of their bearing requirements from CTL or its affiliates. According to counsel, competition in the domestic market has not been confined to imports from Japan, but has included suppliers from other countries which were effective in their competition for market share.

NSK Bearing Canada Ltd.

Counsel submitted that NSK should be excluded from any injury finding in this case because its imports and sales volumes of the subject goods have been negligible. However, if a finding of material injury is made against single row tapered roller bearings, the Tribunal should exclude ISO bearings. Counsel further argued that, of the five major accounts which purchased bearings from NSK, none was cited by CTL in its evidence of lost sales. With respect to future activities, NSK intends to concentrate on importing only ISO bearings which, they claimed, are not produced in Canada.

Federal-Mogul Canada Limited and Federal-Mogul Corporation

Counsel asked the Tribunal to exclude Federal-Mogul from a finding of material injury because sales to OEMs are the focus of CTL's injury in this case. Federal-Mogul has sold the subject goods primarily to the automotive aftermarket, a segment of the market in which CTL has been a minor participant. Moreover, Federal-Mogul is not included in any of CTL's examples of lost sales. With respect to the allegation of price suppression, counsel referred to Federal-Mogul's evidence which provides a comparison of its prices and those of CTL. This evidence which was not challenged by counsel for CTL indicates that Federal-Mogul's prices have generally been higher. In concluding their argument, counsel told the Tribunal that Federal-Mogul no longer imported the subject goods from Japan.

THE REASONS FOR DECISION

The first issue that the Tribunal must address is whether a separate finding of injury must be made for single row tapered roller bearing sets, cups and cone assemblies. Counsel for NTN argued that, on the basis of the Federal Court of Appeal decision in *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*,¹ the Tribunal must make separate findings of injury for each of these classes of goods.

1. [1982] 2 F.C. 283.

In the *Noury Chemical*² decision, the court held that, because the preliminary determination of dumping applied to "four distinct product classes which are not generally substitutable for each other," it was the duty of the Anti-dumping Tribunal to inquire into whether the dumping of each class of goods, for which separate margins of dumping had been determined, had caused, was causing or was likely to cause material injury to the production in Canada of like goods in each class. The Anti-dumping Tribunal, therefore, had to determine whether the subject goods encompassed more than a single class of goods that are not generally substitutable for each other.

Unlike the goods in the *Noury Chemical* decision, the Tribunal notes that an end user can purchase a complete set of single row tapered roller bearings or the corresponding cup and cone assembly and construct that set. As such, these goods occupy the same stream of commerce in that they are utilized by the same end users, have the same functional end use and compete individually or in combination with each other in the market. On this basis, the Tribunal believes that these goods constitute a single class of goods, unlike the classes of goods identified in the *Noury Chemical* decision. Accordingly, the Tribunal has concluded that only a single finding respecting the dumping of single row tapered roller bearings, including cups and cone assemblies, is required in this instance.

Regarding the manufacturer's allegation of material injury, the evidence before the Tribunal leaves little doubt that CTL has been suffering injury on the production of the subject goods. There has clearly been a significant decline in CTL's sales in Canada of the subject goods from domestic production. The evidence also confirms that this decline in sales was far from being fully offset by export sales and resulted in reduced rates of capacity utilization and reduced employment. CTL submitted income statements showing that these sales reflected significant and consistent losses on the production of the subject goods for domestic consumption and export from 1989 to 1991.

The Tribunal has examined if dumped imports from Japan are causing the injury that CTL has incurred or if there are other factors that explain CTL's performance. Looking at CTL's reduced sales of domestic production in Canada, the evidence shows that there was a sharp decline in the market for the subject goods between 1989 and 1991. Sales by industries using bearings were down, particularly in 1991, with a consequent reduction in demand for bearings. CTL maintained its share in this declining market which was supplied from domestic production. Sales of imports from Japan, and other countries, were equally affected by the sharp decline in the market during the inquiry period. However, there was a marginal erosion in the market share held by Japanese imports.

Testimony and evidence clearly established that the Canadian market for the subject goods consists of two very distinct segments, namely, the OEMs and the aftermarket.

Sales to the OEM segment of the market declined much more than those to the total market for the subject goods. These sales, which were unprofitable during the inquiry period, have been the main reason for CTL's severe losses. Although CTL sells a large part of its production in this market segment, the major proportion is absorbed

2. *Ibid.*, at 285.

by the Big Three automotive manufacturers. Data collected by the Tribunal show that there were practically no imports of the subject goods from Japan sold to the Big Three. This was confirmed by witnesses for GM and Chrysler. CTL's reduced sales to the Big Three are thus attributable to factors other than dumping from Japan. CTL's sales were particularly affected by a decline in sales of cars and trucks by the Big Three during the period of this inquiry. Their market declined not only because of the recession, but also because of increased competition from imports of automobiles and components.

