



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Interim Review No. RD-2006-003

Stainless Steel Wire

*Order and reasons issued  
Wednesday, December 20, 2006*

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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 July 30, 2004, in Inquiry No. NQ-2004-001, concerning:

**THE DUMPING OF CERTAIN STAINLESS STEEL WIRE ORIGINATING IN  
OR EXPORTED FROM THE REPUBLIC OF KOREA, SWITZERLAND AND  
THE UNITED STATES OF AMERICA, AND THE SUBSIDIZING OF SUCH  
PRODUCT ORIGINATING IN OR EXPORTED FROM INDIA**

**ORDER**

On October 30, 2006, Jayne Industries Inc. filed a request for an interim review of the findings made by the Canadian International Trade Tribunal in Inquiry No. NQ-2004-001 concerning the above-noted goods.

Pursuant to subsection 76.01(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal has decided not to conduct an interim review of the above findings.

Ellen Fry

Ellen Fry  
Presiding Member

James A. Ogilvy

James A. Ogilvy  
Member

Serge Fréchette

Serge Fréchette  
Member

Hélène Nadeau

Hélène Nadeau  
Secretary

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## STATEMENT OF REASONS

### BACKGROUND

1. On October 30, 2006, the Canadian International Trade Tribunal (the Tribunal) received a request from Jayne Industries Inc. (Jayne) for an interim review of the Tribunal's findings made on July 30, 2004, in Inquiry NQ-2004-001 (the inquiry) with respect to certain stainless steel wire.<sup>1</sup> In its request, Jayne sought a product exclusion for stainless steel wire manufactured to ASTM standards A484/A and A479-479M-95A, referred to as 304s/s, 309s/s, 310s/s and 316 s/s, in diameters of 0.250 inch and 0.188 inch. Jayne is a manufacturer of refractory anchors. It submitted that it could not compete with U.S. manufacturers of refractory anchors and hardware that export goods to Canada.

2. On November 6, 2006, the Tribunal requested that Jayne provide an explanation of the grounds on which it believed that an interim review was warranted, as is set out in the Tribunal's *Guideline on Interim Reviews* (the *Guideline*) and required under paragraph 70(1)(c) of the *Canadian International Trade Tribunal Rules* (*Rules*).

3. On November 13, 2006, Jayne replied that it had not imported any of the subject wire over the last three years due to the "tariff restrictions". According to Jayne, it was "forced" to purchase stainless steel wire from two Canadian producers, Central Wire Industries Ltd. (Central Wire) and Indwisco Limited (Indwisco). Jayne further submitted that its competition in the Canadian market comes from eight U.S. manufacturers of refractory anchors, which have access to cheaper stainless steel wire. Jayne also amended the wording of its product exclusion request to read "cold drawn and annealed stainless steel round wire up to and including 0.300 inches in diameter".

### ANALYSIS

4. Subsection 76.01(1) of the *Special Import Measures Act*<sup>2</sup> provides that the Tribunal may conduct an interim review of a finding or order and that such an interim review may concern the whole finding or order or any aspect of it. However, pursuant to subsection 76.01(3), the Tribunal does not have the jurisdiction to conduct an interim review unless the requester satisfies the Tribunal that the review is warranted.

5. As the first step in determining whether an interim review is warranted, the Tribunal must determine whether the request for an interim review is properly documented. In this connection, the Tribunal decides whether the requester has fulfilled the documentary requirements under subrule 70(1) of the *Rules*, which indicates the following:

A request . . . shall set out the following information:

(a) the name, address for service, telephone number and fax number, if any, of the person making the request and of their counsel, if any;

(b) the nature of their interest in the order or finding;

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1. The findings were also the subject of a public interest inquiry, PB-2004-002. In March 2005, the Tribunal reported to the Minister of Finance its opinion that it was not in the public interest to continue imposing an anti-dumping duty at a rate of up to 181 percent on belting wire and wireline from the United States (but not from the Republic of Korea [Korea] and Switzerland), and it recommended that the applicable anti-dumping duty rate be reduced to 35 percent. The Government subsequently reduced the anti-dumping duty rate to 35 percent on all imports of belting wire and wireline subject to the Tribunal's order (from Korea, Switzerland and the United States).
  2. R.S.C. 1985, c. S-15 [*SIMA*].

