



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Request for Interim Review  
No. RD-2011-006

Aluminum Extrusions

*Order and reasons issued  
Thursday, September 12, 2013*

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IN THE MATTER OF a request for an interim review, pursuant to subsection 76.01(1) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal on March 17, 2009, in Inquiry No. NQ-2008-003, concerning:

**THE DUMPING AND SUBSIDIZING OF ALUMINUM  
EXTRUSIONS ORIGINATING IN OR EXPORTED FROM THE  
PEOPLE'S REPUBLIC OF CHINA**

**ORDER**

On February 23, 2012, Regal Ideas Inc. filed a request for an interim review, pursuant to subsection 76.01(1) of the *Special Import Measures Act*, of the findings made by the Canadian International Trade Tribunal in Inquiry No. NQ-2008-003 concerning the dumping and subsidizing of aluminum extrusions produced via an extrusion process of alloys having metallic elements falling within the alloy designations published by The Aluminum Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness greater than 0.5 mm, with a maximum weight per metre of 22 kg and a profile or cross-section which fits within a circle having a diameter of 254 mm, originating in or exported from the People's Republic of China.

Pursuant to subsections 76.01(3) and (4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal has decided not to conduct an interim review of the above findings.

Jason W. Downey

Jason W. Downey  
Presiding Member

Serge Fréchette

Serge Fréchette  
Member

Stephen A. Leach

Stephen A. Leach  
Member

Dominique Laporte

Dominique Laporte  
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## STATEMENT OF REASONS

### BACKGROUND

1. On February 23, 2012, the Canadian International Trade Tribunal (the Tribunal) received a request from Regal Ideas Inc. (Regal) for an interim review, pursuant to subsection 76.01(1) of the *Special Import Measures Act*,<sup>1</sup> of the findings made by the Tribunal on March 17, 2009, in Inquiry No. NQ-2008-003<sup>2</sup> (the findings), concerning the dumping and subsidizing of aluminum extrusions produced via an extrusion process of alloys having metallic elements falling within the alloy designations published by The Aluminum Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents), with the finish being as extruded (mill), mechanical, anodized or painted or otherwise coated, whether or not worked, having a wall thickness greater than 0.5 mm, with a maximum weight per metre of 22 kg and a profile or cross-section which fits within a circle having a diameter of 254 mm, originating in or exported from the People's Republic of China (China) (the subject goods).

2. Regal specifically requested that the Tribunal exclude from the scope of the findings all aluminum parts that it imports, or may import, for use in its fencing and railing systems or, alternatively, a number of specifically identified aluminum parts.<sup>3</sup> Regal also requested that the product exclusions be granted with retroactive effect to January 2010.

3. Regal's request for an interim review was held in abeyance pending the outcome of Interim Review Nos. RD-2011-001 and RD-2011-003, which the Tribunal had combined into a single proceeding.<sup>4</sup> On November 15, 2012, the Tribunal issued an order whereby it made no amendment to the findings.<sup>5</sup> The Tribunal issued its reasons on November 29, 2012.

4. On November 30, 2012, the Tribunal determined that Regal's request for an interim review was properly documented in the manner prescribed by subrule 70(1) of the *Canadian International Trade Tribunal Rules*<sup>6</sup> and, on December 3, 2012, in accordance with subrule 70(2), it informed all parties to *Aluminum Extrusions Inquiry* of its receipt of the request and gave them an opportunity to make representations concerning the request.

5. On December 20, 2012, Almag Aluminum Inc. (Almag), Apel Extrusions Limited (Apel), Can Art Aluminum Extrusions Inc. (Can Art), Extrudex Aluminum, Metra Aluminum Inc. (Metra), Sapa Canada Inc. (Sapa), Spectra Aluminum Products Ltd./Spectra Anodizing Inc. (Spectra) (the domestic extruders) collectively filed submissions opposing the initiation of an interim review.

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

2. *Aluminum Extrusions* (17 March 2009) (CITT) [*Aluminum Extrusions Inquiry*].

3. These specifically identified aluminum parts are listed in Appendix 1 to Regal's request for an interim review. Tribunal Exhibit RD-2011-006-01, Administrative Record, Vol. 1 at 106.

