



Vancouver, Friday, December 11, 1992

Inquiry No.: NQ-92-002

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

**BICYCLES AND FRAMES ORIGINATING IN OR EXPORTED FROM
TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA**

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 August 13, 1992, and of a final determination of dumping dated November 10, 1992, respecting the importation into Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, and frames thereof, originating in or exported from Taiwan and the People's Republic of China.

Pursuant to subsection 43(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby finds that the dumping in Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Taiwan and the People's Republic of China, excluding the subject bicycles with an F.O.B. Taiwan and People's Republic of China selling price exceeding CAN\$325, has caused, is causing and is likely to cause material injury to the production in Canada of like goods, and that the dumping in Canada of the subject bicycle frames, originating in or exported from the aforementioned countries, has not caused, is not causing, but is likely to cause material injury to the production in Canada of like goods.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member

Nicole Pelletier

Nicole Pelletier
Assistant Secretary

The statement of reasons will be issued within 15 days.

Inquiry No.: NQ-92-002

Place of Hearing: Ottawa, Ontario
Dates of Hearing: November 16 to 28, 1992
Date of Finding: December 11, 1992

Tribunal Members: Arthur B. Trudeau, Presiding Member
Robert C. Coates, Q.C., Member
Desmond Hallissey, Member

Director of Research: Selik Shainfarber
Research Manager: Ken Campbell
Research Officers: Peter Rakowski
Elizabeth McLean

Statistical Officer: Nynon Burroughs

Registration and Distribution Officer: Pierrette Hébert

Participants: C.J. Michael Flavell,
Geoffrey C. Kubrick,
Colin S. Baxter and
Gérald Lafrenière
for Canadian Bicycle Manufacturers'
Association
Groupe Procycle Inc.
Raleigh Industries of Canada Limited
Victoria Precision Inc.

(Complainants)

Richard S. Gottlieb and
Darrel H. Pearson
for Canadian Tire Corporation, Limited
Consumers Distributing
Hudson's Bay Company
Kmart Canada Limited
Sports Distributors of Canada Limited
Sports Experts Inc.
Toys "R" Us (Canada) Ltd.
F.W. Woolworth Co. Limited
Asama Enterprises Corporation
Kent International Inc.
Pinnacle Corporation
Pride International
Royce Union Bicycle Company Inc.
China Bicycles Company (Holdings)
Limited
Zellers Inc.
Hubert Lippé Enterprises Limited

(Importers/Exporters)

J. Christopher Osborne,
A. Neil Campbell,
Jennifer K. Badley,
Peter Clark,
John Haime,
Douglas Arthur and
Ken Besharah
for Taiwan Transportation Vehicle
Manufacturers' Association

(Exporter)

James P. McIlroy
for The Canadian Association of
Specialty Bicycle Importers

(Importer)

Paul K. Lepsoe and
Kevin Clease
for Specialized Bicycle Components of
Canada, Inc.
Specialized Bicycle Components, Inc.

(Importer/Exporter)

Kimberley L.D. Cook
for Norco Products Ltd.

(Importer)

Pierre Primeau
President
Action Vélo Plus Inc.

(Importer)

David Bowman
President
Outdoor Gear Canada

(Importer)

Steven J. Kushneryk
General Manager
Zero Bicycle Company

(Manufacturer/Importer)



Ottawa, Tuesday, December 29, 1992

Inquiry No.: NQ-92-002

**BICYCLES AND FRAMES ORIGINATING IN OR EXPORTED FROM
TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA**

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 has found that the dumping in Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Taiwan and the People's Republic of China, excluding the subject bicycles with an F.O.B. Taiwan and People's Republic of China selling price exceeding CAN\$325, has caused, is causing and is likely to cause material injury to the production in Canada of like goods, and that the dumping in Canada of the subject bicycle frames, originating in or exported from the aforementioned countries, has not caused, is not causing, but is likely to cause material injury to the production in Canada of like goods.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	November 16 to 28, 1992
Date of Finding:	December 11, 1992
Date of Reasons:	December 29, 1992
Tribunal Members:	Arthur B. Trudeau, Presiding Member Robert C. Coates, Q.C., Member Desmond Hallissey, Member
Director of Research:	Selik Shainfarber
Research Manager:	Ken Campbell
Research Officers:	Peter Rakowski Elizabeth McLean
Statistical Officer:	Nynon Burroughs
Counsel for the Tribunal:	Robert Desjardins
Registration and Distribution Officer:	Pierrette Hébert
Participants:	C.J. Michael Flavell, Geoffrey C. Kubrick, Colin S. Baxter and Gérald Lafrenière for Canadian Bicycle Manufacturers' Association Groupe Procycle Inc. Raleigh Industries of Canada Limited Victoria Precision Inc.

(Complainants)

Richard S. Gottlieb and
Darrel H. Pearson
for Canadian Tire Corporation, Limited
Consumers Distributing
Hudson's Bay Company
Kmart Canada Limited
Sports Distributors of Canada
Limited
Sports Experts Inc.
Toys "R" Us (Canada) Ltd.
F.W. Woolworth Co. Limited
Asama Enterprises Corporation
Kent International Inc.
Pinnacle Corporation
Pride International
Royce Union Bicycle Company Inc.
China Bicycles Company
(Holdings) Limited
Zellers Inc.
Hubert Lippé Enterprises Limited

(Importers/Exporters)

J. Christopher Osborne,
A. Neil Campbell,
Jennifer K. Badley,
Peter Clark,
John Haime,
Douglas Arthur and
Ken Besharah
for Taiwan Transportation Vehicle
Manufacturers' Association

(Exporter)

James P. McIlroy
for The Canadian Association of
Specialty Bicycle Importers

(Importer)

Paul K. Lepsoe and
Kevin Clease
for Specialized Bicycle Components of
Canada, Inc.
Specialized Bicycle Components,
Inc.

(Importer/Exporter)

Kimberley L.D. Cook
for Norco Products Ltd.

(Manufacturer/Importer)

Pierre Primeau
President
Action Vélo Plus Inc.

(Importer)

David Bowman
President
Outdoor Gear Canada

(Importer)

Steven J. Kushneryk
General Manager
Zero Bicycle Company

(Manufacturer/Importer)

Witnesses:

Raymond Dutil
President
Groupe Procycle Inc.

Daniel Maheux, C.A.
Financial Director
Groupe Procycle Inc.

Louis Nolet, C.A.
Controller
Victoria Precision Inc.

Éphrem Busque
Vice-President - Operation
Groupe Procycle Inc.

Philip Stanimir
President and Chief Executive Officer
Victoria Precision Inc.

Grant DeMarsh
Vice-President, Finance
Raleigh Industries of Canada Limited

Farid Vaiya
President
Raleigh Industries of Canada Limited

Ron Hanson
Vice-President
Sales, Marketing & Distribution
Raleigh Industries of Canada Limited

George Milo
General Manager
Pride International

Robert Watt
Senior Buyer
Zellers Inc.

Brent Hume
Head Buyer
Source for Sports
Sports Distributors of Canada Limited

John Simpson
Buyer - Sporting Goods
Hudson's Bay Company

F. Pieper
Technical Adviser
F.W. Woolworth Co. Limited

Hubert Lippé
President
Hubert Lippé Enterprises Limited

Grace Tseng
Marketing Affair Dept.
Senior Vice-President
Merida Industry Co. Ltd.

Lanty Chang
General Manager
Giant Global Group General Office
Giant Mfg. Co., Ltd.

James Chien
Asst. General Manager
Fairly Bike Manufacturing Co., Ltd.

Stephen E. Codron
Executive Director
Vice-President
Sales and Marketing
China Bicycles Company (Holdings)
Limited

John W. Barker
Advisor to Board
China Bicycles Company (Holdings)
Limited

Bob Figgures
Divisional Merchandise Manager
Toys "R" Us (Canada) Ltd.

