



Ottawa, Tuesday, February 17, 2004

Preliminary Injury Inquiry No. PI-2003-005

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

THE DUMPING OF CERTAIN STEEL FUEL TANKS ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND CHINESE TAIPEI

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 new steel fuel tanks, gasoline or diesel, for passenger cars and light trucks, for the replacement market, originating in or exported from the People's Republic of China and Chinese Taipei, has caused injury or retardation or is threatening to cause injury to the domestic industry.

This preliminary injury inquiry is pursuant to the notification, on December 19, 2003, that the President of the Canada Border Services Agency (formerly 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 there is evidence that discloses a reasonable indication that the dumping of the above-mentioned goods has caused injury to the domestic industry.

Richard Lafontaine
Richard Lafontaine
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

Ellen Fry
Ellen Fry
Member

Michel P. Granger
Michel P. Granger
Secretary

The statement of reasons will be issued within 15 days.

Date of Determination: February 17, 2004
Date of Reasons: March 3, 2004

Tribunal Members: Richard Lafontaine, Presiding Member
Zdenek Kvarda, Member
Ellen Fry, Member

Director of Research: Selik Shainfarber

Researcher: Roman Cooper

Statistician: Ihn Ho Uhm

Counsel for the Tribunal: Marie-France Dagenais

Assistant Registrar: Gillian E. Burnett

Participants:

Glenn A. Cranker
Randall J. Hofley
for Spectra Premium Industries Inc.

Philip D. McCullough
for Cross Canada Auto Body Supply (Windsor) Limited

Paul M. Lalonde
Rajeev Sharma
Eric J. Jiang
for Sparkle Developments Limited

Ray Comeau
Raco Management Co. Ltd.

Mary Jane Matheson
FineLine Fuel Systems Inc.

Chris Aitken
Reliable Automotive Dist.

Fernand Veilleux
Monsieur Réservoir

Gary Calagoure
Kingdom Auto Parts



Ottawa, Wednesday, March 3, 2004

Preliminary Injury Inquiry No. PI-2003-005

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THE DUMPING OF CERTAIN STEEL FUEL TANKS ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA AND CHINESE TAIPEI

TRIBUNAL: RICHARD LAFONTAINE, Presiding Member
ZDENEK KVARDA, Member
ELLEN FRY, Member

STATEMENT OF REASONS

BACKGROUND

On February 17, 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 new steel fuel tanks, gasoline or diesel, for passenger cars and light trucks, for the replacement market (the subject goods), originating in or exported from the People's Republic of China (China) and Chinese Taipei.

The Tribunal's determination completed its preliminary injury inquiry which was commenced following the initiation, on December 19, 2003, by the President of the Canada Border Services Agency (CBSA), of an investigation into the alleged injurious dumping of the subject goods. The investigation was initiated by the CBSA following a complaint filed by Spectra Premium Industries Inc. (SPI) on October 30, 2003.

CBSA'S DECISION

The CBSA estimated margins of dumping by comparing estimated normal values with export prices from customs entry documentation. The calculations were based on imports into Canada of the subject goods during the period from September 1, 2002, to August 31, 2003. Based on this analysis, 97.0 percent of the subject goods from China and 99.0 percent of the subject goods from Chinese Taipei were dumped. The estimated margins of dumping, when expressed as a percentage of the export price, were 53.0 percent for China and 93.0 percent for Chinese Taipei. The estimated volume of dumped goods expressed as a percentage of total imports for the period was 48.2 percent for China and 49.9 percent for Chinese Taipei.

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

SUBMISSIONS

Domestic Industry

In its complaint, SPI submitted that the dumped subject goods have caused and threaten to cause injury to the domestic industry. In support of the complaint, SPI provided evidence to show that it experienced lost sales, declining market share, price erosion and reduced profitability since the dumping began in April 2002.

