



Ottawa, Tuesday, January 20, 2004

Preliminary Injury Inquiry No. PI-2003-003

IN THE MATTER OF a preliminary injury inquiry, under subsection 34(2) of the *Special Import Measures Act*, respecting:

**THE DUMPING OF WOOD VENETIAN BLINDS AND SLATS,
ORIGINATING IN OR EXPORTED FROM MEXICO AND THE
PEOPLE'S REPUBLIC OF CHINA**

PRELIMINARY DETERMINATION OF INJURY

The Canadian International Trade Tribunal, under the provisions of subsection 34(2) of the *Special Import Measures Act*, has conducted a preliminary injury inquiry into whether the evidence discloses a reasonable indication that the dumping of wood venetian blinds and slats, originating in or exported from Mexico and the People's Republic of China, has caused injury or retardation or is threatening to cause injury.

This preliminary injury inquiry is pursuant to the notification, on November 21, 2003, that the Commissioner of the Canada Customs and Revenue Agency had initiated an investigation into the alleged injurious dumping of the above-mentioned goods.

Pursuant to subsection 37.1(1) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby determines that the evidence discloses a reasonable indication that the dumping of wood venetian blinds and slats has caused injury to the domestic industry.

The Canadian International Trade Tribunal finds that the question of whether there should be more than one class of goods merits further consideration. The Canadian International Trade Tribunal, therefore, requests the Canada Border Services Agency (formerly the Canada Customs and Revenue Agency) to collect information on the dumping of wood venetian blinds, wood slats, and wood venetian blinds and slats combined.

The Canadian International Trade Tribunal finds that the question of whether the imports of wood venetian blinds and slats from Mexico are negligible or not needs to be addressed more precisely in the preliminary determination of dumping. The Canadian International Trade Tribunal, therefore, requests the Canada Border Services Agency to make a determination, based on actual volumes, on the question of

whether the imports of wood venetian blinds and slats from Mexico were negligible or not during the period of investigation.

Richard Lafontaine
Richard Lafontaine
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Meriel V.M. Bradford
Meriel V.M. Bradford
Member

Michel P. Granger
Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Date of Determination: January 20, 2004
Date of Reasons: February 4, 2004

Tribunal Members: Richard Lafontaine, Presiding Member
Pierre Gosselin, Member
Meriel V.M. Bradford, Member

Director of Research: Réal Roy

Lead Research Officer: Martin Giroux

Research Officer: Pierre Gatto

Statistician: Julie Charlebois

Counsel for the Tribunal: Eric Wildhaber

Assistant Registrar: Gillian E. Burnett

Registrar Officer: Karine Turgeon

Participants:

for Peter E. Kirby
Vincent Routhier
Stores de bois Montréal Inc.

for Luc Alarie
Stores de bois Montréal Inc.
La Belle Venitienne
Sohji-Co Inc.
Trans U.V. Inc.

for Greg Tereposky
Georges Bujold
Jean-Sébastien Lord
The NAFTA Office of Mexico in Canada—Embassy of Mexico

for Paul Lalonde
Rajeev Sharma
Urban Outfitters Inc.

for Greg Kanargelidis
Royal Group Technologies Limited

for Darrel H. Pearson
Jesse I. Goldman
Eli Fellman
Carol Beaul
Hunter Douglas Canada Inc.
Shade-O-Matic
Hunter Douglas UK Ltd.—Wood Division

Philip Ng
Alfred Poon
Z.M.C. Metal Coating Inc.

Tommy Huang
HV Apollo Industries Corp.



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**THE DUMPING OF WOOD VENETIAN BLINDS AND SLATS,
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TRIBUNAL: RICHARD LAFONTAINE, Presiding Member
PIERRE GOSSELIN, Member
MERIEL V.M. BRADFORD, Member

STATEMENT OF REASONS

BACKGROUND

On January 20, 2004, pursuant to subsection 37.1(1) of the *Special Import Measures Act*,¹ the Canadian International Trade Tribunal (the Tribunal) issued a preliminary determination of injury relating to the dumping of wood venetian blinds and slats, originating in or exported from Mexico and the People's Republic of China (China) (the subject goods).

The Tribunal's decision completed its preliminary injury inquiry, which was commenced following the notification, on November 21, 2003, that the Commissioner of the Canada Customs and Revenue Agency (the Commissioner) had initiated an investigation into the alleged injurious dumping of the subject goods. The investigation was initiated by the Commissioner following a complaint filed on October 8, 2003, by Stores de bois Montréal Inc. (SBM). The complaint was supported by Trans U.V. Inc.

COMMISSIONER'S DECISION

The Canada Customs and Revenue Agency (CCRA) calculated margins of dumping for the period from October 1, 2002, to September 30, 2003, based on estimated normal values and export prices supplied by SBM. The estimated margins of dumping range from 77 percent to 119 percent when expressed as a percentage of the export price. All the subject goods imported during the period of investigation were dumped.