B.J. Moroney
Assistant Buyer
Sporting Goods
Kmart Canada Limited

Osborne Todd
Department of Finance

Vincent Lamoureux
National Product Manager
Sports Experts Inc.

Bernard Veilleux
BVI Marketing Inc.

Robert Hanson
Buyer - Sporting Goods
Leisure Products Division
Canadian Tire Corporation, Limited

Jay C. Townley
Jay Townley & Associates

Michael Topliss
General Manager - Canada
Giant Bicycle Canada, Inc.

Jacob Heilbron
The Bicycle Group

Tobi Schultze
Sportable

Gilles Bertrand
Cycle Bertrand

Barry Near
Sport Scoop

Robert Hainault
Zero Bicycle Company

Steven J. Kushneryk
General Manager
Zero Bicycle Company

Bert Lewis
President
Norco Products Ltd.

Jim Harman
Vice-President of Marketing
Norco Products Ltd.

Martin Vellend
Veltec Canada

Larry Koury
Managing Director
Specialized Bicycle
Components of Canada, Inc.

Benoît G. Pratte, M.Sc.
Economist
ISEC Stratégie économique

Simon Roy
La Porte à Bicyclette

Robert Hughes
Le Vélomane

Régent Boyer
Le Bicycle Brisé

Pierre Primeau
President
Action Vélo Plus Inc.

David Bowman
President
Outdoor Gear Canada

Roméo Bayard
Sales Manager
Victoria Precision Inc.

Address all communications to:

Secretary
Canadian International Trade Tribunal
20th Floor
Journal Tower South
365 Laurier Avenue West
Ottawa, Ontario
K1A 0G7



Ottawa, Tuesday, December 29, 1992

Inquiry No.: NQ-92-002

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

**BICYCLES AND FRAMES ORIGINATING IN OR EXPORTED FROM
TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA**

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
 ROBERT C. COATES, Q.C., Member
 DESMOND HALLISSEY, Member

STATEMENT OF REASONS

CONDUCT OF THE INQUIRY

The Canadian International Trade Tribunal (the Tribunal), under the provisions of section 42 of the *Special Import Measures Act*¹ (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 August 13, 1992, and of a final determination of dumping dated November 10, 1992, respecting the importation into Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, and frames thereof, originating in or exported from Taiwan and the People's Republic of China (China).

The notices of preliminary and final determinations of dumping were published in Part I of the August 29 and November 28, 1992, editions of the Canada Gazette, respectively. The Tribunal's notice of commencement of inquiry issued on August 17, 1992, was published in Part I of the August 29, 1992, edition of the Canada Gazette.

As part of the inquiry, the Tribunal sent detailed questionnaires to Canadian manufacturers and importers of the subject goods requesting production, financial, import and market information, as well as other information, covering the period from 1988 to mid-1992. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports covering that period.

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.

1. R.S.C. 1985, c. S-15.

A pre-hearing conference was held in Ottawa, Ontario, on October 28, 1992, to discuss matters relating to the inquiry and to the conduct of the hearing.

Public and *in camera* hearings were held in Ottawa, Ontario, starting on November 16, 1992. The complainants, Canadian Bicycle Manufacturers' Association, Groupe Procycle Inc. (Procycle), Raleigh Industries of Canada Limited (Raleigh) and Victoria Precision Inc. (Victoria), were represented by counsel at the hearing, as were numerous exporters and importers.

On December 11, 1992, the Tribunal issued its finding that the dumping in Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Taiwan and China, excluding the subject bicycles with an F.O.B. Taiwan and China selling price exceeding CAN\$325, has caused, is causing and is likely to cause material injury to the production in Canada of like goods, and that the dumping in Canada of the subject bicycle frames, originating in or exported from the aforementioned countries, has not caused, is not causing, but is likely to cause material injury to the production in Canada of like goods.

PRODUCT

The product that is the subject of this inquiry is described by the Deputy Minister in the preliminary determination of dumping as bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, and frames thereof, originating in or exported from Taiwan and China.

The subject bicycles are composed of six basic components: the frame, drive train, wheels, seat, handlebars and brakes, each of which consists of several interlocking parts. The frame consists of three tubes welded together to create the triangular structure of the bicycle, to which is attached the back triangle consisting of backstays and chain stays which hold the rear wheel, as well as a fork which connects the front wheel to the frame.

Differences in the materials and overall quality of the frame, drive train and wheels account for a wide range of bicycle models and prices. For example, the frame can be constructed using a standard welding method or a more refined method which uses tubes fitted with lugs and brazed to create a seamless weld. Similarly, the drive train, which consists of derailleurs, shift levers, a crank set, freewheel, chain and pedals, can perform according to one of three basic shifting systems: a standard friction system, a mechanical system commonly referred to as SIS (Shimano Index System) or the most sophisticated push-button system known as STI (Shimano Total Integration), named after a Japanese-based company which is a leader in bicycle components.

The three main types of bicycles commonly sold in Canada include street bicycles, mountain bicycles and hybrids. Each comes in junior/adult and male/female categories and can be further categorized according to wheel size, speeds and frame size. The mountain bicycle, which was introduced on the Canadian market in 1984, began to gain popularity in 1986 and rapidly replaced the racing bicycle which was favoured in the 1970s. The hybrid, which is a combination of a mountain and a racing bicycle, was introduced in 1989. Together, the mountain and the hybrid models represent approximately 70 percent of the current Canadian market.

DOMESTIC INDUSTRY

The complainants, Procycle, Raleigh and Victoria, account for approximately 90 percent of bicycles currently produced in Canada and, for the purpose of this inquiry, constitute the domestic industry. Each of the companies manufactures and markets both brand-name and private-label bicycles to the retail industry. Procycle's brand-name bicycles are CCM, Vélo Sport, Peugeot and LOOK; Raleigh's brand names include Raleigh and Triumph; and Victoria markets its bicycles under the brand names of Leader, Minelli and Precision. The three companies manufacture their own frames in their Canadian plants, but Victoria imports a small volume of frames from Taiwan. Also, some handlebars, backstays and rims are manufactured in Canada, but other bicycle components are imported from the United States, Europe and the Far East.

A roster of smaller companies, which account for the remaining 10 percent of the domestic production, includes Norco Products Ltd. (Norco) which manufactures and imports mountain bicycles in the medium-to-high price range, as well as specialty bicycles, parts and accessories. Rocky Mountain Bicycle Co. Ltd. is a privately owned company which specializes in mountain bicycles in the high price range retailing for up to \$4,500. Finally, Miele Bicycles (1991) Ltd. is a privately owned company also specializing in lines in the medium-to-high price range sold under the Miele name and has been known in Canada and in Europe as a manufacturer of road-racing bicycles.

In 1989, Universal Bicycle Ltd. (Universal), a major Canadian manufacturer, ceased production. The company, incorporated in 1962, had been a large volume producer of low-priced, private-label bicycles. Universal closed its Drummondville, Quebec, production facilities in 1988 and its Scarborough, Ontario, plant in 1989.

Bicycles manufactured in Canada are marketed under private labels or brand names. A private-label bicycle is generally manufactured to a retailer's specifications. The retailer also chooses the name which will be put on the product, to distinguish it from similar products sold by other retailers. Private-label bicycles are generally sold through mass merchandisers and buying groups. Brand-name bicycles carry a name owned by the manufacturer. Because the name is promoted, a brand-name product receives a premium price and carries a better reputation in the eyes of the consumer. Brand-name bicycles are generally sold through the dealer network.

POSITION OF COMPLAINANTS

The complainants submitted that, based on the evidence in this case, the Tribunal should find that the dumping of the subject goods has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

According to counsel, the complainants had been and were still experiencing serious difficulties because of an undeniable and very visible increase in Taiwanese and Chinese imports entering Canada in recent years. In the first half of 1992, when the unit sales and market share of the complainants fell in comparison with the first half of 1991, imports from China more than tripled and accounted for more than a quarter of the domestic market. By mid-1992, Taiwan and China together accounted for 56 percent of

the market share, which translated into the sale of over 700,000 bicycles.² Certain agents and importers played a major role in facilitating this surge of Taiwanese and Chinese imports. During this period, no other players had a substantial presence in the marketplace, and no factors other than dumping can account for the Canadian losses.

