



Ottawa, Wednesday, March 19, 2003

Interim Review No. RD-2002-005

IN THE MATTER OF an interim review, under subsection 76.01(1) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal on August 1, 2000, in Inquiry No. NQ-2000-001, concerning:

**CERTAIN REFRIGERATORS, DISHWASHERS AND DRYERS ORIGINATING
IN OR EXPORTED FROM THE UNITED STATES OF AMERICA AND
PRODUCED BY, OR ON BEHALF OF, WHITE CONSOLIDATED
INDUSTRIES, INC. AND WHIRLPOOL CORPORATION, THEIR RESPECTIVE
AFFILIATES, SUCCESSORS AND ASSIGNS**

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76.01(1) of the *Special Import Measures Act*, has conducted an interim review of its findings made on August 1, 2000, in Inquiry No. NQ-2000-001.

Pursuant to paragraph 76.01(5)(b) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby amends its findings to exclude the following products, retroactive to January 1, 2003:

top-mount electric refrigerators, in sizes greater than 14.5 cubic feet and less than 18.5 cubic feet, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries, Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns.

James A. Ogilvy
James A. Ogilvy
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Zdenek Kvarda
Zdenek Kvarda
Member

Susanne Grimes
Susanne Grimes
Acting Secretary

Date of Order and Reasons: March 19, 2003

Tribunal Members: James A. Ogilvy, Presiding Member
Pierre Gosselin, Member
Zdenek Kvarda, Member

Director of Research: Rose Ritcey

Research Manager: Richard Cossette

Counsel for the Tribunal: Marie-France Dagenais

Assistant Registrar: Gillian Burnett

Participants: Geoffrey C. Kubrick
for Whirlpool Corporation and Whirlpool Canada Inc.

Richard S. Gottlieb
Darrel H. Pearson
for Electrolux Home Products and
Electrolux Home Products North America

(Importers/Exporters)

Riyaz Dattu
John W. Boscariol
for Camco Inc.

(Representing Domestic Producer)



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TRIBUNAL: JAMES A. OGILVY, Presiding Member
PIERRE GOSSELIN, Member
ZDENEK KVARDA, Member

STATEMENT OF REASONS

BACKGROUND

On December 5, 2002, the Canadian International Trade Tribunal (the Tribunal) received a request for an interim review of its findings made on August 1, 2000, in Inquiry No. NQ-2001-001. If not continued, the findings will expire on August 5, 2005. The applicants, Whirlpool Canada Inc., an importer, and Whirlpool Corporation, a U.S. manufacturer and exporter (collectively, Whirlpool), requested an interim review to amend the Tribunal's findings to exclude, retroactive to January 1, 2003, "top-mount electric refrigerators, in sizes greater than 14.5 cubic feet and less than 18.5 cubic feet, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries, Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns".

The Tribunal decided that the request was properly documented and, accordingly, pursuant to subrule 70(2) of the *Canadian International Trade Tribunal Rules*,¹ on January 13, 2003, provided the parties to the 2000 inquiry with a copy of Whirlpool's request. On January 27, 2003, Electrolux Home Products North America and Electrolux Home Products (Electrolux), an exporter and an importer of the subject refrigerators, respectively, filed a submission supporting Whirlpool's request, but submitted that the Tribunal should consider an earlier retroactive date. On January 28, 2003, Camco Inc. (Camco), the only domestic producer of refrigerators, filed a reply confirming that it no longer produced the refrigerators covered by the findings. Electrolux and Whirlpool filed reply submissions on February 3 and 4, 2003, respectively, on the issue of the retroactive date of the amendment.

Section 76.01 of the *Special Import Measures Act*² gives the Tribunal the jurisdiction to conduct an interim review if the applicants satisfy the Tribunal that the review is warranted. The Tribunal's *Guideline on Interim Reviews*, which does not constrain its discretion, but outlines its normal practice, indicates that an interim review may be warranted where there is a reasonable indication that sufficient new facts have arisen or that there has been a change in the circumstances that led to the findings. This is consistent with rule 72 of the Rules.

1. S.O.R./91-499 [hereinafter Rules].
2. R.S.C. 1985, c. S-15 [hereinafter SIMA].

Whirlpool based its request for an interim review on the fact that there had been a material change in circumstances since the Tribunal's findings, namely, that Camco no longer produced the refrigerators covered by the findings. Camco's reply did not comment on the request for an interim review, but confirmed that it no longer produced the refrigerators covered by the findings.

Based on these submissions, the Tribunal decided that an interim review was warranted. The purpose of the interim review was to determine if the findings should be amended. In its notice of commencement of interim review issued on February 13, 2003, the Tribunal stated that, if it decided, as a result of the interim review, to rescind the application of the findings to the subject refrigerators, the effective date of rescission would be January 1, 2003.

The notice of commencement of interim review noted that submissions already filed by parties had been placed on the record of the interim review and that any further submissions by interested parties should be filed no later than March 5, 2003. On February 21, 2003, a final submission was received from Electrolux requesting that the Tribunal amend the findings with respect to the subject refrigerators retroactive to January 1, 2003.

REASONS FOR DECISION

The evidence indicates that Camco, the sole domestic producer of the refrigerators, no longer manufactures the products for which an exclusion has been requested. The Tribunal notes that Camco did not oppose the exclusion.

For the foregoing reasons, the Tribunal determines that, pursuant to paragraph 76.01(5)(b) of SIMA, its findings in Inquiry No. NQ-2001-001 should be amended to exclude the following products, retroactive to January 1, 2003:

top-mount electric refrigerators, in sizes greater than 14.5 cubic feet and less than 18.5 cubic feet, originating in or exported from the United States of America and produced by, or on behalf of, White Consolidated Industries, Inc. and Whirlpool Corporation, their respective affiliates, successors and assigns.

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