Technological change may also have had a further negative impact on the level of the Big Three purchases of the subject goods. Developments such as a shift in automobile production to relatively more front-wheel-drive vehicles reduce the average number of the subject goods used per vehicle produced.

Testimony and evidence do not substantiate CTL's allegation that dumped imports from Japan were the cause of price suppression for sales to the Big Three. Witnesses from GM and Chrysler in the United States, responsible for their firms' North American purchases of the subject goods, told the Tribunal about their firms' procurement policies and how they negotiate volumes and prices with suppliers. These two firms negotiate with bearing suppliers and agree on volumes and prices for delivery to their plants in Canada, the United States and Mexico. The witnesses also told the Tribunal that, to ensure timely delivery, their firms source in North America. The evidence received by the Tribunal suggested that Ford, the third important auto manufacturer, had procurement practices that did not differ significantly from those of GM and Chrysler. The Tribunal finds that the presence of dumped Japanese imports in Canada could not have had any impact on the volumes of the subject goods that CTL sold to the Big Three or on the prices that CTL received for those sales. Moreover, the Tribunal is not persuaded by counsel's claim that prices on CTL's sales to the Big Three, and other multinational OEMs, did not benefit from the U.S. finding on bearing imports from Japan. Irrespective of what effects that finding may have had on U.S. prices, the evidence shows that the prices that the Big Three pay to CTL are comparable to those paid to other Timken affiliates in North America.

The remainder of the OEM market consists of multinational and national firms using bearings in the manufacture of various kinds of vehicles and mechanical equipment, such as construction machinery and agricultural implements. There are no data on total sales to these OEMs, but according to testimony, they do not exceed more than 10 percent of the total market for the subject goods. The evidence shows that importers of the subject goods from Japan have a relatively large and long-standing presence in this part of the market. However, the importers of the subject goods from Japan have not increased their share of sales to these OEMs. Reduced purchases of the subject goods by these OEMs equally affected sales by CTL and other suppliers, including importers of the subject goods from Japan. An example of how weak this part of the market has been is the evidence showing that sales by manufacturers of agricultural implements plummeted by nearly one third between 1989 and 1991. Also, a number of OEMs closed down or shifted part of their production out of Canada, which also reduced the level of demand for the subject goods.

CTL alleged both lost sales and price suppression for several OEM accounts. Witnesses testified, and counsel for the importers argued, that for a variety of reasons, CTL was not a viable contender for these accounts. For a number of the named accounts, CTL has not made sales for several years. Internal reports of sales calls to

these, as well as to other accounts, do not provide a basis for assessing CTL's allegations. The prices that CTL offered to the Canadian-based buyer were the same as those offered by Timken to the U.S. parent or affiliate. In other words, the level of prices was determined by conditions in the United States and could not be attributed to dumping of the subject goods in Canada. The Tribunal also notes that CTL has identified the Canadian manufacturing arms of the multinational firms as primary marketing targets.

An analysis of the pricing information where CTL made firm offers to sell the subject goods proved to be inconclusive in assessing if dumping had contributed to price suppression. There is no evidence of consistent underbidding. There were examples of prices quoted for the Japanese product for Canadian-made part numbers that were lower than CTL's prices. However, these same quotes for Japanese products included prices for other Canadian-made part numbers that were higher than CTL's prices. There were two other facts that stood out in the review of CTL's evidence on lost accounts. The first was that Timken-made part numbers accounted for two thirds or more of the part numbers included in most quotes. Many of the lower priced offers related to U.S.-made part numbers. Secondly, for those accounts with a history of prices for the period 1989 to 1991, there were no indications of a general decline in price levels. This conclusion is consistent with the data that CTL and Japanese importers provided on prices in response to the Tribunal's questionnaires. Counsel argued that CTL's prices were severely and increasingly discounted from "book prices." Without a list of book prices and an understanding of how they are constructed, the Tribunal cannot directly address claims of price erosion or suppression in relation to those book prices. Actual data show, on balance, that prices for the subject goods have been relatively firm, taking into account the weakness of the market. There are no indications that trends have been significantly affected by dumping from Japan. Accordingly, the Tribunal does not consider that CTL's evidence supports its allegation that dumped imports from Japan have resulted in the loss of accounts or in price suppression in sales to these OEMs.

