



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

DECISION AND REASONS

Public Interest Inquiry
No. PB-2008-003

Aluminum Extrusions

*Decision issued
Tuesday, June 30, 2009*

*Reasons issued
Friday, July 10, 2009*

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IN THE MATTER OF representations as to whether there are reasonable grounds to consider that the imposition, in whole or in part, of anti-dumping and countervailing duties on imports of aluminum extrusions originating in or exported from the People's Republic of China, as a result of the Canadian International Trade Tribunal's findings dated March 17, 2009, in Inquiry No. NQ-2008-003 conducted under section 42 of the *Special Import Measures Act*, would not or might not be in the public interest under section 45 of the *Special Import Measures Act*.

DECISION

Pursuant to section 45 of the *Special Import Measures Act* and having considered each of the properly documented requests filed by the Independent Contractors and Businesses Association of British Columbia, MAAX Bath Inc. and Kromet International Inc., the Canadian International Trade Tribunal is of the opinion that there are no reasonable grounds to consider that the imposition of anti-dumping and countervailing duties, or the imposition of such duties in the full amount provided for by the *Special Import Measures Act*, in respect of the goods referred to in the Canadian International Trade Tribunal's findings in Inquiry No. NQ-2008-003 would not or might not be in the public interest. Accordingly, the Canadian International Trade Tribunal will not initiate a public interest inquiry into this matter.

André F. Scott

André F. Scott
Presiding Member

Serge Fréchette

Serge Fréchette
Member

Diane Vincent

Diane Vincent
Member

Hélène Nadeau

Hélène Nadeau
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The statement of reasons will be issued within 15 days.

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STATEMENT OF REASONS

BACKGROUND

1. On March 17, 2009, in Inquiry No. NQ-2008-003, the Canadian International Trade Tribunal (the Tribunal) found, pursuant to subsection 43(1) of the *Special Import Measures Act*,¹ that the dumping and subsidizing in Canada of custom-shaped aluminum extrusions and standard-shaped aluminum extrusions (aluminum extrusions) originating in or exported from the People's Republic of China (China) had caused injury to the domestic industry.

2. The Tribunal excluded the following goods from its findings:

- aluminum extrusions produced from either a 6063 or a 6005 alloy type with a T6 temper designation, in various lengths, with a powder coat finish on both the interior and the exterior surfaces of the extrusion, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard, “Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels”, for use in exterior railing systems;
- aluminum extrusions produced from a 6063 alloy type with a T5 temper designation, having a length of 3.66 m, with a powder coat finish, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard, “Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels”, for use as head rails and bottom rails in fabric window shades and blinds where the fabric has a cross-sectional honeycomb or “cellular” construction;
- aluminum extrusions produced from a 6063 alloy type with a T5 temper designation and forming part of the Vario System™ 20, 30, 40, 45 and 60 series line of profiles, or equivalent, having a length of either 4.5 or 5.8 m and a straightness tolerance of +/-1.5 mm or less per 6.0 m of length, for use in those parts of mechanical systems and automated machinery, such as gantry systems and conveyors, where precise linear movement is required;
- aluminum extrusions produced from either a 6063 or a 6463 alloy type, having a length of 3 m, with a hand-applied gold and silver leaf finish, for use as picture frame mouldings;
- aluminum extrusions produced from a 6063 alloy type with either a T5 or a T6 temper designation, having a length of between 20 and 33 ft. (between 6.10 and 10.06 m), with a powder coat finish, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard “Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels”, for use in window frames; and
- heat sinks imported under tariff item No. 8473.30.90 and weighing 700 g or less.

3. Subsection 45(1) of *SIMA* provides that the Tribunal shall, on its own initiative or on the request of an interested person, initiate a public interest inquiry if it is of the opinion that there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties, or the imposition of such duties in the full amount, would not or might not be in the public interest.

1. R.S.C. 1985, c. S-15 [*SIMA*].

4. As part of its injury finding notification process, on March 17, 2009, the Tribunal issued a letter that indicated that interested persons who were of the view that the imposition of anti-dumping and countervailing duties, or the imposition of such duties in the full amount, would not or might not be in the public interest could, if they so wished, make a request to the Tribunal to initiate a public interest inquiry. The Tribunal further indicated that interested persons had to file their representations with the Tribunal not later than May 1, 2009.