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

SUBMISSIONS

Domestic Industry

With respect to the issue of classes of goods, SBM argued that this inquiry involved a single class of goods. To support this position, SBM argued that it was aware of no case where the Tribunal had considered that a finished product and its major component consisted of two separate classes of like goods. SBM contended that, by putting the finished product and its major component in separate classes of goods, the Tribunal would undermine the benefit of any eventual finding. With respect to Mexico's submission concerning the domestic industry, SBM submitted that, given that the subject goods include the finished product and its major component, it would be appropriate for the Tribunal to exclude from consideration, as domestic producers, those assemblers that are also importers of the subject goods or related to importers of the subject goods. SBM claimed that it has clearly provided the Tribunal with sufficient evidence of a reasonable indication of material injury in the form of increased imports, price erosion, price suppression, lost sales, decreased capacity utilization, reduced employment and lost investment, and of the causal link between the dumping of the subject goods and the injury. Finally, regarding the argument that imports from Mexico should not be subject to cumulation, SBM argued that the Tribunal has consistently applied the "negligibility" test to cumulation and, when imports were not negligible, the Tribunal has cumulated.

Parties Opposed to SBM's Complaint

The Tribunal received three submissions from parties opposed to SBM's complaint. The NAFTA Office of Mexico in Canada—Embassy of Mexico (Mexico) submitted that this "investigation" involved two separate goods. Mexico argued that wood venetian blinds and slats are not identical in all respects, nor do their uses and other characteristics closely resemble each other. Thus, Mexico submitted, there is no legal or factual basis to find that there is a reasonable indication that slats and venetian blinds are a single class of goods. Mexico also argued that this "investigation" involved two domestic industries: the producers of wood venetian blinds and the producers of wood slats. Mexico submitted that the information in the complaint is deficient, since it does not include evidence: (1) of the volume of the imported subject venetian blinds; (2) of the value and volume of the imported subject slats; (3) of the prices of the imported subject venetian blinds and slats in the Canadian market; (4) of competition between the imported subject venetian blinds and slats and like domestic products; (5) of the composition of the Canadian slat industry; (6) of the state of the Chinese and Mexican venetian blind and slat industries, their domestic markets and their other export markets; and (7) of the dynamics of the Canadian venetian blind and slat markets, including the factors that determine price, the effects of domestic competition, the effects of competition with non-subject imports, in particular imports from the United States, and the effects of competing products (e.g. non-wood blinds and non-wood slats). Mexico also claimed that there are substantial gaps in the evidence and that many assertions are unsubstantiated. In conclusion, Mexico stated that there is no evidence that demonstrates that the imports of the subject goods from Mexico have caused injury or threaten to cause injury to the Canadian wood venetian blind and slat industries.

Urban Outfitters Inc. agreed with and supported Mexico's submissions.

Royal Group Technologies Limited (Royal) claimed that, due to various factors, the complaint is not substantiated. Royal stated that there is a lack of evidence that the venetian blinds from Mexico and China are being sold to importers in Canada at less than the normal value. Royal claimed that there is no reasonable basis to conclude that the imports of venetian blinds increased significantly as a percentage of the

total Canadian sales of venetian blinds. Royal stated that there is no evidence that SBM lost a significant share of the venetian blind market to imports from China or Mexico. Royal submitted that the price erosion alleged by SBM is not due to dumping. Royal stated that, to the extent that SBM has suffered economic harm, it is because of factors other than imports of the subject goods. Royal alleged that the complaint is rife with incomplete data and contradictory and misleading statements. In conclusion, Royal submitted that the evidence does not disclose a reasonable indication that the imports of the subject goods have caused injury or are threatening to cause injury to the Canadian industry.

ANALYSIS

The Tribunal's mandate at the preliminary stage of an injury inquiry is set out in subsection 34(2) and section 37.1 of *SIMA*, which require the Tribunal to determine whether the evidence discloses a reasonable indication that the dumping of the subject goods has caused injury or retardation or is threatening to cause injury. Subsection 2(1) of *SIMA* defines "injury" as "material injury to a domestic industry" and "domestic industry" as the domestic producers, as a whole, of the "like goods" or those whose collective production constitutes a "major proportion" of the total domestic production of the like goods. In determining whether the evidence discloses a reasonable indication of injury, retardation or threat of injury, the Tribunal must first identify the like goods, address the issue of whether there is more than one class of goods and determine who represents the domestic industry.

Based on the evidence on the record, the Tribunal is of the view that wood venetian blinds and wood slats produced by the domestic producers are like goods to the subject goods. In their submissions, the parties opposed to the complaint requested that more than one class of goods be considered in the "investigation". Because the information on the record at this time does not allow the Tribunal to come to a conclusion on the creation of separate classes of goods, the Tribunal considers that the goods in issue consist of one class of goods. Nevertheless, the Tribunal finds that there is merit in giving further consideration to separate classes of goods for wood venetian blinds and wood slats. Consequently, the Tribunal is requesting the Canada Border Services Agency (CBSA) (formerly the CCRA) to collect information on the dumping of wood venetian blinds, wood slats, and wood venetian blinds and slats combined.

