



Ottawa, Friday, September 17, 1993

Request for Review No.: RD-93-001

IN THE MATTER OF requests for review, under subsection 76(2) of the *Special Import Measures Act*, of the finding issued by the Canadian International Trade Tribunal on December 11, 1992, in Inquiry No. NQ-92-002;

RESPECTING bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, and frames thereof, originating in or exported from Taiwan and the People's Republic of China.

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.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member

Michel P. Granger

Michel P. Granger
Secretary

Request for Review No.: RD-93-001

Date of Order and Reasons:

September 17, 1993

Tribunal Members:

*Arthur B. Trudeau, Presiding Member
Robert C. Coates, Q.C., Member
Desmond Hallissey, Member*

*Director of Research:
Research Manager:*

*Shiu-Yeu Li
Ken Campbell*

Counsel for the Tribunal:

Robert Desjardins



Ottawa, Friday, September 17, 1993

Request for Review No.: RD-93-001

IN THE MATTER OF requests for review, under subsection 76(2) of the *Special Import Measures Act*, of the finding issued by the Canadian International Trade Tribunal on December 11, 1992, in Inquiry No. NQ-92-002, concerning:

**BICYCLES, ASSEMBLED OR UNASSEMBLED, WITH WHEEL
DIAMETERS OF 16 INCHES (40.64 cm) AND GREATER,
AND FRAMES THEREOF, ORIGINATING IN OR EXPORTED
FROM TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA**

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
 ROBERT C. COATES, Q.C., Member
 DESMOND HALLISSEY, Member

STATEMENT OF REASONS

BACKGROUND

On December 11, 1992, the Canadian International Trade Tribunal (the Tribunal) found that the dumping in Canada of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Taiwan and the People's Republic of China, excluding the subject bicycles with an F.O.B. Taiwan and People's Republic of China selling price exceeding CAN\$325, had caused, was causing and was likely to cause material injury to the production in Canada of like goods, and that the dumping in Canada of the subject bicycle frames, originating in or exported from the aforementioned countries, had not caused, was not causing, but was likely to cause material injury to the production in Canada of like goods.

In letters dated April 22 and 26, 1993, Rocky Mountain Bicycle Company Ltd. (Rocky Mountain) and Norco Products Ltd. (Norco) requested a review of the above-mentioned finding insofar as it applies to frames, pursuant to section 76 of the *Special Import Measures Act*¹ (SIMA).

On June 22, 1993, pursuant to subrule 70(2) of the *Canadian International Trade Tribunal Rules*,² the Tribunal informed all parties to the inquiry of its receipt of the requests and afforded them an opportunity to make representations concerning the requests. In a submission dated July 16, 1993, counsel for the Canadian Bicycle

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

2. SOR/91-499, August 14, 1991, Canada Gazette Part II, Vol. 125, No. 18 at 2912.

Manufacturers' Association (CBMA) opposed a review of the finding. On July 22, 1993, counsel for the Taiwan Bicycle Exporters' Association informed the Tribunal of its support of the requests for review.

APPLICANTS' SUBMISSIONS

In its letter requesting the review, Rocky Mountain claimed that its imported frames are physically different from those produced by the Canadian complainants, i.e. their frames are made of internally butted, 100-percent chrome-molybdenum steel ("Chro-Moly" steel) and are made with hand-made tungsten inert gas (TIG) welds as opposed to the mixture of materials and manganese (MIG) welds used by the complainants. Rocky Mountain claimed that it is unfair to penalize the company's investment and suggested that, as far as frames are concerned, a ceiling of CAN\$42 be set as a cut-off point in applying anti-dumping duties.

In its submission, Norco claimed that the imposition of anti-dumping duties on frame imports provides an unfair advantage to other manufacturers. Although the company supports the view that low-end bicycle imports have caused injury, it believes that it is not the case with respect to high-end imports, and it is the higher-end dealer market which Norco serves. Norco is of the view that the Tribunal should have considered an exclusion for frames, as it did when an exclusion for high-end bicycles was granted. In Norco's submission, frames on its bicycle imports which exceed CAN\$325 F.O.B. would have an F.O.B. value beginning at CAN\$40. The company also claimed that it adds CAN\$10 in labour to finish imported frames.

COMPLAINANTS' SUBMISSION

As stated earlier, the CBMA is opposed to a review. It pointed out, *inter alia*, that: (i) the Tribunal had, in its Statement of Reasons dated December 29, 1992, already addressed requests for exclusions; (ii) in the public interest opinion dated January 27, 1993, the Tribunal held that the public interest did not require any reduction of anti-dumping duties on bicycles and frames; (iii) Norco was represented by counsel at the hearing and had an opportunity to make submissions deemed appropriate at that time; (iv) Rocky Mountain chose not to appear at the hearing nor make submissions beyond filing a questionnaire response; (v) neither Rocky Mountain nor Norco has suggested any change in circumstances which would warrant a review of a finding made only a few months ago; and (vi) the CAN\$40 limit requested for frames would allow evasion of anti-dumping duties at the low end of the bicycle market. Moreover, the relatively modest margins of dumping on frames would have little impact on the price of a CAN\$40 frame in comparison with a bicycle retail price in excess of CAN\$700.

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 statute. 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.

The purpose of a review pursuant to section 76 of SIMA is to reexamine an existing finding of injury to Canadian production in order to determine whether there exist grounds for continuing, altering or rescinding the finding. These grounds would exist, for instance, if the conditions which gave rise to the original injury had changed materially so that the finding was no longer appropriate in part or in whole. Information relevant to such a review might include changes in the structure of the subject industry, financial circumstances, marketing or consumption patterns. In the absence of at least a reasonable indication of such changes in circumstances, however, there is little useful purpose in conducting a review.

In making its assessment in this case, the Tribunal has relied on information brought to its attention by parties requesting a review or replying to the requests for review. The Tribunal is of the view that the applicants have not raised new facts which have arisen since the Tribunal made its finding, nor is there a reasonable indication that the circumstances have changed since the time of the injury finding. In this respect, the Tribunal agrees with the position taken by the CBMA. In its Statement of Reasons dated December 29, 1992, the Tribunal specifically addressed Norco's arguments that frames ought to be excluded from a finding of material inquiry. Moreover, the Tribunal notes that Rocky Mountain chose not to participate in the inquiry beyond its response to the Tribunal's questionnaire.

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

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Member

Desmond Hallissey

Desmond Hallissey
Member