The surge in dumped imports had an injurious impact on the Canadian industry. The materiality of the injury was evidenced not only in the massive loss of market share, but also in the progressively worsening financial results of the industry, as well as in a reduction in employment and capacity utilization, and in deferred investments. With fixed costs spread over lower production volumes, unit costs rose, and margins were reduced. More particularly, sharply decreased sales in 1991 resulted in net sales and gross profits falling by 30 percent in comparison with the previous year. As a percentage of sales, general, selling and administrative expenses, as well as interest expense, rose significantly. The result of the reductions in sales and relatively higher costs was a decline of 86 percent in pre-tax profits. With a further 10-percent decline in sales, the complainants' financial performance continued to deteriorate, and, in 1992, they reported their poorest results over the previous five years.

The injury caused by dumping was ravaging an industry which, counsel asserted, had had an exemplary record of success going back several decades, during which time it had manufactured and sold millions of quality bicycles to satisfied customers. The industry also has a significant record of continuous improvements over the years, in quality, efficiency, range of product and consumer appeal. It has been dynamic and innovative and has kept pace with market trends as evidenced by its introduction of the mountain bike in Canada in 1984 and the hybrid bike in 1989, as well as by its recent investments in technologies, such as robotics, and sophisticated welding techniques, such as the direct brazing system. The industry's record belies the allegations that Canadian bicycles cannot match offshore products in quality and price.

Had the Canadian product indeed been inferior, or had the Canadian industry been as uncompetitive or outmoded as opposition counsel alleged, the complainants would not have successfully stayed in business for as many decades as they have. In fact, the longevity of the Canadian industry is proof of its versatility and its ability to produce a wide range of bicycles serving low, medium and high price points. The industry has shown in the past, and continues to show, that it has the capability to meet the different requirements of mass merchandisers that market bicycles in the low-to-medium price range and of dealers that market brands in the medium-to-high price range.

It is true that the complainants' marketing and advertising targeted mass audiences rather than the enthusiasts looking for a specialized product. In the complainants' estimation, this strategy made good business sense. In any event, the complainants have developed an extensive dealer network and are very much present in all segments of the bicycle market.

Counsel conceded that the complainants, from time to time, had misunderstandings with customers. Such misunderstandings were not any more serious

2. Most of the imports and sales occur in the first half of the year due to the seasonal nature of the Canadian bicycle market.

than in any other industry and, generally speaking, were an inescapable part of doing business. This did not alter the fact that the complainants' economic health was being undermined by the massive dumping of bicycles from Taiwan and China. The crucial issue was therefore price. In comparison with price, the complainants purported that shortcomings or other issues relating, for example, to the quality of Canadian bicycles or to the manner in which they were advertised or marketed, were not as significant.

The importance of price in sourcing decisions was illustrated by the fact that only the most price-conscious mass merchandisers such as Canadian Tire Corporation, Limited (Canadian Tire), Zellers Inc. (Zellers), Kmart Canada Limited and Woolco opposed the complainants' request for anti-dumping protection. It was particularly with this type of account that the complainants had lost sizeable sales to dumped offshore products. The more up-market mass merchandisers, such as Eaton's of Canada Limited and Sears Canada Inc., had continued to buy Canadian bicycles in substantial volumes.

Lost sales by Canadian manufacturers at the mass merchandiser level were compounded by losses at the dealer level. This was substantiated by uncontradicted evidence submitted by the complainants. Moreover, many accounts claimed as lost by the complainants were reported to be major accounts of members of The Canadian Association of Specialty Bicycle Importers (CASBI), contradicting CASBI's contention that its imports were not competing with the complainants' products.

A study done by the Tribunal's staff showed that the average selling prices of the domestic products have been declining in the past two years. Although, as the study pointed out, factors such as product mix could affect average values, the declining trends noted were corroborated by specific oral and written evidence adduced at the hearing. This evidence, therefore, supported the allegation of price suppression/erosion caused by Taiwanese and Chinese imports.

With respect to frames, counsel argued that they should be included in the material injury finding on the grounds that frames are an integral part of the bicycle. Excluding frames would make it too easy for importers to circumvent the finding by bringing in dumped frames which would be assembled into bicycles competing with the Canadian product.

Counsel submitted that the preliminary determination of dumping by the Deputy Minister, which resulted in the imposition of provisional anti-dumping duties as of August 1992, was already benefiting the Canadian industry considerably. Some major accounts, which had strayed into the Taiwanese and Chinese camps, had already switched back to sourcing their product in Canada. This trend would likely continue, if there was a "level playing field."

With respect to the likelihood of material injury, counsel pointed out that the capacity of the Taiwanese and Chinese industries was enormous and was being further expanded. Evidence presented at the hearing confirmed that new factories were being opened in China, some of them financed by Taiwanese entrepreneurs taking advantage of China's drive to expand its export markets and its plentiful and cheap labour force. It was clear that, if allowed to go unchecked, the subject countries would continue to flood the market with dumped products. Evidence throughout the hearing showed that the complainants were taking every step to enhance their competitiveness by reducing costs and implementing effective business strategies. However, these actions alone would

not assure the complainants' future viability if they had to continue to compete with massive volumes of dumped bicycles or frames.

POSITION OF IMPORTERS AND EXPORTERS

Counsel for Canadian Tire *et al.*, the Taiwan Transportation Vehicle Manufacturers' Association (the TTVMA), CASBI and Specialized Bicycle Components of Canada, Inc. (Specialized Bicycle) argued, in separate submissions, that the subject imports have not caused, are not causing and are not likely to cause material injury to the Canadian production of like goods. They contended that any injury suffered by the Canadian producers was due to factors other than dumping.

Counsel for Canadian Tire *et al.* raised numerous points regarding the financial, marketing, accounting and other operational practices and procedures of each of the complainants. The essence of the arguments can be summarized as follows.

The complainants, as a whole, had made misguided business decisions, and any injury that they had suffered was self-inflicted. In submissions to the Tribunal and in testimony during the public hearing, examples were provided of the failure of the Canadian producers to approach customers or to quote to them, of their reluctance to serve certain markets or to supply a product at certain price points, of their offer of an inferior product and poor service, and of their lack of responsiveness to the customers' specifications and needs.

In the low price range segment of the bicycle market, recessionary pressures resulted in the customers' search for opening price point (OPP) bicycles. Those who met the OPPs got the business. Importers had responded to these market developments by offering an innovative and reasonably priced product. They filled a market niche which they themselves created or which was not being properly serviced by Canadian producers that had refused to supply a brand-name product to mass merchandisers. Also, because of the seasonal nature of their operations and the constrained capacity in peak periods, Canadian producers may not have been able to offer the required volume of bicycles in the low price range to mass merchandisers.

In addition to the above general points, counsel raised specific points pertaining to each of the complainants. Firstly, in the case of Victoria, it was submitted that its performance in these hard economic times had been exemplary and that the company was making reasonable profits. Its financial position reflected internal financial transactions relating to the acquisition of the business by its present owner from his father. Far from losing sales, its major accounts were steady or growing. Evidence of price suppression/erosion was judged inconclusive because it called for price comparisons which are difficult to make from year to year given changes in the specifications of bicycle products. Rather, decreases in prices reflected Victoria's effort to penetrate the adult bicycle market from the mid-1980s onward, as part of a strategic marketing move to become less dependent on children's bicycle sales. Finally, the reported loss of employment was due to productivity improvements and not to reduced production.