4. This interim review was conducted further to requests made by MAAX Bath Inc. (MAAX Bath) and Aluminart Products Limited (Aluminart) for the exclusion of certain products from the scope of the findings. The Tribunal notes that Regal participated in the interim review by filing submissions, providing evidence and making arguments in support of product exclusions. It did not however present any witnesses at the hearing held in Ottawa, Ontario, from April 10 to 12, 2012.

5. *Aluminum Extrusions* (15 November 2012), RD-2011-001 and RD-2011-003 (CITT) [*Aluminum Extrusions Interim Review*].

6. S.O.R./91-499 [*Rules*].

6. On January 4, 2013, LIV Outdoor (International) Inc. (LIV) and 1093776 Alberta Inc. o/a McLean Contracting (2004) (McLean) filed reply submissions to the submissions of the domestic extruders. On January 7, 2013, Regal also filed reply submissions.

## POSITIONS OF PARTIES

### Submissions in Support of the Initiation of an Interim Review

7. Regal submitted that an interim review was warranted on two main grounds. First, it submitted that it was incorporated on June 10, 2009, subsequent to the Tribunal's issuance of the findings and that, as such, it is a new importer that could not have made submissions or requested product exclusions during the Tribunal's original injury inquiry.

8. Second, Regal submitted that, in Inquiry No. NQ-2008-003R,<sup>7</sup> which took place after the Tribunal issued the findings, MAAX Bath was granted exclusions for certain aluminum extrusions used in the assembly of shower enclosures on the basis that it had specific requirements that could not be met by the domestic industry. It asserted that, like MAAX Bath, it too has specific requirements that cannot be met by the domestic industry.

9. More specifically, Regal submitted that it requires the services of a single fully integrated extruder that can design, extrude, fabricate, finish, package, label and ensure quality control of the aluminum parts that it imports. It argued that the services of such an extruder are required in order to ensure that all of its imported aluminum parts are produced to consistent and tight tolerances and have the same high quality finish. It submitted that it also requires that its imported aluminum parts be fitted with a patented locking system and have a powder coat finish that is certified to meet the American Architectural Manufacturers Association (AAMA) 2603 standard ("Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels"). In its view, none of the domestic extruders are capable of meeting all the aforementioned requirements and, further, none have approached Regal with offers to supply it with aluminum extrusions. It stated that, in these circumstances, the granting of the requested product exclusions would not cause injury to the domestic industry.

10. Regal also noted that the requested product exclusions are equivalent to the product exclusions granted to VAP Global Industries Inc., Home-Rail Ltd. and Levolor/Kirsch Window Fashions (a Division of Newell Rubbermaid/Newell Window Furnishings Inc.) by the Tribunal in *Aluminum Extrusions Inquiry*. It submitted that those exclusions were granted because the Tribunal accepted that none of the domestic extruders had the ability to apply a powder coat finish that is certified to meet the AAMA 2603 standard. It therefore suggested that, as a matter of equity and public interest, it too must be granted the product exclusions that it is requesting.

11. In reply to the domestic extruders' submissions in opposition to the initiation of an interim review, Regal submitted that the Tribunal cannot base its consideration of Regal's request for an interim review on its understanding of Regal Aluminum Products Inc. (Regal Aluminum). It argued that Regal and Regal Aluminum are different companies and that Regal Aluminum ceased to operate on December 31, 2010, and is in the process of being dissolved. It further submitted that its Chinese supplier began testing its powder coat finish to the AAMA 2603 standard in 2009 prior to Regal's first importation (Regal began importing on January 1, 2011) and was certified by the AAMA on February 18, 2011. It therefore submitted that, contrary to the domestic extruders' contention, Regal and Aluminart are not in the same position and that,

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7. *Aluminum Extrusions* (10 February 2011) (CITT) [*Aluminum Extrusions Remand*].

as such, the Tribunal's findings with respect to Aluminart in *Aluminum Extrusions Interim Review* are not relevant.

12. Regal argued that the domestic extruders have provided no information to support their claim that they can meet all of Regal's requirements or that they would otherwise be injured if product exclusions were granted. In particular, it submitted that no information was provided to demonstrate that any domestic extruder has ever designed fencing or railing systems<sup>8</sup> or has the ability to install the patented locking system that it requires. It further submitted that the evidence given in *Aluminum Extrusions Interim Review* indicates that Can Art and Metra are not credible sources of aluminum extrusions for Regal and that Almag, Apel, Dajcor Aluminum Ltd., Sapa and Spectra had never heard of Regal.