5. On May 14, 2009, the Tribunal notified those who received a copy of its injury findings in Inquiry No. NQ-2008-003 that it had received properly documented requests for the initiation of a public interest inquiry from the Independent Contractors and Businesses Association of British Columbia (ICBA), an association that represents over 1,000 companies engaged in industrial, commercial, institutional and high-rise residential construction, MAAX Bath Inc. (MAAX), a domestic producer of bathroom fixtures and shower enclosures and an importer and end user of aluminum extrusions from China and the United States,² and Kromet International Inc. (Kromet), a domestic producer of custom-shaped aluminum extrusions and an importer of the said products from China³ (the requesters).

6. On May 14, 2009, the Tribunal also advised interested persons that, if they wished to file submissions with the Tribunal in reply to the properly documented requests for the initiation of a public interest inquiry, they had to do so not later than May 29, 2009. The Tribunal added that these submissions needed to address the facts and arguments contained in the requests and provide any other information that would assist the Tribunal in forming an opinion as to whether there are reasonable grounds to consider the initiation of a public interest inquiry.

7. The Tribunal received submissions in support of the initiation of a public interest inquiry from Pacific Shower Doors (1995) Ltd. (PSD), Aluminart Products Limited (Aluminart), Regal Aluminum Products Inc. (Regal), Kam Kiu Aluminum Products (North America) Ltd. (KKNA) and Ferguson Glass Western Ltd.⁴ The Tribunal also received a joint submission from MAAX and Regal in support of the ICBA's and Kromet's requests.

8. The Tribunal received one submission in opposition to the initiation of a public interest inquiry from Almag Aluminum Inc., APEL Extrusions Limited (APEL), Can Art Aluminum Extrusion Inc., Extrudex Aluminum, Metra Aluminum Inc., Signature Aluminum Canada Inc. and Spectra Aluminum Products Inc./Spectra Anodizing Limited (the domestic producers).

PUBLIC INTEREST CONSIDERATIONS

9. For the Tribunal to initiate a public interest inquiry pursuant to section 45 of *SIMA*, it must be of the opinion that there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties on imports of aluminum extrusions from China, or the imposition of such duties in the full amount, would not or might not be in the public interest.

2. MAAX's request for the initiation of a public interest inquiry was supported by TAG Hardware Systems Ltd. (TAG), a producer of closet hardware accessories and an importer of standard-shaped aluminum extrusions from China.

3. Kromet made the request for the initiation of a public interest inquiry on its own behalf and on behalf of all Canadian original equipment manufacturers (OEMs) that use or further process aluminum extrusions as inputs in many sections across Canada.

4. Ferguson Glass Western Ltd. filed a one-paragraph letter with the Tribunal in support of the initiation of a public interest inquiry without addressing the facts and arguments contained in the requests.

10. The Tribunal considers that, while it found the requests for the initiation of a public interest inquiry to be properly documented, this did not imply a judgment on whether it would initiate a public interest inquiry, or if so, what it might decide concerning the substance of the requests. The requirement that requests be properly documented simply ensures that the Tribunal has, in its possession, sufficient information to enable it to decide whether there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties, or the imposition of such duties in the full amount, would not or might not be in the public interest.

11. The Tribunal observes that, depending on the circumstances of the case, “public interest” may refer to the interests of the public at large, or to those of a segment of that public. In that sense, the ultimate decision to initiate a public interest inquiry is one that is very much fact related. In an appropriate case, geography could be a defining element of the relevant segment of the public, provided the effects of the imposition of anti-dumping and/or countervailing duties on supply, competition and competitiveness in a particular region are sufficient, on their own, to represent a “public interest”. Public interest has also been interpreted by the Tribunal to refer to the welfare of downstream industries, downstream customers or downstream users.⁵ The requests in this case appear to address issues pertaining primarily to the geographical location of the requesters, the interests of Canadian manufacturers that use aluminum extrusions as inputs, as well as to the welfare of their downstream users.

12. In its request for the initiation of a public interest inquiry, the ICBA argued that the imposition of duties⁶ in Western Canada will significantly impair the Canadian producers of aluminum curtain walls that rely on Chinese aluminum extruders as crucial primary suppliers to their business operations. The ICBA alleged that the downstream effects will be a loss of jobs in Western Canada and higher prices paid by consumers of manufactured aluminum products. MAAX contended that the imposition of duties in their full amount will provide an unnecessary and unwarranted benefit to the domestic producers, will unnecessarily increase costs to Canadian consumers and end users, thereby limiting their choice, and will increase unemployment. Kromet submitted that the imposition of duties will have a detrimental effect on Canadian and global marketplace competition and the interests of goods and services providers in the community. The requesters also alleged that the imposition of duties will put an enormous financial burden on Canadian OEMs, particularly those exporting finished products from Canada, and their Canadian workers.