Secondly, Raleigh's financial performance was alleged to have been affected by transactions unrelated to the subject goods, such as loans and dividend payments arising out of its relationship with Raleigh U.S.A. and their common parent company Derby International. Other causes of Raleigh's difficulties were its poor customer relations, as

evidenced by its handling of a dispute with Canadian Tire, its voluntary abandonment of certain market segments and its refusal to sell the Raleigh brand to mass merchandisers, thereby missing the opportunity to do business with large-volume customers such as Woolco, Sports Distributors of Canada Limited or Toys "R" Us (Canada) Ltd.

Lastly, Procycle's financial difficulties were attributed to a high debt load and resulting financial charges, as well as non-recurring expenses. Costly and unnecessary expansion created excess capacity and excessive inventory which had to be sold below cost. Procycle's loss of market share was the effect of a deliberate decision to restrict its market activities and to abandon certain unprofitable segments such as children's bicycles and private-label bicycles.

Looking to the future, counsel for the retailers also pointed out that, by and large, the complainants had already taken steps to address their difficulties and to restructure their production and marketing strategies. Assisted by favourable currency conditions in the form of a lower-valued Canadian dollar, they were well on their way to financial health and did not need the protection of anti-dumping duties.

Counsel for the TTVMA concurred that the Canadian industry's problems were self-inflicted. They faulted the industry for its inability to spot market trends, its failure to aggressively market brand-name products to mass merchandisers, its poor financial management, as evidenced by its high debt load and elevated general, selling and administrative expenses, and its poor export performance. Other non-dumping factors which contributed to any injury suffered by the complainants included the recession, the elimination of customers through bankruptcies, the effect of cross-border shopping and high interest rates.

Counsel for the TTVMA maintained that the bicycle market had become increasingly bifurcated between products in the low-to-medium price range marketed to the public through mass merchandisers and products in the medium-to-high price range purchased by bicycle "enthusiasts" from specialty dealers. In many markets, such as in the United States, producers were already specializing in one or the other of these distinct market segments. This was part of a worldwide trend, according to the testimony of an expert witness who appeared before the Tribunal. In this bifurcated market, Taiwanese exporters such as Giant Mfg. Co., Ltd. (Giant), the largest producer of bicycles in Taiwan, Merida Industry Co. Ltd. and Fairly Bike Manufacturing Co., Ltd. were positioned in the segment of the market where they were not a real threat to the Canadian industry, namely, the segment served by independent specialty dealers. Their market position was the result of a deliberate strategy, pursued for several years, to move up market and is evidenced by the higher average values, but lower volumes, of their sales.

The reduction in Taiwanese sales of the subject goods since the preliminary determination of dumping was the continuation of this trend and also reflected a change in customers' purchasing patterns. It could not be interpreted as proof that dumping had caused injury. Moreover, large exporters, such as Giant, were achieving sizeable margins that enabled them to absorb, over the short term, the provisional anti-dumping duties imposed by the preliminary determination of dumping and still guarantee certain price levels to their Canadian customers. The fact that they were able to do so should not be seen as evidence of predatory pricing nor interpreted as an attempt to circumvent the finding.

Counsel for CASBI, which represents buyers that deal mainly in the medium-to-high price range segment of the dealer market, strongly supported the statement regarding market bifurcation and maintained that the complainants were misguided in their attempts to service both market segments, to concentrate excessively on a few large sales to major domestic retailers and to neglect export markets which are essential to survival in the global economy shaped by the *General Agreement on Tariffs and Trade*³ and the *Canada-United States Free Trade Agreement*.⁴

The main contention of counsel for CASBI was that any injury suffered by the complainants could not have been linked to the activities of CASBI members that specialize in a different market segment. There was no evidence that CASBI members had taken any sales from the complainants, whose model offerings were concentrated in the medium-to-low price range segment of the market, which is of no interest to CASBI. Any injury to Victoria could not be linked to loss of sales to CASBI members, as Victoria targets the family market and does not sell bicycles for more than \$450, which are the staple of dealers. Similarly, Raleigh is not in the over-\$700 market, and, in the case of Procycle, the two models which retail at over \$700 (LOOK and Peugeot) are both held under licences which could be revoked at any time.

Noting the Tribunal's pricing analysis, counsel pointed out the documented gap between domestic average prices and the average prices of his client. This was further proof that the complainants were not competing with CASBI members, but competing among themselves mainly in the low price range segment of the market. If, contrary to the submissions of counsel opposing the industry's complaint, the Tribunal found that injury had taken place, counsel for CASBI asked for an exclusion for bicycles from Taiwan and China that have an F.O.B. Taiwan value greater than CAN\$150, which translates into a Canadian retail price of approximately \$410. Similar requests for an exclusion came from Specialized Bicycle, a Canadian importer catering to bicycle enthusiasts looking for a quality product, that claimed not to be competing with the product offered by the Canadian industry, and from Action Vélo Plus Inc. (Action), a buying group representing some 35 dealers, that claimed that Canadian manufacturers could not supply the needs of its dealers.

With respect to frames, counsel for Norco argued that frames ought to be excluded from a finding of material injury. In her submission, frames are a separate class of "like goods" and are distinct from bicycles, both competitively and functionally. In the alternative, she argued that, if the Tribunal did not accept the "like goods" argument, frames should be excluded from the scope of a positive finding on the grounds that the complainants did not bring evidence of material injury with respect to dumped imports of frames.

Counsel went on to say that there was no need to fear that the importation of frames could lead to the circumvention of the finding. The creation of overnight assembly plants, whose product would compete with the product of the complainants, would require the presence of a number of factors conducive to cost effectiveness. The importation of frames alone would not cause any imminent threat in this regard.

3. *Basic Instruments and Selected Documents*, Volume IV, Geneva, March 1969.

4. *Canada Treaty Series*, 1989, No. 3 (C.T.S.), signed on January 2, 1988.

ECONOMIC INDICATORS

Industry Performance Indicators

Key industry performance indicators for the Canadian bicycle industry are summarized in the table below.

CANADIAN BICYCLE INDUSTRY ECONOMIC INDICATORS						
	1988	1989	1990	1991	First Half 1991	First Half 1992
Total Apparent Market (000 units)	1,557	1,457	1,541	1,334	1,134	1,297
Producers' Market Share (%)	75	66	55	43	46	37
Importers' Market Share from Subject Countries (%)	17	24	34	49	43	56
Importers' Market Share from Non-Subject Countries (%)	8	10	11	8	11	7
Total Market Share from Imports (%)	25	34	45	57	54	63
Industry Production ¹ (000 units)	1,271	1,033	896	629	464	432
Complainants ² Gross Profit (index 1988 = 100)	100	117	129	89	N/A	67*
Industry Capacity Utilization (%)	44	46	51	34	42	40
Industry Employment (000 hours worked)	1,400	1,378	1,382	1,184	761	659
<hr/>						
N/A = Not available.						
* 1992 full fiscal year estimate.						
1. Includes production for domestic and export markets.						
2. Raleigh, Victoria and Procycle.						
Source: Pre-hearing staff report, as revised.						

Over the years from 1988 to 1990, the total apparent market for bicycles remained steady at approximately 1.5 million units. During this period, Canadian producers' market share slipped from 75 to 55 percent, while imports from Taiwan and China increased their market share from 17 to 34 percent. Domestic production also fell over

the same period, from 1.3 million units to 0.9 million units. Average employment hours worked remained relatively steady over the three years ending in 1990.

In 1991, in a declining market, Canadian producers lost a further 12 percentage points of market share. This loss went primarily to imports from the subject countries which gained a further 15 percentage points of market share. The decline in market share and sales resulted in a substantial decline in the complainants' gross profits, which fell by over 30 percent in 1991 compared to 1990. The decline in gross profits continued unabated in 1992. In addition, the industry's production and employment hours worked were down 30 and 14 percent, respectively, in 1991. Results for the first half of 1992 revealed further deterioration for the domestic industry.