13. McLean stated that it supports Regal's request for an interim review but added that the Tribunal should not limit its review to products imported by Regal. It suggested that an interim review is warranted because the Tribunal did not, and could not, clearly foresee the effect that the findings would have on the downstream fencing and railing systems industry. It also submitted that the products for which Regal is seeking exclusions appear to be non-subject goods.

14. For its part, LIV simply stated that it supports Regal's request for an interim review.

#### **Submissions in Opposition to the Initiation of an Interim Review**

15. The domestic extruders stated that they are opposed to the initiation of an interim review. They submitted that the Tribunal has made it clear, in previous decisions, that an interim review will only be initiated if, in addition to meeting the factors set out in the *Rules*, it is likely that the requested product exclusions would be granted. They added that the Tribunal has also made it clear that product exclusions will only be granted if they do not cause injury to the domestic industry.

16. The domestic extruders submitted that the materials filed by Regal in support of its request for an interim review fail to demonstrate that it validly has either a requirement for a fully integrated extruder or for a powder coat finish that is certified to meet the AAMA 2603 standard and fail to disclose sufficient facts upon which the Tribunal could grant exclusions.

17. In this regard, the domestic extruders submitted that the facts pertinent to Regal's request are equivalent to the facts set out by the Tribunal as applicable to Aluminart in *Aluminum Extrusions Interim Review*. They noted that, in *Aluminum Extrusions Interim Review*, the Tribunal found that Aluminart's alleged requirement for a powder coat finish that is certified by the AAMA to meet the AAMA 2603 standard was not real because, while the information indicated that Aluminart had this requirement since 2007, its Chinese supplier was only certified by the AAMA to comply with this standard in 2011.

18. The domestic extruders submitted that, although Regal was incorporated in 2009, its Chinese supplier was only certified by the AAMA to meet the AAMA 2603 standard in 2011. They further argued that Regal Aluminum, a related company to Regal, did not reference the requirement for certification by the AAMA when it requested product exclusions for aluminum extrusions for use in fencing and railing systems during the Tribunal's original injury inquiry. They also added that Regal does not mention AAMA certification on its Web site. They therefore asserted that Regal's own information shows that its alleged requirement for AAMA certification is not consistent with commercial reality or its own operations.

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8. Regal notes that the design of fencing and railing systems differs from designing the dies required to produce individual aluminum extrusions.

19. The domestic extruders submitted that, in any event, there are “fully integrated” extruders which are part of the domestic industry, such as Apel and Spectra, and there is also a domestic extruder, i.e. Sapa, that has been certified by the AAMA to meet the AAMA 2603 standard since April 2012. They submitted that confidential invoices and drawings from Apel, Can Art and Sapa of aluminum extrusions used in railing systems demonstrate that they can produce all the aluminum parts sought by Regal. They therefore stated that the domestic industry would be injured by the granting of the product exclusions requested by Regal.

## ANALYSIS

### Legal Framework

20. Subsection 76.01(1) of *SIMA* 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 cannot conduct an interim review unless the requester satisfies the Tribunal that the interim review is warranted.

21. In assessing whether the requester has discharged this onus, the Tribunal is guided by rule 72 of the *Rules*, which provides as follows:

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.

22. Similarly, the Tribunal’s *Guideline on Interim Reviews* states 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.

23. The Tribunal has consistently held that an interim review will only be undertaken when it is satisfied that there are sufficiently compelling reasons to do so. New facts or changes in circumstances are not, in and of themselves, enough to warrant an interim review. The question is whether there are sufficient new facts or changes in circumstances to warrant an interim review, or whether there are sufficient facts, which, although in existence at the time of the previous expiry review or injury inquiry, were not put in evidence in those proceedings because they were not discoverable by the exercise of reasonable diligence.<sup>9</sup>

24. The Tribunal has further stated the following in respect of the requirements for the initiation of an interim review:

In the Tribunal’s opinion, the information on file in respect of a request must indicate a likelihood that an amendment to the order or finding would occur if an interim review were conducted.

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9. *Waterproof Footwear and Bottoms of Plastic or Rubber* (10 October 2002), RD-2002-001 (CITT) at 2; *Leather Footwear With Metal Toe Caps* (25 November 2005), RD-2005-001 (CITT) at paras. 8-9; *Concrete Reinforcing Bar* (9 November 2005), RD-2005-002 (CITT) at paras. 9-10.