13. Parties in support of the initiation of a public interest inquiry agreed with the requesters that the imposition of duties will have a detrimental effect on OEMs in Western Canada. However, they added that the same negative effects on these OEMs’ employees, suppliers and communities will be reflected on OEMs in Eastern Canada. MAAX and Regal contended that it was equally difficult and not operationally viable for OEMs in Eastern Canada to purchase fully finished fabricated parts from a domestic source, forcing them to obtain their requirements from Chinese extruders. PSD indicated that the effect of the duties will be to bankrupt the company unless it can successfully move its production facility offshore.

5. *Carbon Steel Welded Pipe* (19 December 2008), PB-2008-001 (CITT) [*Carbon Steel Welded Pipe*] at para. 9. See also *Copper Pipe Fittings* (14 May 2007), PB-2006-001 (CITT) at paras. 15-19; *Refined Sugar* (4 April 1996), PB-95-002 (CITT) at 2-5.

6. On February 16, 2009, in its final determinations of dumping and subsidizing, the Canada Border Services Agency (CBSA) determined that the weighted average margin of dumping, expressed as a percentage of the export price, was 101.0 percent and that the weighted average amount of subsidy, expressed as a percentage of the export price, was 60.5 percent. For exporters in China that cooperated with the CBSA, the margins of dumping varied between 1.7 percent and 42.4 percent, and their amounts of subsidy varied between 8.0 percent and 15.9 percent. Tribunal Exhibit NQ-2008-003-2.01, Administrative Record, Vol. 1 at 106.17, 106.18.

14. In opposition to the initiation of a public interest inquiry, the domestic producers argued that the requesters had not established a *prima facie* case that a public interest inquiry was appropriate in this instance. In their view, the requesters represent a small group of “narrow commercial interests” that are seeking renewed access to dumped and subsidized goods and attempting to re-argue their exclusion requests that were denied by the Tribunal in Inquiry No. NQ-2008-003. The domestic producers added that the requesters had failed to present concrete evidence of price increases and limited availability of like goods in the Canadian market.

15. Having carefully considered the submissions received, as well as the information on the record of Inquiry No. NQ-2008-003, the Tribunal has decided to not initiate a public interest inquiry.

16. When the Tribunal finds injury in an inquiry conducted pursuant to section 42 of *SIMA*, the consequent anti-dumping and/or countervailing duties become the normal state of affairs, or the default position, with respect to all goods to which the finding applies. It is this set of conditions that a requester for a public interest inquiry seeks to have varied by means of a recommendation from the Tribunal to the Minister of Finance. In the context of a request for a public interest inquiry, the question is whether, given all circumstances in the Canadian market, there are reasonable grounds to consider that this set of conditions results in negative effects that are too great to be in the public interest. As the Tribunal stated before, it is therefore incumbent on the requester to present at least a *prima facie* case to the Tribunal that the initiation of a public interest inquiry is appropriate. Such a case must relate to the effects that the imposition of anti-dumping and/or countervailing duties have had or might have on the public interest.⁷

17. In the present instance, the Tribunal is of the view that the requesters have not presented sufficient evidence to substantiate their assertions on the negative effects that the imposition of anti-dumping and countervailing duties have allegedly had or might have on the public interest. Accordingly, the Tribunal is not persuaded that there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties on imports of aluminum extrusions from China, or the imposition of such duties in the full amount, would not or might not be in the public interest.

18. In deciding not to initiate a public interest inquiry, the Tribunal took into account the factors prescribed in subsection 40.1(3) of the *Special Import Measures Regulations*⁸ that it considered relevant in light of the issues raised in each request in this case. After a thorough examination of all the submissions received and of the information on the record of Inquiry No. NQ-2008-003 under section 42 of *SIMA*, the Tribunal is of the view that the following factors were particularly relevant: the availability of goods of the same description from countries or exporters to which the findings do not apply; the effect that the imposition of duties has had or is likely to have on competition in the domestic market; and the effect that the imposition of duties has had on producers in Canada that use aluminum extrusions as inputs in the production of other goods.