Marketing

Bicycles are sold through mass merchandisers and independent dealers. For the most part, mass merchandisers sell private-label bicycles in the low-to-medium range of price points. Dealers generally sell brand-name bicycles in the medium-to-high range of price points. The table below summarizes bicycle sales to mass merchandisers and dealers.

BICYCLES-APPARENT MARKET MASS MERCHANDISERS AND DEALERS (000 units)												
	1988	% Share	1989	% Share	1990	% Share	1991	% Share	First Half 1991	% Share	First Half 1992	% Share
<u>Sales From Domestic Production</u>												
Mass Merchandisers	759	49	572	39	463	30	273	20	265	23	236	19
Dealers	<u>409</u>	<u>26</u>	<u>387</u>	<u>27</u>	<u>380</u>	<u>25</u>	<u>302</u>	<u>23</u>	<u>255</u>	<u>23</u>	<u>234</u>	<u>18</u>
Total	1,168	75	959	66	843	55	575	43	520	46	470	37
<u>Sales by Importers</u>												
Mass Merchandisers	259	17	307	21	473	31	539	40	451	40	715	54
Dealers	<u>130</u>	<u>8</u>	<u>191</u>	<u>13</u>	<u>225</u>	<u>14</u>	<u>220</u>	<u>17</u>	<u>163</u>	<u>14</u>	<u>112</u>	<u>9</u>
Total	389	25	498	34	698	45	759	57	614	54	827	63
<u>Total Market</u>												
Mass Merchandisers	1,018	65	879	60	936	61	811	60	717	63	951	73
Dealers	<u>539</u>	<u>35</u>	<u>578</u>	<u>40</u>	<u>605</u>	<u>39</u>	<u>523</u>	<u>40</u>	<u>417</u>	<u>37</u>	<u>346</u>	<u>27</u>
Total	1,557	100	1,457	100	1,541	100	1,334	100	1,134	100	1,297	100

Source: Tribunal's questionnaires and adjusted Statistics Canada data.

Although sales by the domestic industry to both mass merchandisers and dealers were down in the three years ending in 1991, sales to the mass merchandiser market were particularly hard hit. Sales in this market fell from 759,000 units in 1988 to 273,000 units in 1991, a decline of 64 percent. In 1988, domestic industry sales to mass merchandisers represented 49 percent of the total market; by 1991, they represented 20 percent. Sales by the domestic industry to the dealer market were also down, falling

from 409,000 units in 1988 to 302,000 units in 1991. Industry sales to both markets continued to decline in the first half of 1992 compared to the first half of 1991.

In contrast, import sales to mass merchandisers increased substantially over the three years ending in 1991, rising from 259,000 units in 1988 to 539,000 units in 1991. These sales represented 17 percent of the total market in 1988 and 40 percent in 1991. Import sales to dealers also increased during the same period, rising from 130,000 units, representing 8 percent of the total market, to 220,000 units, representing 17 percent of the total market. Importers continued to make major inroads into the mass merchandiser market in the first half of 1992, as reflected in their 14-percentage-point increase in market share, compared to the first half of 1991. However, over the same interim periods, importer sales to dealers declined by 5 percentage points.

Pricing

A sales and pricing study⁵ was carried out by the Tribunal's staff with respect to selected mass merchandiser and dealer accounts. Regarding mass merchandiser accounts, it showed that the average value for domestically sourced products was generally higher than that for bicycles from Taiwan and China. In 1991, the domestic average value was 27 percent higher than the average value for bicycles from Taiwan and 58 percent higher than the average value for bicycles from China. Similarly, in 1992, the domestic average value was about 14 percent higher than the Taiwanese value and 29 percent higher than the Chinese value.

Domestic sales to the mass merchandisers which participated in the study declined by 47 percent in 1991 and a further 42 percent in 1992. In aggregate terms, these sales were taken by importers of Taiwanese and Chinese bicycles whose combined sales increased by 89 percent in 1991 and a further 59 percent in 1992.

The study showed that, for dealer accounts, domestic suppliers' average selling prices were significantly lower than average prices from Taiwan in each of the years 1990, 1991 and 1992. Domestic sales to these accounts fell by 9 percent in 1991 and 7 percent in 1992. Over the same years, sales from Taiwan more than doubled in 1991 before decreasing by 9 percent in 1992. Sales of Chinese bicycles were non-existent over the period reviewed.

REASONS FOR DECISION

During this inquiry, the Tribunal heard evidence from 44 witnesses over a period of 11 days of public and *in camera* hearing. Added to this voluminous record were substantial data submitted by manufacturers and importers in response to the Tribunal's questionnaires. Pursuant to section 42 of SIMA, the Tribunal must determine, based on the evidence and arguments, whether the dumping of the subject bicycles and frames has caused, is causing or is likely to cause material injury to the production in Canada of like goods.

5. This study noted that, from year to year, average values could be affected by a variety of factors such as changing product mix.

The determination, in this case, will be made essentially by addressing two basic questions. First, why has the industry, as a whole, performed as poorly as it has, particularly over the past two years? Second, have the dumped imports had a materially adverse effect on the industry's performance?

Material Injury Indicators

The discussion of material injury indicators begins with an analysis of bicycles followed by a discussion of frames. In this first section, the Tribunal will review indicators respecting market share, price suppression/erosion, financial effects and employment.

Market Share

Since the mid-1980s, there has been a dramatic change in the Canadian bicycle market, reflecting changes occurring in the world bicycle market. In the early 1980s, the racing bicycle and the "BMX" children's bicycle dominated the Canadian market, at around 80 percent of sales. By the end of the decade, all-terrain bicycles (ATBs), also known as mountain bicycles, and the hybrid bicycle, a combination of an ATB and a racing bicycle, represented approximately 70 percent of the Canadian market. The advent of this new generation of bicycles was accompanied by innovative developments in components such as advanced gear-shifting systems, the introduction of new frame materials and, more recently, new suspension technology. These changes took place at a time of growing sensitivity among the population at large to health, fitness and environmental matters.

The net effect of these developments was to stimulate consumer demand. In 1988, the year in which ATB sales mushroomed, the Canadian market stood at 1.6 million units, a level roughly one third higher than the period of the late 1970s and early 1980s. Total market demand has tended to fluctuate from year to year since 1988, but for the most part, overall demand has continued to be relatively robust (see Economic Indicators).

However, in the years 1988 through mid-1992, a dramatic shift in market share occurred. Between 1988 and 1990, Universal, at the time the largest Canadian producer of bicycles in volume terms, ceased production. With the demise of Universal, the industry lost 20 percentage points of market share, virtually all of which were taken by Taiwanese bicycle imports. In 1991, a recessionary year which saw the market fall by 13 percent, Chinese bicycles, produced in plants which are largely funded by Taiwanese capital, began to enter the country in significant volumes. Moreover, Chinese imports, and to a large extent Taiwanese imports, were concentrated in the more price-sensitive segments of the market.

In the first half of 1992, imports from the subject countries continued to cut into the industry's sales and market share. Although Taiwanese imports lost market share, their volumes remained steady. Imports from China, however, continued to rise sharply, more than tripling over the six-month period. By mid-1992, Chinese imports equalled those of Taiwan, and the combined market share of the two countries stood at 56 percent.

Seldom has the Tribunal witnessed such a dramatic and rapid shift in market share. In the short span of four and one-half years, the industry has seen its market participation fall from three quarters to only slightly more than one third of market share, a total loss of 38 percentage points of market. Over this same period, the combined imports from Taiwan and China nearly tripled, to 727,000 units, and their market share increased sharply, by 39 percentage points.

As noted earlier, there are two principal channels of distribution in the Canadian market, namely, mass merchandisers, including buying groups, and independent bicycle dealers, including specialty stores and sporting goods stores. The evidence adduced clearly shows that the surge in imports from the subject countries displaced domestic sales in both channels, although the effects of import competition have been particularly acute at the mass merchandiser level, where roughly two thirds of Taiwanese bicycles and virtually all Chinese bicycles are sold.