The Tribunal has considered if dumping of the subject goods from Japan has affected CTL's sales and prices in the aftermarket. Sales to the aftermarket segment did not decline as sharply as sales to the OEM segment. The evidence does not show any significant change in the share of sales to the aftermarket by importers of the subject goods from Japan. Moreover, the relative presence of Timken products in the aftermarket rose as CTL increased its share of the aftermarket which was supplied with imported Timken products. The main losers in the competition for the aftermarket appear to have been suppliers from other countries, and especially U.S. suppliers of Federal-Mogul.

The evidence supporting CTL's allegations of lost accounts and price suppression in the aftermarket is not convincing. Data provided by parties show that prices were firm in the aftermarket and were moving upwards and that the prices of several part numbers imported from Japan were higher than those of the same CTL-made part numbers. A witness told the Tribunal that there had been practically no discounting from suppliers, even though distributors were under pressure from buyers to reduce their margins. With respect to this segment of the market, it should be noted that a large proportion of CTL's sales consisted of imports, not only from the United States, but also from Timken plants elsewhere in the world. These imports included ISO and other metric part numbers. According to CTL's own evidence, sales of both domestic production and imports in this market segment remained profitable. The Tribunal has concluded that CTL's evidence does not support allegations that the dumping of the

subject goods from Japan has caused the loss of accounts or price suppression in the aftermarket.

CONCLUSION

The statutory obligation on the Tribunal in dumping cases is to assess whether the dumping of the subject goods has caused, is causing or is likely to cause material injury to "the production in Canada" of like goods. In this instance, the single Canadian manufacturer produces the subject goods for both the OEM segment of the market (primarily automobile manufacturers) and for the aftermarket. The evidence before the Tribunal clearly establishes that these two segments of the market are distinguishable, and, in fact, the OEM segment in North America is supplied in a completely different manner from the aftermarket. In this connection, the Tribunal has noted that the major consumer of bearings, the automobile manufacturers, obtain their bearing requirements nearly exclusively from North American sources and that the Canadian manufacturer directs a large proportion of its production to these purchasers in both Canada and the United States. The Japanese suppliers to Canada have not in the past, nor do they currently, supply any significant part of this segment of the OEM market. Given existing supply arrangements and the process by which prices are determined for these OEM sales, CTL's sales to these OEMs in Canada are effectively insulated from any offshore competition, although this production cannot be ignored by the Tribunal in making its assessment of material injury. Accordingly, one cannot attribute the Canadian firm's injury in respect of these sales to dumped Japanese imports.

As regards sales to other OEMs and the aftermarket, the Tribunal finds that dumped imports from Japan have had little or no impact on supply patterns or prices. The Tribunal finds that CTL's injury has not been caused by dumping in these segments of the market.

The Tribunal considers that the injury that CTL has incurred is attributable to other causes. The recession has resulted in a sharply reduced market for the subject goods. With most OEM sales being made to the Big Three and other Canadian-based plants of North American multinationals, the level of prices received on sales to these accounts is crucial for CTL's financial performance. CTL's losses are likely attributable to sales to these multinationals at prices that do not cover costs.

With regard to a likelihood of injury should Japanese exporters continue to dump the subject goods in Canada, counsel for CTL argued that there was considerable excess production capacity for the subject goods in the world, and especially in Japan. Under these circumstances, Japanese exporters would target the Canadian market. Witnesses stated that Japanese manufacturers were operating at full capacity and that sales to Canada accounted for a very small proportion of Japanese exports of the subject goods. Even if the Tribunal concluded that Japanese exporters had significant excess capacity, it would not automatically follow that there would be a deluge of the subject goods exported to Canada.

In the OEM segment of the market where CTL considers the threat of injury to be the greatest, the scope for penetration by Japanese imports is limited. Given the movement of the automobile manufacturers to flexible inventory control and "just-in-time" delivery requirements, it is unlikely that offshore suppliers will capture a major share of this market in the foreseeable future. As regards the remainder of the

OEM segment of the market where Japanese imports are present, the Tribunal has concluded that they have not caused price suppression or resulted in lost accounts. CTL's prospects for increasing its sales to this part of the OEM segment of the market are likely to depend more on factors other than pricing. CTL's sales in the aftermarket have remained profitable in spite of intense competition, and there are no indications of an imminent change in the situation. Finally, reduced sales in industries using the subject goods have had a major impact on the market. Lower levels of demand and pressures on prices from the major users are likely to continue to be the key factors affecting the market and, consequently, the performance of CTL.

On the basis of the foregoing, the Tribunal finds that the dumping of the subject goods from Japan has not caused, is not causing and is not likely to cause material injury to CTL's production of single row tapered roller bearings for sale in Canada.

W. Roy Hines
W. Roy Hines
Presiding Member

Robert C. Coates, Q.C.
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Member

Desmond Hallissey
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Member