Availability of Aluminum Extrusions From Other Sources

19. The Tribunal first examined whether there are reasonable grounds to consider that goods of the same description are not readily available from countries or exporters to which the findings do not apply. While the requesters and parties in support of the initiation of a public interest inquiry admitted that aluminum extrusions were available from India, Indonesia, Malaysia, the Republic of Korea (Korea), Taiwan, Turkey and the United States, they contended that these sources of supply were not viable for Canadian end users. Even though some of these sources are in close proximity to Canada, have low

7. *Carbon Steel Welded Pipe* at para. 14.

8. S.O.R./84-927. These factors are prescribed for the purposes of a public interest inquiry.

transportation costs and no duty rate, according to the requesters, they cannot offer the quality of the products, timely delivery, business technology and expertise of Chinese extruders. In opposition, the domestic producers submitted that the largest volume of imports of custom-shaped aluminum extrusions into Canada during the period of inquiry in Inquiry No. NQ-2008-003 was of U.S. origin. They indicated that this source remains available with ample capacity, as there are in excess of 100 U.S. extruders that actively produce aluminum extrusions with a huge variety of extrusions and an incentive to ship extrusions to Canada, in a timely manner, as a result of the U.S. recession.

20. The Tribunal finds that the requesters and parties in support of the initiation of a public interest inquiry have not made a persuasive case for restricted availability. Identical or substitutable products are available and have been purchased from Canadian producers and from China Square Industrial Ltd., which has a margin of dumping of 1.7 percent and an amount of subsidy of 8.0 percent. Moreover, KKNA's margin of dumping of 27.8 percent and amount of subsidy of 14.4 percent do not preclude exports to the Canadian market, despite the fact that these goods will necessarily have to be sold at higher prices.⁹ There is also clear evidence on the record of Inquiry No. NQ-2008-003 that aluminum extrusions were imported from non-subject countries during the period of inquiry, including the United States which represented between 45 percent and 55 percent of all imports of custom-shaped aluminum extrusions and between 54 percent and 59 percent of standard-shaped aluminum extrusions. During the period of inquiry, imports from the United States captured between 12 percent and 15 percent, and between 35 percent and 40 percent of the Canadian custom-shaped and standard-shaped aluminum extrusion market respectively.¹⁰ Furthermore, the recent data indicate that Canadian purchasers have bought aluminum extrusions from Taiwan, Korea, India and the United States.¹¹ The Tribunal finds that this is a clear indication that there are imports sold in Canada from multiple sources that are not subject to anti-dumping and countervailing duties.

21. The Tribunal also points out that, even though Kromet admitted that aluminum extrusions were available from the United States, with some delay in the procurement of new dies, it did not provide any concrete evidence to substantiate its allegation nor did it take any steps to obtain the product from this source. The Tribunal is of the view that Kromet, as a domestic producer of custom-shaped aluminum extrusions, has the capacity to produce the goods and does not need to rely on imports.

Effect of Duties on Competition in the Domestic Market

22. The Tribunal also examined whether there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties in their full amount has eliminated or substantially lessened competition in the domestic market for aluminum extrusions and deprived Canadian OEMs of a source of supply. The ICBA submitted that the prohibitive level of duties will seriously disadvantage OEMs in Western Canada, as high freight costs from domestic producers in Eastern Canada will make them less competitive in their own market and abroad. Kromet contended that the imposition of duties will likely cause competition to become unstable, as preferred pricing arrangements will develop between some domestic producers and some Canadian OEMs. MAAX indicated that the duties will have little real impact on competition because domestic producers cannot supply the aluminum parts required by end users. Parties in support of the initiation of a public interest inquiry alleged that the imposition of duties will impair

9. Tribunal Exhibit NQ-2008-003-2.01, Administrative Record, Vol. 1 at 106.17, 106.18.

10. Tribunal Exhibit NQ-2008-003-06, Administrative Record, Vol. 1.1 at 14, 20; Tribunal Exhibit NQ-2008-003-08B, Administrative Record, Vol. 1.2 at 218, 223; Importers' questionnaire replies found under collective Tribunal Exhibit NQ-2008-003-15 (protected), Administrative Record, Vols. 6, 6A; Importers' short-form questionnaire replies found under collective Tribunal Exhibit NQ-2008-003-24 (protected), Administrative Record, Vol. 6.3.

11. The domestic producers' submission in opposition to the initiation of a public interest inquiry, Attachment 6.

competitiveness by reducing the number of suppliers. This, in turn, will have a negative impact on Canadian OEMs' employment, production and market sales.