The Tribunal notes that, in his decision to initiate the investigation, the Commissioner identified six domestic producers that make up the Canadian industry of like goods. Evidence on the record indicates that Z.M.C. Metal Coating Inc. (ZMC) of Woodbridge, Ontario, also produces wood slats. At this juncture, and based on the evidence to date, the Tribunal accepts that the producers of wood venetian blinds and slats identified by the CCRA, as well as ZMC, represent the domestic industry. The Tribunal further notes that the Commissioner also determined that, taken together, SBM and Trans U.V. Inc. accounted for approximately 80 percent of the domestic production of like goods in 2002 and 2003. Based on its review of the record, the Tribunal is satisfied that their output accounts for at least a major proportion of the total domestic production of like goods. Should this case proceed, following a preliminary determination of dumping by the CBSA, the Tribunal intends to gather information from all domestic producers of wood venetian blinds and wood slats, including those that use imported wood slats in their operations.

Mexico and Urban Outfitters Inc. argued that the imports of the subject goods from Mexico should not be cumulated. The Tribunal notes that the Commissioner found that the margins of dumping are not insignificant and that the volume of imports of the subject goods from Mexico is not negligible. With respect to the argument that there is no evidence of the volume of imports of wood venetian blinds into Canada and that, accordingly, there is no factual basis for the Tribunal to make a finding regarding this

cumulation requirement, the Tribunal is of the view, in light of the special circumstances of this case, i.e. the absence of import statistics based on volume, that the CCRA's estimated volume of imports based on value was acceptable at this stage. However, the Tribunal finds that the question of whether the imports from Mexico are negligible requires further examination in the preliminary determination of dumping and, therefore, is requesting the CBSA to make a determination, based on actual volumes, on the question of whether the imports of wood venetian blinds and slats from Mexico were negligible or not during the period of investigation.

With respect to the conditions of competition, no evidence provided to date has convinced the Tribunal that any of the subject goods are anything other than fungible or that any of the other conditions of competition between the subject goods and the like goods, including any possible consequences relating to the alleged integrated nature of the North American market, differ to any extent that would justify decumulation of the effects of the dumped imports from Mexico. Accordingly, the Tribunal has made an assessment of the cumulative effect of the dumping of the imports from China and Mexico.

The Tribunal next considered the question of injury. In its complaint to the CCRA, SBM submitted that the alleged dumping of the subject goods has caused material injury or is threatening to cause material injury to the Canadian industry. The injury indicators cited are lost sales, price erosion, price suppression, and adverse effects on capacity utilization, investment and employment.

The Tribunal notes that the preliminary import value data available show a significant increase in imports of the subject goods. The share of imports from China increased considerably since 2000. Indeed, while China accounted for 13 percent of the total value of imports in 2000, it accounted for more than 60 percent in July 2003. As for the imports from Mexico, even though they decreased somewhat between 2000 and July 2003, they were not negligible.

The Tribunal is of the view that dumped imports from China and Mexico appear to have had a negative impact on SBM. These imports were dumped at high margins of dumping. Moreover, according to the evidence, the import price of goods from China dropped by more than 20 percent between February 2002 and June 2003.² The CCRA also stated that prices of imports from Mexico have also decreased.³ The record also includes specific evidence of lost sales, price erosion and price suppression apparently caused by imports of the subject goods. The Tribunal finds that, based on the evidence, there is a correlation between the overall increase in dumped imports and the declining prices of like goods in the Canadian market.

The Tribunal also notes that the parties opposed to the complaint identified several other factors, such as the impact of imports from the United States, the competition among domestic producers, the inefficient operation of SBM, and exchange rate fluctuations, as possible causes for any injury suffered by the domestic industry. The evidence submitted concerning these factors was not sufficient to indicate to the Tribunal, at this stage, what role, if any, they may have played in the injury suffered by the domestic industry.

2. Canada Customs and Revenue Agency, *Statement of Reasons*, 5 December 2003, Tribunal Exhibit PI-2003-001, Administrative Record, Vol. 1A at 223.

3. Canada Customs and Revenue Agency, *Analyse de la plainte*, 21 November 2003, Tribunal Exhibit PI-2003-001 (protected), Administrative Record, Vol. 2 at 225.

CONCLUSION

Having regard to the foregoing, the Tribunal determines that the evidence discloses a reasonable indication that the dumping of wood venetian blinds and slats has caused injury to the domestic industry.

The Tribunal finds that the question of whether there should be more than one class of goods merits further consideration. The Tribunal, therefore, requests the CBSA to collect information on the dumping of wood venetian blinds, wood slats, and wood venetian blinds and slats combined.

The Tribunal finds that the question of whether the imports of wood venetian blinds and slats from Mexico are negligible or not needs to be addressed more precisely in the preliminary determination of dumping. The Tribunal, therefore, requests the CBSA to make a determination, based on actual volumes, on the question of whether the imports of wood venetian blinds and slats from Mexico were negligible or not during the period of investigation.

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