



Ottawa, Monday, April 5, 1993

Request for Review No.: RD-92-001

IN THE MATTER OF requests for review, under subsection 76(2) of the *Special Import Measures Act*, of the order issued by the Canadian International Trade Tribunal on October 10, 1990, in Review No. RR-89-013;

AND IN THE MATTER OF an order of the Canadian International Trade Tribunal under section 76 of the *Special Import Measures Act*;

RESPECTING certain dumped integral horsepower induction motors, one horsepower (1 HP) to two hundred horsepower (200 HP) inclusive, with exceptions, originating in or exported from the United States of America;

AND dumped polyphase induction motors, one horsepower (1 HP) to two hundred horsepower (200 HP) inclusive, originating in or exported from Brazil, Japan, Mexico, Poland, Taiwan and the United Kingdom; and the subsidized subject goods originating in or exported from Brazil.

ORDER

The Tribunal hereby concludes, under subsection 76(3.1) of the *Special Import Measures Act*, that, on the basis of the information filed by the applicants, a review is not warranted.

Kathleen E. Macmillan

Kathleen E. Macmillan
Presiding Member

Michèle Blouin

Michèle Blouin
Member

Desmond Hallissey

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Member

Michel P. Granger

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Secretary

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Date of Order:

April 5, 1993

Tribunal Members:

Kathleen E. Macmillan, Presiding Member

Michèle Blouin, Member

Desmond Hallissey, Member

Director of Research:

Marcel J.W. Brazeau

Research Officer:

W.D. Kemp

Counsel for the Tribunal:

Robert Desjardins



Ottawa, Monday, April 5, 1993

Request for Review No.: RD-92-001

IN THE MATTER OF requests for review, under subsection 76(2) of the *Special Import Measures Act*, of the order issued by the Canadian International Trade Tribunal on October 10, 1990, in Review No. RR-89-013, concerning:

**CERTAIN DUMPED INTEGRAL HORSEPOWER INDUCTION MOTORS,
ONE HORSEPOWER (1 HP) TO TWO HUNDRED HORSEPOWER (200 HP)
INCLUSIVE, WITH EXCEPTIONS, ORIGINATING IN OR EXPORTED FROM
THE UNITED STATES OF AMERICA**

AND

**DUMPED POLYPHASE INDUCTION MOTORS, ONE HORSEPOWER (1 HP)
TO TWO HUNDRED HORSEPOWER (200 HP) INCLUSIVE, ORIGINATING IN
OR EXPORTED FROM BRAZIL, JAPAN, MEXICO, POLAND, TAIWAN AND
THE UNITED KINGDOM; AND THE SUBSIDIZED SUBJECT GOODS
ORIGINATING IN OR EXPORTED FROM BRAZIL**

TRIBUNAL: KATHLEEN E. MACMILLAN, Presiding Member
MICHÈLE BLOUIN, Member
DESMOND HALLISSEY, Member

STATEMENT OF REASONS

BACKGROUND

In 1983, the Anti-dumping Tribunal found that certain dumped integral horsepower induction motors, 1 HP to 200 HP inclusive, with exceptions, from the United States were materially injurious to the production in Canada of like goods. In 1985, the Canadian Import Tribunal found that dumped polyphase induction motors, 1 HP to 200 HP inclusive, from Brazil, Japan, Mexico, Poland, Taiwan and the United Kingdom, and the subsidized subject goods from Brazil were materially injurious to the production in Canada of like goods.

In 1990, the Canadian International Trade Tribunal (the Tribunal) reviewed both findings under section 76 of the *Special Import Measures Act*¹ (SIMA). Under the provisions of subsection 76(4) of SIMA, the Tribunal, on October 10, 1990, continued the 1983 finding against the United States, continued the 1985 finding with respect to the dumped subject goods from Brazil, Japan, Poland, Taiwan and the United Kingdom and the subsidized subject goods from Brazil, and rescinded the finding with respect to the subject goods from Mexico.

1. R.S.C. 1985, c. S-15.

The order with respect to the 1983 finding was subsequently appealed to a Binational Panel under Article 1904 of the *Canada-United States Free Trade Agreement Implementation Act*.² The order with respect to the 1985 finding was appealed to the Federal Court of Canada under section 28 of the *Federal Court Act*,³ but the appeal was later withdrawn. The appeal of the review of the 1983 finding was heard by the Binational Panel on June 26 and 27, 1991. On September 11, 1991, the Binational Panel affirmed the Tribunal's decision continuing the finding.

The subject motors are polyphase alternating current motors as distinct from single-phase and direct-current motors. These motors are generally used to provide mechanical torque to move solids, liquids and gases and are typically used in fans, blowers, pumps, compressors, conveyors and machine tools.

Toward the end of the 1980s, polyphase induction motors, designed for much more efficient operation, began gaining acceptance in the marketplace. These motors use considerably less electricity than standard efficiency motors to produce the same horsepower. This reduces the energy cost of operating the motor as well as its payback period. At about the time of the review, a number of provincial utilities began offering rebates to purchasers of high-efficiency motors to encourage their use. At that time, they represented about 5 percent of the market.

In early 1992, the Tribunal received a number of requests to review its 1990 order in Review No. RR-89-013. The requests for review, from exporters and importers, were made on the basis of allegations that producers were eliminating much of their production in Canada and supplying the Canadian market, in large measure, with motors manufactured offshore.