To initiate interim reviews on a lesser threshold would create an unacceptable level of uncertainty in the duration and durability of a finding or order and would be costly for the parties involved. Proceedings under SIMA are often complex and burdensome, and it would not be reasonable to permit the reopening of a case, or part of one, on a lesser standard.<sup>10</sup>

25. In short, the mere existence of new facts, changed circumstances or pre-existing facts that were not discoverable by the exercise of reasonable diligence does not necessarily warrant an interim review. Such facts or changed circumstances must also be sufficiently compelling to indicate that an interim review, if conducted, would likely result in the Tribunal's order or finding being amended or, in the context of the present request for interim review, would likely result in the granting of product exclusions.

26. In *Stainless Steel Wire*,<sup>11</sup> the Tribunal summarized its views on the matter of product exclusions as follows:

*The fundamental principle is that the Tribunal will grant product exclusions only when it is of the view that such exclusions will not cause injury to the domestic industry.* The Tribunal has granted product exclusions for particular products in circumstances when, for instance, the domestic industry does not produce those particular products. The Tribunal also considers factors such as whether there is any domestic production of substitutable or competing goods, whether the domestic industry is an "active supplier" of the product or whether it normally produces the product or whether the domestic industry has the capability of producing the product.

[Footnotes omitted, emphasis added]

27. Therefore, in order for information to indicate a likelihood that product exclusions would be granted if an interim review were conducted, the information has to indicate a likelihood that such exclusions would not cause injury to the domestic industry or, in other terms, the information has to indicate a likelihood that the domestic industry does not produce, and does not have the capability to produce, the products for which exclusions are requested or substitutable or competing products.

### **Preliminary Matter**

28. On May 27, 2013, the Tribunal issued its decision in *Regal Ideas Inc. v. President of the Canada Border Services Agency*.<sup>12</sup> The issue in that appeal, which was filed by Regal pursuant to subsection 61(1) of *SIMA*, was whether certain aluminum extrusions imported by Regal were excluded from the findings on the basis that they met the requirements of the following exclusion granted by the Tribunal in *Aluminum Extrusions Inquiry*:

Aluminum extrusions produced from either a 6063 or a 6005 alloy type with a T6 temper designation, in various lengths, with a powder coat finish on both the interior and the exterior surfaces of the extrusion, which finish is certified to meet the American Architectural Manufacturers Association AAMA 2603 standard, "Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum Extrusions and Panels", for use in exterior railing systems.<sup>13</sup>

29. The Tribunal determined that the imported aluminum extrusions that were the subject of the appeal complied with the requirements of the above exclusion and therefore allowed the appeal. In light of this decision, the Tribunal is of the opinion that an interim review of the findings, insofar as it would pertain to

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10. *Machine Tufted Carpeting* (21 August 2000), RD-2000-001 (CITT) at 3.

11. (30 July 2004), NQ-2004-001 (CITT) at para. 96.

12. (27 May 2013), AP-2012-025 (CITT) [the *Regal appeal*].

13. *Aluminum Extrusions Inquiry* at iii.

the question of whether product exclusions should be granted for certain aluminum parts imported by Regal for use in its exterior railing systems, is not warranted. In other terms, there is no point in conducting an interim review for the purposes of determining whether certain products should be excluded from the findings when those products have already been found to benefit from a previously granted exclusion.

30. Accordingly, the Tribunal will only consider whether an interim review of the findings is warranted for the purposes of determining whether aluminum parts imported by Regal for use in its fencing system and aluminum parts imported by Regal for use in its railing system, which do not benefit from the above-referenced exclusion, should be excluded.

### **New Facts or Changed Circumstances**

31. The Tribunal is of the view that Regal's incorporation on June 10, 2009, constitutes a significant new fact that has arisen since the Tribunal made the findings. As it only became an importer after the findings were issued, Regal could not have requested product exclusions during the Tribunal's original injury inquiry. Although Regal Aluminum—a company with ties to Regal—did request product exclusions for aluminum extrusions for use in fencing and railing systems during the original injury inquiry, the Tribunal believes that it would not be appropriate, in the absence of any evidence of wrongdoing, to consider these two legally distinct entities as one and the same.