More specifically, the Tribunal's staff analysis indicates that domestic sales to nine selected mass merchandisers declined by 69 percent between 1990 and 1992. At the dealer level, the analysis shows a decline of 15 percent to 15 selected accounts over the same period, as Taiwanese imports increased by 89 percent to the same accounts. This evidence was supplemented and generally corroborated by specific evidence adduced by the industry of lost sales at each trade level.

The evidence also shows that the industry has lost sales across a broad spectrum of bicycle models, although again the effects of import competition have been focussed on children's bicycles (16- and 20-inch wheel diameter) and low-priced adult bicycles. The extent and significance of the production and market share losses incurred in children's bicycles, for example, is illustrated by the fact that, in 1988, one third of domestic production (400,000 units) was devoted to this segment. In succeeding years, the volume of children's bicycles manufactured domestically has shown a steady and rapid decline so that, by the first half of 1992, only 63,000 units were produced. While domestic production was going down, imports from Taiwan began to increase sharply in 1990, followed by significant increases from China in 1991. This loss of production and market share hit Victoria and Raleigh harder than Procycle, as the first two had a more important presence in children's bicycles.

Thus, despite generally growing demand for bicycles in the Canadian market, the Canadian industry has been unable to benefit due to a surge in imports from the subject countries. Not only has the domestic industry been deprived of opportunities for growth, it has also suffered major losses in sales and market share. In the opinion of the Tribunal, these losses are unquestionably material in magnitude.

Price Suppression/Erosion

The price of bicycles sold in the Canadian market covers a continuum, going from commodity-type bicycles in the low price range through to models in the medium-to-high price ranges. Although there are no precise demarcation lines, evidence presented during the hearing indicated that bicycles in the medium price range start retailing at about \$300 and move up to about \$800. Bicycles below this range occupy the low price range segment of the market, and those above this range occupy the high price range segment, including models which retail for several thousand dollars.

Mass merchandisers do not generally sell bicycles above \$400 retail. They specialize in basic "no frills" children and adult model bicycles which are priced at what is described in the trade as OPPs. Bicycles at these OPPs are designed to draw customers into the bicycle department or, as put by witnesses during the hearing, to "create traffic" in the hope that the customer will buy a somewhat more costly model once in the bicycle section.

Dealers generally start pricing their bicycles at price points at, or close to, \$200 to \$300. These models are generally one or two steps up the scale compared to the OPP models offered by mass merchandisers. There is thus some overlap between the market segments served by mass merchandisers and dealers, in the \$200-to-\$400 range. The area of overlap comprises the higher end of the mass merchandiser's range and the lower end of the dealer range.

As has been noted earlier, the most recent recession dampened Canadian demand from peaks achieved in 1988 and 1989, but, overall, demand continued to be relatively firm. According to the evidence, however, the recession had the effect of shifting consumer demand to lower-priced bicycles to the benefit of mass merchandisers and to the detriment of dealers. This effect is readily evident in the growing share of the total bicycle market held by mass merchandisers compared to dealers, a trend which, according to the statistical data prepared by the Tribunal's staff, accelerated in 1992.

The recession thus increased demand for lower-priced bicycles at both mass merchandiser and dealer levels. This demand was met by imports of Taiwanese and Chinese bicycles, and especially by the latter since 1991. More specifically, analysis of import data shows a clear concentration of the subject bicycles from these two countries in the highly competitive, highly price-sensitive, low price range segment of the bicycle market.

The evidence also shows that bicycle prices have been stable or declining in absolute dollar value in Canada over the past several years. This means that bicycle prices have actually been declining in inflation-adjusted terms. Indeed, one witness, who is in charge of international marketing for a Chinese company that is one of the largest bicycle manufacturers in the world, testified that "What the market in Canada is looking for is price." He further stated that "Right now, the average bike today retailed in Canada is probably the lowest retail price point anywhere in the world for a western made product." The Tribunal has heard nothing to contradict this statement nor anything to contradict evidence that Chinese bicycles are among the lowest-priced bicycles in the world.

The Tribunal's staff pricing analysis shows that the complainants' average selling price to both mass merchandisers and dealers declined between 1990 and 1992. The industry also testified, at numerous times during the proceedings, that prices in Canada had fallen to such depressed levels, especially in the low price range segment of the market, that it was effectively not even in the running in the bidding for business for several important accounts. The Tribunal notes that there is healthy competition for many accounts among domestic producers at both the mass merchandiser and dealer levels. However, this intra-industry competition does not come close to explaining the intense price suppression/erosion experienced in the Canadian bicycle market over the past few years. This is much more readily explained by the severe downward price pressures exerted by the large volumes of dumped bicycles from Taiwan and China.

Financial Effects

Leaving aside the growth opportunities lost by the domestic industry following Universal's demise in the 1988-90 period, if the industry had simply held its 1990 share of the market constant in 1991 and the first half of 1992, it would have produced somewhere in the order of 300,000 to 400,000 additional bicycles over that year and a half, even taking into account the effects of the recession. This approximates the volume of production and sales lost as a result of the surge in imports from Taiwan and China over the period. Based on the industry's average value of unit sales, this represents a revenue loss of between \$30 and \$40 million. This substantial loss of revenue accounts for the sharp drop in gross profits for the industry over the 1990-92 period.

It is apparent that the decline in profitability is the result of upward pressures on costs (largely because of reduced volume) combined with downward pressures on prices. Underutilized capacity and other fixed costs must be spread over a declining production base, pushing up unit costs, without any commensurate price increases to absorb these costs. A consultant's report which reviewed the operations of one of the domestic producers clearly prescribed the importance of increasing volume to achieve decreasing unit costs, thereby enhancing competitiveness in both domestic and export markets. The difficulty that domestic producers face, in meeting this prescription, is that the volume segment of the market, by and large, has been captured by imports from Taiwan and China.

The Tribunal notes that counsel for exporters and importers argued that any financial injury suffered by the complainants was self-inflicted. For example, some of Raleigh's problems stemmed from financing costs relating to financial arrangements that it was obligated to undertake by its parent in the interests of the Raleigh group of international companies. Similarly, Victoria was burdened with debt costs associated with the financial arrangements made by the present owner in connection with his takeover of the company in 1988. Procycle was also weighed down with debt and had suffered financially, not because of factors relating to dumping, but because of a substantial decline in its export business.

The Tribunal has carefully considered these arguments and is not persuaded that these factors account for the material decline in the complainants' financial performance. In the first place, expenses or charges relating to these factors affect net income rather than gross income. Thus, the decline noted above, at the gross profit level, which the Tribunal considers to be material, stands unaffected by these issues. Second, even when the Tribunal recasts net income data to reflect the adjustments suggested by counsel for exporters and importers, there remains a substantial decline in combined net income for the complainants, which is clearly material in magnitude in the estimation of the Tribunal. Specifically, the adjusted statements would still see the complainants' net income fall by more than 50 percent in 1991 and by almost another 50 percent in 1992.

In sum, the Tribunal is satisfied from the evidence that the surge in imports, especially from 1990 onward, has had a materially adverse effect on the complainants' combined financial performance. It is true that one of the complainants has fared relatively better than the other two. However, this does not alter the fact that, on a combined basis, the complainants' performance has been dismal. The Tribunal has little doubt that the key to financial recovery for the complainants is to increase volume by

securing better access to their domestic market. Indeed, a strong home base is also a prerequisite for improved export competitiveness in this industry.