More specifically, submissions alleged that Leroy-Somer Canada Limitée (Leroy-Somer) of Granby, Quebec, had ceased production in Canada, that Westinghouse Motor Company Canada Ltd. (Westinghouse) had begun importing certain subject motors from the People's Republic of China and from an associated company, Teco Electric & Machinery Co. Ltd., in Taiwan, and that General Electric Canada Inc. (GE) had begun importing the subject motors from the Republic of Korea.

On July 30, 1992, the Tribunal issued a notice of request for review inviting interested parties to make written submissions.

IMPORTERS' AND EXPORTERS' SUBMISSIONS

Subsequent to the issuance of the notice of request for review, the Tribunal received a number of submissions from importers and exporters. By and large, these submissions reiterated the allegations made in the requests for review to the effect that circumstances had changed significantly since the issuance of the order in October 1990. According to these submissions, domestic production of the subject goods had been significantly curtailed through the cessation of production by Leroy-Somer and the increased importation of certain subject motors by Westinghouse and GE to meet the rapidly growing demand for high-efficiency motors.

2. S.C. 1988, c. 65.

3. R.S.C. 1985, c. 10 (2nd Supp.).

PRODUCERS' SUBMISSIONS

GE and Westinghouse acknowledged that they had begun importing high-efficiency motors to supply the shortfall in the market created by the rapid rise in the demand for high-efficiency motors. However, both firms explained that such imports were only temporary substitutes for production for which both firms were gearing up. Also, both GE and Westinghouse denied having significantly curtailed production in Canada of the subject goods.

U.S. Electrical Motors (USEM), the other member of the Canadian industry and the parent of Leroy-Somer, agreed with the importers' submissions that it had shut down production of the subject motors at the Leroy-Somer plant in Granby, Quebec. While it moved all Leroy-Somer production previously destined for the export market to non-Canadian facilities, it submitted that it had continued to produce motors for the Canadian market at the USEM plant in Markham, Ontario.

REASONS FOR DECISION

Subsection 76(3) of SIMA provides that the Tribunal shall only review a finding at the request of any person or government if that person or government requesting the review satisfies the Tribunal that such a review is warranted. Therefore, the information provided by that person or government has to be of a nature sufficient to meet this preliminary condition imposed by the legislator. The Tribunal must be satisfied, on the basis of the facts presented to it by the parties interested in the review, that a review is warranted.

In making its assessment, the Tribunal relies on information brought to its attention by parties requesting a review or replying to the request for review. It does not have at its disposal the type of detailed production and market data that form part of the record in making the original finding.

The material available to the Tribunal, in this instance, includes allegations by importers and exporters that the industry has reduced its production of small-size motors, and replaced it with imports of small-size motors, and that there is an inability on the part of the domestic producers to produce high-efficiency motors, which constitute a rapidly growing share of market demand.

The Tribunal also examined import data that were supplied by one of the applicants for review and verified by Tribunal staff from publicly available data. It confirmed an increase in the number and value of 1- to 20-HP motors imported since 1990. The increase was largely attributable to a significant rise in imports of low-value, small-size motors from France since 1991. However, imports of motors in the other two size ranges declined, and, in overall terms, imports of all subject goods have been relatively flat since 1990.

From the submissions received and available import data, the Tribunal sees some indications of a change in the marketplace for 1- to 200-HP motors. Chief among the apparent changes are the escalating demand for high-efficiency motors, an increase which was foreseen, but of greater magnitude than that predicted in 1990, and the apparent inability of Canadian producers to meet this demand at this time. A second development is the closure of the Leroy-Somer plant, and the relocation of its production

capability for supplying the Canadian market from Granby to Markham, which, as a matter of record, exported a large proportion of its production. In addition, and perhaps related to the second development, there is an increase in low-value imports in the 1- to 20-HP size range.

The question facing the Tribunal is whether these changed circumstances are sufficient to warrant a review of the 1990 order. In the Tribunal's view, if the Canadian industry had undergone the changes claimed by the applicants in their submissions and were largely unable to satisfy Canadian market demand, this would have been reflected in the import data. In particular, the Tribunal would have expected to see considerable increases in the quantity of products imported into Canada, particularly from the People's Republic of China, Taiwan and the Republic of Korea, where the producers have allegedly been sourcing motors. In fact, the import data before the Tribunal show no such pattern.

The Tribunal notes that total imports of the subject goods declined in 1991 and that the bulk of the increase in imports in 1992 was concentrated in low-value 1- to 20-HP motors, mostly from France. In fact, imports in the 25- to 200-HP size range have been declining steadily since 1990.

It is possible that, expressed as a share of market demand, imports may have increased their share of the Canadian market since the 1990 order. However, the Tribunal is unconvinced that a rise in import penetration, some of which may be attributable to activities of domestic producers, is, in itself, sufficient ground to review an existing finding. In the Tribunal's view, it is quite natural for markets to undergo changes over the years. However, the magnitude of the changes in this instance is not of such a degree that it undermines the factual basis for the finding.

On the basis of the information filed by the applicants, the Tribunal is therefore not satisfied that a review is warranted and hereby makes an order to that effect under subsection 76(3.1) of SIMA.

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Presiding Member

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