Parties Opposed to the Industry's Complaint

The Tribunal received submissions from three parties opposed to SPI's complaint: Sparkle Developments Limited (Sparkle), Cross Canada Auto Body Supply (Windsor) Limited (Cross Canada) and Canadian Auto Parts Suppliers (CAPS).

Sparkle argued that any injury suffered by SPI was attributable to factors other than the dumping of the subject goods, such as the significant rise in the value of the Canadian dollar versus the U.S. dollar and the Chinese renminbi during the period of investigation. Sparkle also contended that no consideration was given to the recent prices of the subject goods and that SPI failed to offer reasonable evidence of threat of injury. Cross Canada and CAPS contended that SPI had engaged in unfair marketing and distribution practices in the Canadian marketplace, which had led some of its customers to seek alternative suppliers.

ANALYSIS

The Tribunal's mandate at the preliminary stage of an injury inquiry is set out in subsection 34(2) of *SIMA*, which requires 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 whose production constitutes a "major proportion" of the total domestic production of the like goods. Therefore, as the first step in determining whether the evidence discloses a reasonable indication of injury, retardation or threat of injury, the Tribunal must identify the like goods and the domestic industry that produces those goods.

On the question of like goods, the Tribunal notes that, in initiating its investigation, the CBSA defined the subject goods as new steel fuel tanks, gasoline or diesel, for passenger cars and light trucks, for the replacement market. The definition of the subject goods specifically excludes Original Equipment Manufacturer (OEM) fuel tanks that are installed on new vehicles. SPI submitted evidence that steel fuel tanks for the replacement market and the OEM market are manufactured using different processes and standards. In addition, OEM steel fuel tanks are usually manufactured for the current model year, whereas replacement steel fuel tanks are made for earlier model years (the average age of replacement for a steel fuel tank is 10 years) and may not be substitutable for those that are made for more current model years.

According to SPI, new replacement fuel tanks made in China and Chinese Taipei compete directly with, have the same use as and may be used as substitute products for the fuel tanks made in Canada. No submissions received by the Tribunal challenged SPI's submissions on like goods. In the absence of any submissions to the contrary, and based on the evidence before it at this time, the Tribunal is of the opinion that new replacement steel fuel tanks produced in Canada (excluding OEM steel fuel tanks) are like goods to the subject goods from China and Chinese Taipei, as defined by the CBSA.

Regarding the domestic industry, the Tribunal notes that the evidence indicates that SPI is the only domestic producer of fuel tanks for the automotive replacement market. Accordingly, the Tribunal finds that SPI constitutes the domestic industry.

Turning to the evidence on the record relating to injury, the Tribunal notes that the preliminary data indicate an increase in the total combined imports of the subject goods from Chinese Taipei and China, especially after 2001. Over this period, imports from Chinese Taipei and China increased their market share, while the domestic industry's sales and market share declined. The record also indicates low and declining prices in Canada of the subject goods from China and Chinese Taipei during the period examined by the CBSA. SPI submits that, because of the dumped subject goods, it has had to substantially reduce the prices it charges many of its customers, and it submitted evidence, including examples of price erosion at specific accounts, in support of its claims. SPI also submitted financial statements that showed declining financial performance from fiscal year 2002 to fiscal year 2003,² as well as in the first fiscal quarter of 2004 compared to the same period in 2003. According to SPI, these declining financial results reflected sales volumes lost to, and prices eroded by, the dumped subject goods.

In the Tribunal's opinion, the evidence on the record indicates a correlation between the increase in imports of the subject goods at dumped prices and the declines in industry sales volumes, prices and financial performance. The Tribunal finds that this correlation, combined with evidence on the record concerning specific accounts, gives a reasonable indication that a cause and effect relationship exists between the dumped subject goods and the industry's declining performance. The Tribunal is of the view that the role that other factors, such as exchange rates, may have played in any injury experienced by the domestic industry warrants further examination at the final inquiry stage, should the CBSA issue a preliminary determination of dumping in this matter.

CONCLUSION

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

Richard Lafontaine
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Presiding Member

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2. SPI's fiscal year ends on January 31.