23. In opposition, the domestic producers submitted that there remain 10 Canadian producers in Eastern Canada and 2 in Western Canada that compete with each other and with sellers of imported aluminum extrusions from countries other than China. The domestic producers have a capacity that is sufficient to supply the entire Chinese share of the Canadian market many times over.

24. The Tribunal finds that the ICBA, MAAX and Kromet have not provided persuasive and concrete evidence with respect to their allegations. None of the requesters made their case for negative effects on the public interest based on the current volumes or prices of aluminum extrusions. The Tribunal notes that, during the period from January to September 2008, imports of custom-shaped aluminum extrusions from the United States were sold in the Canadian market at a price that was \$0.44/kg lower than the average price of Chinese product and \$1.09/kg lower than the domestic producers' average price. Furthermore, during the same period, the average selling price of custom-shaped aluminum extrusions from all non-subject countries was \$0.39/kg lower than that of imports from China.¹² This, in the Tribunal's opinion, is a clear and reliable indicator of competition in the Canadian market, even with the constraints of product mix that it observed during the inquiry.

25. The Tribunal is of the opinion that the imposition of duties in their full amount will not lessen competition in the domestic market, nor will it deprive the ICBA, MAAX, Kromet, other Canadian OEMs or any other consumers from a source of supply. As discussed earlier, the domestic producers can offer the same range of products as Chinese extruders. In addition, there are ample sources of supply that are not subject to anti-dumping and countervailing duties. Some Chinese extrusions are even available at very low margins of dumping and amounts of subsidy. The evidence in Inquiry No. NQ-2008-003 indicates that APEL, Indalex Limited (Indalex) and Kawneer Company Canada Ltd. have production facilities in Western Canada.¹³ With respect to Kromet's allegation that the possible liquidation of Indalex's assets would reduce the production capacity in Canada, which will translate into potential delays and shortages and other supply chain disruptions and uncertainty, the Tribunal examined the information on the record and is confident that such impediment on competition will not occur. On the contrary, the evidence on the record indicates that Indalex continues to do business as usual as a domestic producer, as it has secured financing to take it through its restructuring process.¹⁴

26. Furthermore, the domestic producers managed to sell between 12 percent and 15 percent of their custom-shaped aluminum extrusions and between 7 percent and 12 percent of their standard-shaped aluminum extrusions in Alberta and British Columbia throughout the period of inquiry.¹⁵ Were it not for the presence of imports from China, the Tribunal is of the opinion that the domestic producers might have been able to sell a larger percentage of their products in these regions.

Effect of Duties on Users of Aluminum Extrusions

27. Finally, the Tribunal examined whether there are reasonable grounds to consider that the imposition of anti-dumping and countervailing duties in their full amount is likely to significantly impair producers in Canada that use aluminum extrusions as inputs in their production of other goods. The Tribunal notes that

12. Tribunal Exhibit NQ-2008-003-08B, Administrative Record, Vol. 1.2 at 227.

13. Tribunal Exhibit NQ-2008-003-04, Administrative Record, Vol. 1.02 at 18, 19, 24.

14. The domestic producers' submission in opposition to the initiation of a public interest inquiry, Attachment 2.

15. Tribunal Exhibit NQ-2008-003-06, Administrative Record, Vol. 1.1 at 26; Tribunal Exhibit NQ-2008-003-08, Administrative Record, Vol. 1.2 at 27.

Kromet's request was filed on its own behalf and on behalf of all Canadian OEMs that use or further process custom-shaped or standard-shaped aluminum extrusions as inputs in many sectors across Canada. The Tribunal questions whether Kromet is qualified to represent the interests of unidentified Canadian OEMs without having received a clear mandate from them, even if this mandate is assumed to be implicit and based on possibly similar interests. In this regard, the Tribunal must also take notice of the fact that it received few submissions in support of Kromet's request. Thus, the Tribunal is not persuaded that Kromet's public interest concerns are shared by most Canadian OEMs that use aluminum extrusions as inputs in their production of other goods.

28. The requesters alleged that the imposition of prohibitive duties will result in unpredictability and serious complications for Canadian OEMs. It will either force them out of business, compel them to move their production facilities offshore or import fully finished goods. MAAX added that the imposition of duties will injure Canadian OEMs and consumers in the form of lost sales and market share, reduced production and employment, and higher prices. In opposition, the domestic producers submitted that the requesters provided no evidence with respect to the actual cost/price increases to, or the widespread impact of these increase on, the individual requesters or the Canadian market because no such increase occurred.

