



Ottawa, Tuesday, June 25, 2002

Preliminary Injury Inquiry No. PI-2002-001

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

**THE DUMPING OF CERTAIN WATERPROOF FOOTWEAR AND
WATERPROOF FOOTWEAR BOTTOMS ORIGINATING IN OR EXPORTED
FROM HONG KONG, CHINA; MACAO, CHINA; AND VIETNAM**

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 there is evidence that discloses a reasonable indication that the dumping of waterproof footwear and waterproof footwear bottoms, constructed wholly or in part of rubber or plastic, worn over the foot or shoe, originating in or exported from Hong Kong, China; Macao, China; and Vietnam has caused injury or retardation or is threatening to cause injury. The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber or plastic. The goods subject to this inquiry include moulded clogs, waterproof safety footwear and waterproof footwear made of waterproof footwear bottoms combined with tops made of leather, textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features. Excluded are equestrian riding boots, ski boots and skating boots.

This preliminary injury inquiry is pursuant to the notification, on April 26, 2002, by the Commissioner of the Canada Customs and Revenue Agency, that an investigation had been initiated into the alleged 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 there is evidence that discloses a reasonable indication that the dumping of the above-mentioned goods has caused injury.

Patricia M. Close

Patricia M. Close
Presiding Member

Pierre Gosselin

Pierre Gosselin
Member

Zdenek Kvarda

Zdenek Kvarda
Member

Michel P. Granger

Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Date of Determination: June 25, 2002
Date of Reasons: July 10, 2002

Tribunal Members: Patricia M. Close, Presiding Member
Pierre Gosselin, Member
Zdenek Kvarda, Member

Director of Research: Selik Shainfarber

Research Manager: Douglas Kemp

Statistician: Lise Lacombe

Counsel for the Tribunal: Marie-France Dagenais

Registrar Officer: Natalie Lowe

Participants:

for G.P. MacPherson
Naila Elfar
The Shoe Manufacturers' Association of Canada

for Richard G. Dearden
Scott P. Little
Maureen Murphy
Andrew Bradley
Columbia Sportswear Company
Columbia Sportswear Canada Limited

for Richard A. Wagner
Kodiak Group Inc.



Ottawa, Wednesday, July 10, 2002

Preliminary Inquiry No. PI-2002-001

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

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TRIBUNAL: PATRICIA M. CLOSE, Presiding Member
PIERRE GOSSELIN, Member
ZDENEK KVARDA, Member

STATEMENT OF REASONS

BACKGROUND

On June 25, 2002, 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 waterproof footwear and waterproof footwear bottoms, constructed wholly or in part of rubber or plastic, worn over the foot or shoe, originating in or exported from Hong Kong, China; Macao, China; and Vietnam. The distinctive feature of waterproof footwear is that both the sole portion and a portion of the upper, sufficient to give waterproof protection to the foot, are incorporated in a waterproof component which may be made of rubber or plastic. The goods subject to this inquiry include moulded clogs, waterproof safety footwear and waterproof footwear made of waterproof footwear bottoms combined with tops made of leather, textiles or other materials. They may be constructed with or without liners, linings, fasteners or safety features. Excluded are equestrian riding boots, ski boots and skating boots.

The Tribunal's decision completed its preliminary injury inquiry. This inquiry was commenced following the initiation, on April 26, 2002, by the Commissioner of the Canada Customs and Revenue Agency (the Commissioner), of an investigation into the alleged dumping of the above-mentioned goods. The investigation was initiated by the Commissioner following a complaint filed on March 6, 2002, by The Shoe Manufacturers' Association of Canada (SMAC).

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

COMMISSIONER'S DECISION

The Canada Customs and Revenue Agency (CCRA) conducted an analysis of the margins of dumping during 2001 based on estimated normal values and export prices provided by SMAC, on the CCRA's data on imports and on other available information. The estimated weighted average margins of dumping expressed as a percentage of the export price were: 49 percent for Hong Kong; 37 percent for Macao; and 72 percent for Vietnam.

SUBMISSIONS

Domestic Industry

SMAC submitted that imports of the subject goods have caused and threaten to cause material injury to the domestic industry in the form of price suppression, price depression, and declines in sales, market share, profits, return on investment, utilization of capacity and employment. In support of its complaint, SMAC submitted, among other things, evidence concerning the allegedly dumped prices at which certain brands of the subject goods were being sold or offered in Canada.

Submissions Opposed to the Industry's Complaint

No submissions were received from parties opposed to the industry's complaint.

ANALYSIS

The Tribunal's mandate, at the preliminary stage of an injury inquiry, is set out under subsection 34(2) and section 37.1 of SIMA, which require the Tribunal to determine whether there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury or retardation or is threatening to cause injury. "Injury" is defined in SIMA as "material injury to a domestic industry". "Domestic industry" means the domestic producers as a whole of the "like goods" or whose production constitutes a "major proportion" of the domestic production.

The Tribunal finds that the domestic industry produces substantially the same goods as the subject goods. These domestic goods are, therefore, like goods to the subject goods.

With respect to the domestic industry, the Tribunal notes that, according to the evidence, the six manufacturers, represented in this case by SMAC, account for more than 95 percent of Canadian production of the like goods. Consequently, the Tribunal finds that they constitute the domestic industry.

Turning to the question of injury, the evidence shows that there has been some restructuring in the Canadian market in the recent past, including the bankruptcy of a major producer. Since this restructuring has taken place, and in particular since 2001, there has been a significant increase in allegedly dumped imports from the three sources named in the complaint. According to the evidence filed by SMAC, the dumping has allowed these imports to take a share of the market that the industry would otherwise have been able to capture. Moreover, the evidence suggests that the prices at which these imports were sold suppressed and eroded domestic prices and thereby put downward pressure on industry margins and profitability. The evidence filed by SMAC was unopposed.

Having regard to the foregoing, the Tribunal finds that there is evidence that discloses a reasonable indication that the dumping of the subject goods has caused injury.

Patricia M. Close
Patricia M. Close
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Zdenek Kvarda
Zdenek Kvarda
Member