32. The Tribunal notes that, even if it had considered Regal and Regal Aluminum as the same company, it would have accepted that, when Regal filed its request for an interim review, the granting of exclusions to MAAX Bath in *Aluminum Extrusions Remand* constituted a significant changed circumstance. Indeed, the Tribunal acknowledged in *Aluminum Extrusions Interim Review* that its determination in *Aluminum Extrusions Remand* could provide a changed circumstance insofar as it indicated that a second attempt at obtaining a product exclusion could now potentially prove successful.<sup>14</sup> When Regal filed its request for an interim review, it would have been reasonable for it to believe that the Tribunal's granting of product exclusions to MAAX Bath in *Aluminum Extrusions Remand* meant that it could also be granted product exclusions on the strength of arguments similar to those made by MAAX Bath.

33. Although the Tribunal has accepted that there is a significant new fact that has arisen since the Tribunal made the findings, it remains to be considered if that new fact, as well as the totality of the information presented in the request, indicate that an interim review, if conducted, would likely result in the granting of product exclusions.

### **Likelihood that Product Exclusions Would Be Granted if an Interim Review Were Conducted**

34. In *Aluminum Extrusions Interim Review*, which came after *Aluminum Extrusions Remand*, the Tribunal determined that MAAX Bath and Aluminart's requirements, taken together, were that aluminum extrusions be provided by a single extruder (that may outsource certain operations to the same contractor) that could apply a number of finishes to the extrusions, including a powder coat finish which met the AAMA 2603 standard, perform certain fabrication operations, provide low minimum wall thicknesses and tight tolerances, supply the required volume, provide individual packaging and ensure low rejection rates, while maintaining high standards with respect to fabrication and consistency of fit and finish.<sup>15</sup> The Tribunal then found that these specific requirements could be met by a number of the domestic extruders,

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14. *Aluminum Extrusions Interim Review* at para. 41.

15. *Ibid.* at paras. 102, 112.

including both Spectra and Apel, which had the individual ability to meet the requirements without the need to outsource any operations to a third party.<sup>16</sup>

35. In the Tribunal's view, Regal's specific requirements with respect to the aluminum extrusions for which it is currently seeking product exclusions are, for the most part, similar to those of MAAX Bath and Aluminart, which the Tribunal determined could be met by the domestic industry. Although Regal did claim that it required the services of a single *fully integrated* extruder (i.e. a single extruder that performs all operations under one roof), the Tribunal does not consider this to be a real or legitimate requirement. As stated in *Aluminum Extrusions Interim Review*, the ultimate requirement is that the aluminum extrusions meet certain standards in terms of quality and consistency of fit and finish.<sup>17</sup> Whether this is achieved by a single fully integrated extruder or not is irrelevant.

36. As for Regal's requirements with regard to powder coating, the Tribunal notes that Regal states that it requires that its imported aluminum parts have a powder coat that is certified to meet the AAMA 2603 standard and not a powder coat that is certified *by the AAMA* to meet the AAMA 2603 standard. In *Aluminum Extrusions Interim Review*, the Tribunal observed that it is common for extruders to be certified by paint manufacturers to meet AAMA standards and, indeed, noted that Apel was certified in this manner.<sup>18</sup> However, even if Regal had stated that it required certification *by the AAMA*, the Tribunal would not have accepted this as a real or legitimate requirement. Just as with the issue of full integration, the ultimate requirement must be that the powder coat meets certain quality standards. Moreover, there is no evidence on the record which indicates that Regal refers to certification by the AAMA in the marketing of its products. In any event, the evidence adduced in *Aluminum Extrusions Interim Review* indicated that a domestic extruder, Sapa, is certified by the AAMA to meet the AAMA 2603 standard.<sup>19</sup>

37. Regal also claimed that it requires a supplier that has the ability to install a patented locking system in all the aluminum parts that it purchases. It submitted that the domestic extruders cannot produce aluminum parts with the patented locking system without violating the patent. However, the information included with Regal's request for an interim review indicates that it was the one that developed the locking system.<sup>20</sup> In *Aluminum Extrusions Inquiry*, the Tribunal expressed the view that it was not appropriate to grant product exclusions on the basis that requesters, who owned the rights to some form of intellectual property associated with the product, were not prepared to have the domestic industry produce the product under licence.<sup>21</sup> Thus, if Regal does indeed own the rights to the patent, then it should be free to choose who can install the locking system. The Tribunal notes that there is no evidence on the record which indicates that the domestic industry does not have the technical ability to install Regal's locking system.