29. The Tribunal notes that none of the requesters made their case for negative effects on the public interest based on the anticipated volumes or prices of aluminum extrusions. It is to be expected that, after a finding, prices of goods imported from a country found to be dumping and subsidizing will increase and that, as a result, the goods may be more difficult or less desirable to import. The question is whether the negative effects of the duties on market prices and availability are too great to be in the public interest. Furthermore, there was no evidence filed by the requesters that they or their customers will be unable to adjust to the new prices for aluminum extrusions. The Tribunal is of the view that it is normal to expect that the market will adjust as necessary to higher prices and new sources of supply following an injury finding. However, there was no concrete evidence offered by the requesters to counter this view.

Additional Considerations

30. The Tribunal notes that it considered a significant number of requests for exclusions in Inquiry No. NQ-2008-003. Where it denied requests, it gave full reasons. The Tribunal finds that the submissions before it, in the present instance, overlap to a certain extent some of the requests for exclusions that it denied previously. In the Tribunal's view, it is not appropriate for parties to attempt to use a public interest inquiry as a means of obtaining a reconsideration of those decisions.¹⁶

31. The Tribunal also notes that the ICBA, MAAX, Kromet and parties in support of the initiation of a public interest inquiry represent the interests of a very small portion of the total Canadian market.¹⁷

16. See, for example, *Flat Hot-rolled Carbon and Alloy Steel Sheet Products* (3 September 1999), PB-99-001 (CITT) at 8; *Carbon Steel Welded Pipe* at para. 19.

17. The Tribunal is aware that the ICBA did not submit any information on its members' imports during the inquiry. However, the evidence on the record from Inquiry No. NQ-2008-003 shows that its members focus their activities in Western Canada. Tribunal Exhibit NQ-2008-003-06, Administrative Record, Vol. 1.1 at 11; Tribunal Exhibit NQ-2008-003-08B, Administrative Record, Vol. 1.2 at 216; Tribunal Exhibit NQ-2008-003-12.01C (protected), Administrative Record, Vol. 4 at 90.4; Tribunal Exhibit NQ-2008-003-15.13 (protected), Administrative Record, Vol. 6 at 355; Tribunal Exhibit NQ-2008-003-15.20A (protected), Administrative Record, Vol. 6A at 384.3; Tribunal Exhibit NQ-2008-003-15.21B (protected), Administrative Record, Vol. 6A at 443.3; Tribunal Exhibit NQ-2008-003-15.23 (protected), Administrative Record, Vol. 6 at 460; Tribunal Exhibit NQ-2008-003-24.11C (protected), Administrative Record, Vol. 6.3 at 152.

32. In respect of the recommendation from the Tribunal to the Minister of Finance, the requesters and parties in support of the initiation of a public interest inquiry submitted that duties were so prohibitive that the Tribunal should recommend a rate that alleviates their negative impact on Canadian purchasers resulting from imports from China while not diminishing the benefits to the domestic producers and their suppliers. However, PSD was the only party that proposed a reduction of duties of between 5 percent and 10 percent. The ICBA, MAAX, TAG, Kromet, PSD, Aluminart, Regal and KKNA did not corroborate their recommendations with documentary evidence or quantitative information. The Tribunal is of the view that the onus is especially on the ICBA, MAAX and Kromet to provide conclusive evidence with respect to the unreasonable nature of the duties, the negative effects that the duties have had or are likely to have on Canadian consumers and Canadian OEMs, and the undue advantage that these duties are providing to the domestic producers. However, the Tribunal is of the opinion that the ICBA, MAAX and Kromet did not meet this requirement.

CONCLUSION

33. Based on the foregoing analysis and having considered each of the properly documented requests filed by the ICBA, MAAX and Kromet, the Tribunal is of the opinion that there are no reasonable grounds to consider that the imposition of anti-dumping and countervailing duties, or the imposition of such duties in the full amount provided for by *SIMA*, in respect of the goods referred to in the Tribunal's findings in Inquiry No. NQ-2008-003 would not or might not be in the public interest. Accordingly, the Tribunal will not initiate a public interest inquiry into this matter.

André F. Scott

André F. Scott
Presiding Member

Serge Fréchette

Serge Fréchette
Member

Diane Vincent

Diane Vincent
Member