Employment

The evidence shows that declining production and sales had a significant negative impact on the complainants' employment levels. Industry employment during peak production periods, of which the complainants represented about 90 percent of the total, remained steady at roughly 1,300 employees between 1988 and 1990. Hours worked during this period remained firm at roughly 1.4 million annually. However, in 1991, production declines, brought about by the growing presence of imports from the subject countries, resulted in a 14-percent decrease in hours worked from the level achieved in 1990. While Procycle and Victoria experienced some decline, Raleigh saw its hours worked cut in half. In the first half of 1992, the complainants were again forced to decrease their employment when hours worked fell by a further 13 percent from the corresponding period in 1991. By the latter period, both Procycle and Victoria had joined Raleigh in cutting back employment.

The evidence indicates that the complainants made substantial capital investments in the three years prior to 1991. Investments in areas such as welding robotics, painting systems and computer technology no doubt improved production efficiencies. However, the magnitude of the decline in employment and hours worked is more readily explained by the displacement of domestic production by dumped imports than by improved productivity or other such considerations.

Having regard to the foregoing considerations, the Tribunal finds that the surge in dumped, low-priced imports from Taiwan and China displaced sales and production by Canadian producers and suppressed and eroded prices to an extent that was material. This, in turn, resulted in material declines in the industry's performance indicators.

CAUSALITY

In order to make a positive injury finding, the Tribunal must be satisfied that dumping has caused, is causing or is likely to cause material injury. On the basis of the evidence before it, the Tribunal is convinced that this is indeed the case.

Past and Present

As has already been noted, the vast majority of bicycles sold in Canada are bicycles that fall in the low range of the price continuum. In this pricing segment, importers and domestic producers compete for customers largely, if not primarily, on the basis of price. The price pressures that are felt by suppliers are a reflection of the price pressures that are exerted at the retail level. For example, the Tribunal heard considerable testimony from mass merchandisers about the value consciousness of consumers and about how they are obligated to meet target price points at retail or risk losing substantial sales. If one of their major competitors finds a cheap source of goods, they have little choice but to seek out equally cheap or cheaper sources, whether domestic or foreign, in order to stay competitive. The potential expansion of giant U.S. warehouse and discount stores into Canada, some of which was already occurring, was another element that kept mass merchandisers under extreme pressure to keep prices down on all products, including bicycles. Other current sources of downward price

pressure included the cross-border shopping phenomenon and the effects of the recession.

Against this background, several major retailers candidly admitted that a very small dollar difference would influence their purchasing decisions in favour of the lower price offering. Typical of this testimony was the witness for Zellers, the second largest domestic purchaser of bicycles, who stated that as little as a \$2-per-bicycle difference in price would be sufficient reason to switch to a lower-price supplier on a volume purchase.

The Tribunal also heard testimony, from dealer representatives such as Action, that their businesses are also under severe price pressures. These pressures stem from competition with mass merchandisers in overlapping market segments, including children's bicycles and lower-priced adult bicycles. Like the mass merchandisers, they had to contend with the effects of the recession, cross-border shopping and the Goods and Services Tax. According to their testimony, many dealers had gone bankrupt in the last few years, including some of the largest and most established bicycle dealerships in Canada.

The Tribunal notes that the Deputy Minister, in the final determination of dumping, found that 98 percent of imports from China and 92 percent of imports from Taiwan were dumped at weighted average margins of dumping of 34 and 13 percent, respectively. An examination of the margins of dumping by specific importers reveals that both mass merchandisers and dealers purchased dumped bicycles from either Taiwan and/or China which were imported at substantial margins of dumping. The Tribunal has no doubt that sales were lost by domestic producers because of dumped prices.

This conclusion is supported by the fact that, in the period leading up to the preliminary determination of dumping on August 13, 1992, and since that time, a major shift in sourcing has occurred. This is especially evident in the purchasing decisions of mass merchandisers. More particularly, the evidence reveals that the complainants have received substantial orders for the upcoming 1993 retail season from buyers that had previously filled much or most of their requirements from import sources.

The extent of this shift back to domestic sources can only be described as massive. The testimony of two major importer agents, Mr. Hubert Lippé and Mr. George Milo, clearly indicates the magnitude of the shift with their sales declining in 1993 by several hundred thousand bicycles. There is little doubt that this decline is directly related to the margins of dumping found by the Deputy Minister. While the margins of dumping in the final determination of dumping are lower than those in the preliminary determination of dumping, the final margins of dumping remain at levels that are high enough to sustain the major swing back to Canadian-made bicycles.

In testimony and correspondence, a number of customers claimed that they favoured Taiwanese and Chinese suppliers over the complainants because of factors unrelated to price. These claims included superior quality, a wider product range, better delivery, lower return rates and better cosmetics. The Tribunal notes, however, that the complainants' record with respect to these claims, when put to closer scrutiny, is not inferior to offshore suppliers. Given the large volume of sales and several hundred domestic accounts, it is not surprising that difficulties arise from time to time. Moreover, the Tribunal is of the view that non-price factors have not played a major role

in sourcing decisions for the majority of customers. This view is strongly reinforced by the rapid return to the domestic fold by many of the customers that expressed such grievances as soon as the price gap between domestic and imported products was narrowed or eliminated as a result of the imposition of anti-dumping duties.

Counsel for exporter and importer interests also argued that imports filled an important need in the Canadian market since, in their view, the industry did not have sufficient capacity to meet the needs of the entire Canadian market. It was their estimate that the domestic industry had a maximum practical peak capacity of around 750,000 units, which fell far short of average market demand over the past few years. It was this shortfall in domestic capacity that caused the surge in imports.

The Tribunal notes that the Canadian bicycle market operates on a seasonal basis. Large retailers place orders in the summer and early autumn, and production generally commences in October/November for shipment during the months of January through April. There is little production, if any, in the summer months. These market realities act as a constraint on the domestic industry's theoretical production capacity, in the opinion of the Tribunal. However, it is not necessary, for the purposes of this inquiry, to determine what is practical production capacity for the industry. Suffice it to say that, even if it were as low as 750,000 units, as suggested by counsel for exporter and importer interests, this was still far in excess of the actual capacity loading achieved by the industry in 1991 and 1992. Thus, while it is probably fair to say that the domestic industry, at its present levels of production capacity, cannot serve the entire Canadian market, it is equally apparent that the surge in dumped imports substantially idled available capacity that the industry could readily call upon to increase production and sales. In fact, it is this idle capacity that has now been put into production by the industry to meet market demands that have arisen following the anti-dumping investigation.

Finally, counsel for exporters and specialty bicycle dealers argued that it is not feasible for bicycle manufacturers to serve the different needs of mass merchandisers and dealers. According to their submissions, mass merchandisers are selling a commodity, whereas dealers are selling a "lifestyle" or "concept." Mr. Jay C. Townley, an expert witness, testified in support of this contention. According to Mr. Townley, bicycle manufacturers in the United States, Asia and elsewhere were increasingly specializing in one segment of the market or the other, a process which he referred to as "bifurcation." In his view, this was a trend which would eventually affect Canada. Counsel argued that the domestic industry's failure to "bifurcate" was a source of its difficulties.

The Tribunal is not persuaded that the above-described specialization at the manufacturer's level is the way of the future for the Canadian industry insofar as the vast majority of its sales are concerned, although the high price range segment of the market may, indeed, have special needs that require special attention. The fact of the matter is that Canada is a relatively small market and, except for niche players, domestic producers cannot afford to give up either market segment if they are to be a major competitive force domestically and internationally. Moreover, the record shows that domestic producers have been successful in the past in serving both market segments. Given a level playing field, there is no reason to believe that they cannot continue to do so for some time into the future.

Future

This is the second inquiry into the injurious dumping of bicycles and frames, the first having resulted in a finding of material injury on November 8, 1977.⁶ Subsequently, on February 17, 1984,⁷ the Anti-dumping Tribunal, citing "a considerable change in the circumstances affecting the bicycle market during the intervening years [since 1977]" rescinded the said finding.