38. As for Regal's claimed requirement for a supplier that can design fencing or railing systems, the Tribunal is of the view that it cannot be taken under consideration in the context of the current request for an interim review or, for that matter, any other proceedings conducted under *SIMA*. An order or finding of the Tribunal under section 43 of *SIMA* is made in respect of goods only—not services. The action of designing fencing or railing systems clearly falls within the realm of a service. Therefore, the Tribunal considers it irrelevant whether or not the domestic industry can design fencing or railing systems. What matters is

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16. *Ibid.* at paras. 122, 124.

17. *Ibid.* at paras. 101, 106.

18. *Ibid.* at paras. 111, 127.

19. *Ibid.* at para. 115.

20. Tribunal Exhibit RD-2011-006-01, Administrative Record, Vol. 1 at 40.

21. *Aluminum Extrusions Inquiry* at para. 353.

whether they can produce goods that are identical to, or have uses and other characteristics which closely resemble those of, the subject goods.

39. Finally, the Tribunal finds that the domestic industry's lack of knowledge about Regal is not relevant to the issue of determining whether it has the ability to meet Regal's specific requirements.

40. In light of the above, it does appear likely that Regal's legitimate requirements can be met, at the very least, by Apel. Therefore, the Tribunal finds that the information submitted by Regal does not indicate that the domestic industry is unable to produce the products for which exclusions were requested. Consequently, the information does not indicate a likelihood that product exclusions would be granted if an interim review were conducted.

41. In addition to its submissions regarding its specific requirements and the domestic industry's ability to meet those requirements, Regal contended that it must be granted the product exclusions it is requesting because they are equivalent to some of the exclusions that were granted by the Tribunal, in *Aluminum Extrusions Inquiry*, for certain aluminum extrusions with a powder coat finish certified to meet the AAMA 2603 standard. However, as the Tribunal stated in *Fasteners*,<sup>22</sup> each request for product exclusion must be considered on its own merits and, even in cases where similar products have previously been excluded, the fundamental issue must remain whether the products for which exclusions are requested will be injurious to the domestic industry. In the present case, the Tribunal finds that injury to the domestic industry will likely result from the granting of the product exclusions requested by Regal.

42. The Tribunal is cognizant of the fact that, in *Aluminum Extrusions Inquiry*, it granted a number of product exclusions on the basis that the domestic industry failed to provide any evidence to support its claim that it could produce extrusions with a powder coat finish which met the AAMA 2603 standard. It is also cognizant of the fact that, in the *Regal appeal*, it determined that certain aluminum extrusions imported by Regal for use in its railing systems complied with the requirements of one of those product exclusions. Although the decision to grant those product exclusions has, in effect, been contradicted by the Tribunal's above finding that injury to the domestic industry would likely result from the granting of the product exclusions requested by Regal, it must be borne in mind that this finding was made on the basis of the information currently available to the Tribunal, which, among other things, indicated that the domestic industry can produce extrusions with a powder coat finish which meets the AAMA 2603 standard.<sup>23</sup>

43. While the Tribunal will not conduct an *interim* review of the findings, it notes that, on June 5, 2013, it initiated an *expiry* review<sup>24</sup> of the findings and that, should the CBSA determine that the expiry of the findings is likely to result in the continuation or resumption of dumping or subsidizing of the subject goods, the Tribunal will then determine if there is a likelihood of injury or retardation. At that time, all parties, including Regal, will be given a new opportunity to file requests for product exclusions.

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22. (11 May 2007), RD-2006-005 (CITT).

23. Had this evidence been available to the Tribunal at the time of the original injury inquiry, it is doubtful that product exclusions would have been granted for certain aluminum extrusions with a powder coat finish certified to meet the AAMA 2603 standard. That being said, these product exclusions cannot be revoked at this time, as the Tribunal has made it clear that products which have been excluded from the scope of an order or finding cannot subsequently be the subject of an interim review. *Certain Fasteners* (1 March 2010), RD-2009-004 (CITT) at para. 11).

24. Expiry Review No. RR-2013-003.

**DECISION**

44. For the foregoing reasons, the Tribunal is not satisfied that an interim review is warranted and, therefore, pursuant to subsections 76.01(3) and (4) of *SIMA*, has decided not to conduct an interim review of the findings.

Jason W. Downey

Jason W. Downey

Presiding Member

Serge Fréchette

Serge Fréchette

Member

Stephen A. Leach

Stephen A. Leach

Member