(c) the grounds on which the person believes initiation of the review is warranted and a statement of the facts on which the grounds are based; and

(d) the nature of the order or finding that the person believes the Tribunal should make under subsection 76.01(5) or 76.02(4) of the *Special Import Measures Act* on completion of the review.

6. The Tribunal is of the view that Jayne's request is properly documented in accordance with these requirements.

7. The Tribunal will address one procedural matter in connection with the request for an interim review before it addresses the question of whether an interim review is warranted. Subrule 70(2) of the *Rules* requires the Tribunal to give all other parties to the original inquiry an opportunity to make representations to the Tribunal concerning the request. However, rule 6 allows the Tribunal to dispense with, vary or supplement any of the *Rules* if it is fair and equitable to do so or to provide for a more expeditious or informal process, as the circumstances and considerations of fairness permit.

8. In this case, the Tribunal has decided, applying rule 6 of the *Rules*, not to distribute the request for an interim review to the parties for comment, as would ordinarily be the case pursuant to subrule 70(2). The only party likely to oppose the request would be Central Wire<sup>3</sup> and it will not be adversely affected by the Tribunal's disposition of the request. The Tribunal is therefore of the view that no parties will be treated unfairly and, further, that dispensing with representations from other parties will expedite the matter.

9. In determining whether an interim review is warranted, the Tribunal's practice is to take into consideration the grounds listed in rule 72 of the *Rules*, which are also found in the *Guideline*, as well as any other relevant circumstances.

10. Rule 72 of the *Rules* states the following:

In order to decide whether an interim review under section 76.01 of the *Special Import Measures Act* is warranted, the Tribunal may request the parties to provide information concerning

(a) whether changed circumstances or new facts have arisen since the making of the order or finding;

(b) facts that were not put in evidence in the original proceedings and that were not discoverable by the exercise of reasonable diligence; and

(c) any other matter that is relevant to the review.

11. Similarly, the *Guideline* indicates the following:

...

An interim review may be warranted where there is a reasonable indication that sufficient new facts have arisen or that there has been a sufficient change in the circumstances that led to the order or finding. . . . An interim review may also be warranted where there are sufficient facts that, although in existence, were not put into evidence during the previous review or inquiry and were not discoverable by the exercise of reasonable diligence at that time.

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3. In Inquiry No. NQ-2004-001, the Tribunal determined that Central Wire was the sole domestic producer of stainless steel wire as defined because it both drew and annealed wire. Indwisco was not considered a domestic producer of like goods because it did not anneal wire.

12. The Tribunal is of the view that the submissions made by Jayne failed to contain any new facts that may have arisen since it made its findings in the inquiry, nor did the submissions contain any evidence of a change in circumstances since the inquiry. The Tribunal observes that it notified Jayne of the inquiry. There is no indication in Jayne's original submission and additional information that the facts that it now seeks to put in evidence, for the purpose of justifying an exclusion from the Tribunal's findings, consist of information that was either not known to Jayne at the time of the inquiry or was not easily discoverable by the exercise of reasonable diligence on its part. The Tribunal concludes on the basis of the record that this information was known or should have been known by Jayne. In the Tribunal's view, it is therefore not information that is sufficient in itself to warrant an interim review, and the Tribunal sees no other reason that would warrant an interim review.

13. For the foregoing reasons, the Tribunal has decided, pursuant to subsection 76.01(4) of *SIMA*, not to conduct an interim review of its findings made on July 30, 2004.

Ellen Fry  
Ellen Fry  
Presiding Member

James A. Ogilvy  
James A. Ogilvy  
Member

Serge Fréchette  
Serge Fréchette  
Member