In rescinding the finding in 1984, the Anti-dumping Tribunal stated:

*The Tribunal attaches weight, in deciding in favour of rescission, to the deterrent effect that a past affirmative finding of material injury should have on the future activities of bicycle exporters in Taiwan and Korea. The vulnerability of the domestic producers to a resumption of dumping practices is clear. The message to these exporters should be equally clear that remedial action can be swift should injurious dumping resume.*⁸

After a hiatus of several years, the dumping of bicycles from Taiwan has resumed. In addition, dumping has been found with respect to China where several of the major production facilities have been financed by Taiwanese capital. This record clearly suggests to the Tribunal that, in the absence of the discipline of a positive injury finding, the dumping found by the Deputy Minister in this case is likely to continue in the future.

The Tribunal further notes that Taiwan and China, combined, have enormous bicycle production capacity. Many of the facilities in these two countries are designed primarily to serve export markets. Evidence adduced at the hearing shows that a substantial proportion of this capacity, especially in China, is currently idle. This adds to the likelihood that, unless constrained, injurious dumping will continue unabated.

The Tribunal is also of the view that the downward price pressures which are currently present in the Canadian market are not likely to disappear in the near future. Competition at the retail level, especially by mass merchandisers, is likely to persist as retailers struggle amongst themselves for market share and position themselves to fend off competition from the United States. The fact that some retailers have switched sourcing for the 1993 season to countries such as India, Indonesia and Thailand is evidence of the ongoing search for ways of coping with these price pressures.

Finally, the Tribunal notes that remedial trade action was recently taken in the European Community against Chinese bicycles. This offers a further indication of the market disruption that can be created by that country's growing exports. The Tribunal, therefore, concludes that the dumping of the subject goods is likely to cause material injury to the domestic production of like goods.

6. *Bicycles, Assembled or Unassembled, and Bicycles Frames, Forks, Steel Handlebars and Wheels (not Including Tires and Tubes), Originating in or Exported from the Republic of Korea and Taiwan*, Anti-dumping Tribunal, Inquiry No. ADT-11-77, November 8, 1977.

7. *Bicycles, Assembled or Unassembled, and Bicycle Frames, Forks, Steel Handlebars and Wheels (not Including Tires and Tubes), Originating in or Exported from the Republic of Korea and Taiwan*, Anti-dumping Tribunal, Review No. ADT-11B-77, February 17, 1984, at 5.

8. *Ibid.*, at 8.

FRAMES

Much evidence was adduced during the course of the hearing concerning the importance of frame construction to the ultimate performance of a bicycle. The frame is the "heart" of a bicycle and represents the major cost component in the final product. The quality of construction, the material component and the name that goes on the frame, whether a brand name or a private label, ultimately determines the selling price and the saleability of the finished bicycle.

All of the complainants manufacture frames for incorporation into their own production of bicycles, as well as a very small volume sold for the replacement market and to other manufacturers. This makes good business sense. Producers of bicycles, whether in Canada, Taiwan, China or elsewhere, do not normally supply frames to the open market which would ultimately end up in competition with their own bicycle production and sales.

Counsel for Norco, a western Canadian-based bicycle assembler, and the only large domestic importer of frames, argued that frames ought to be excluded from a finding of material injury. In her submission, frames are a separate class of "like goods" and are distinct from bicycles, both competitively and functionally. In the alternative, she argued that, if the Tribunal did not accept the "like goods" argument, frames should be excluded from the scope of a positive finding on the grounds that the complainants did not bring evidence of material injury with respect to dumped imports of frames.

In its 1977 decision, the Anti-dumping Tribunal, on a similar issue, commented as follows:

It may be stated, as a general rule, that where it is found that dumping of an article has caused, is causing and is likely to cause material injury, then, in all likelihood, where there is production in Canada of the major components of that article, continued dumping of these components will also cause material injury. This rule must find its application where, in the opinion of the Tribunal, the purpose and effectiveness of anti-dumping measures levied against the complete article would otherwise be frustrated, as the Tribunal believes to be the case here, where the feasibility of simple assembly has been demonstrated.⁹

This precedent was explicitly followed in the *Paint Brushes* decision, where the Anti-dumping Tribunal, in referring to the possible importation of paint brush heads, stated:

The head is a major component of a paint brush in terms of value. It can easily be imported separately from the handle should circumstances established the advantage of such action. Consequently, there is the likelihood of injury occurring to the production in Canada of brush heads, and, certainly in terms of reduced employment and underutilization of production capacity to the production of completed paint brushes, should the dumping of heads be permitted to take place.¹⁰

9. *Supra*, note 6, at 13-14.

10. *Paint Brushes Using Natural Hog Bristle as the Filament Material, and the Components Thereof Known as "Heads," Originating in or Exported from the People's Republic of China*, Anti-dumping Tribunal, Inquiry No. ADT-6-84, June 20, 1984, at 7.

In both of the above cases, the Anti-dumping Tribunal found that the components in question, frames in the first case and paint brush heads in the second case, were a major part of the finished product. Future injury findings were made for the components because to do otherwise would have frustrated the finding of material injury on the finished product. The Tribunal considers that the views set forth in those cases are equally applicable to this case insofar as frames are concerned.

The Tribunal notes that Norco is but one of several companies that assembles bicycles in Canada using imported frames. The purpose of a material injury finding is not to limit assembly operations but rather to remove any price advantages gained on bicycle production which incorporates dumped frames. Accordingly, the Tribunal finds that the dumping of the subject frames from Taiwan and China is likely to cause material injury to the production in Canada of like goods.

EXCLUSION: BICYCLES

The Tribunal is of the view that an exclusion is warranted for bicycles in the high price range. Testimony of industry witnesses, as well as exporter and importer witnesses, suggested that the high price range segment of the market begins in the \$800 retail range. The evidence suggests that the complainants' volume of sales in the high price range, as defined, comprises a small proportion of their total sales. Indeed, only Procycle is in this market segment to any degree, through sales of its LOOK and Peugeot brands. Moreover, a high proportion of Procycle's production of these brands is targeted for export markets. Given the low volume of sales by the complainants and the low degree of price sensitivity, the Tribunal is of the opinion that material injury has not been suffered in the high price range segment of the market. Based on information available to the Tribunal on the average costs and markups that are ordinarily applied to import purchases, the beginning of the high price range converts to an F.O.B. country of origin price of CAN\$325 per bicycle.

The Tribunal does not accept Norco's request to exclude imports of cruiser bicycles and folding bicycles. The evidence indicates that these types of bicycles are not so unique in design and characteristics that they are not substitutable for and competitive with bicycles manufactured by the complainants. Similarly, the request for exclusion of Pro*flex bicycles made by Outdoor Gear Canada must also be refused. The Tribunal notes, however, that the exclusion granted for imports with an F.O.B. selling price which exceeds CAN\$325 has the practical effect of eliminating the application of anti-dumping duties on certain Pro*flex bicycles in the high price range imported from the subject countries.

PUBLIC INTEREST

Section 45 of SIMA provides that where, after making a finding of material injury, the Tribunal is of the opinion that the imposition of anti-dumping duties, in whole or in part, would not or might not be in the public interest, it shall report its opinion to the Minister of Finance with the facts and reasons that gave rise to that opinion.

Several parties have filed submissions which claim that, in the event of a finding of material injury, the imposition of anti-dumping duties in the full amount would not be in the public interest. A submission has also been filed on behalf of the complainants which rejects public interest considerations.

The Tribunal will consider these written representations and intends to make its position known on this matter forthwith after completion of its study.

CONCLUSION

In light of the foregoing, the Tribunal concludes, for the reasons stated above, that the dumping in Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Taiwan and the People's Republic of China, excluding the subject bicycles with an F.O.B. Taiwan and People's Republic of China selling price exceeding CAN\$325, has caused, is causing and is likely to cause material injury to the production in Canada of like goods.

The Tribunal further concludes that the dumping in Canada of the subject bicycle frames, originating in or exported from the aforementioned countries, has not caused, is not causing, but is likely to cause material injury to the production in Canada of like goods.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member