



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Interim Reviews Nos. RD-2013-001  
and RD-2013-002

Bicycles

*Order issued  
Monday, September 30, 2013*

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IN THE MATTER OF interim reviews, pursuant to subsection 76.01(1) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on December 7, 2012, in Expiry Review No. RR-2011-002, continuing its order made on December 10, 2007, in Expiry Review No. RR-2006-001, continuing, with amendment, its order made on December 9, 2002, in Expiry Review No. RR-2002-001, continuing, with amendment, its order made on December 10, 1997, in Review No. RR-97-003, continuing, with amendment, its finding made on December 11, 1992, in Inquiry No. NQ-92-002, concerning:

**BICYCLES ORIGINATING IN OR EXPORTED FROM CHINESE TAIPEI AND  
THE PEOPLE'S REPUBLIC OF CHINA**

**ORDER**

The Canadian International Trade Tribunal, pursuant to subsection 76.01(1) of the *Special Import Measures Act*, has conducted an interim review of its order made in Expiry Review No. RR-2011-002 in respect of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and the People's Republic of China, excluding bicycles with an FOB Chinese Taipei or People's Republic of China selling price exceeding CAN\$225 and excluding bicycles with foldable frames and stems.

Pursuant to paragraph 76.01(5)(a) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order made on December 7, 2012, in Expiry Review No. RR-2011-002 concerning the above-mentioned bicycles.

Pasquale Michaele Saroli

Pasquale Michaele Saroli  
Presiding Member

Serge Fréchette

Serge Fréchette  
Member

Jason W. Downey

Jason W. Downey  
Member

Dominique Laporte

Dominique Laporte  
Secretary

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**PARTICIPANTS:****Domestic Producer**

Raleigh Canada Limited

**Counsel/Representatives**C.J. Michael Flavell, Q.C.  
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Action Traders Ltd.

Bicycle Trade Association of Canada

Canadian Tire Corporation, Limited

Hangzhou Joy Kie Industrial Trading Co., Ltd.

Joysun (Zhejiang) Manufacturing Co., Ltd.

Shenzhen Taifeng Yongda Bicycles Co., Ltd.

Specialized Bicycle Components Canada, Inc.

Giant Manufacturing Co., Ltd.

Outdoor Gear Canada

Taiwan Bicycle Exporters' Association

Trek Bicycle Corporation

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## STATEMENT OF REASONS

### BACKGROUND

1. The Canadian International Trade Tribunal (the Tribunal) received two requests, pursuant to subsection 76.01(1) of the *Special Import Measures Act*,<sup>1</sup> for interim reviews and the rescission of the order that it issued in *Bicycles*<sup>2</sup> in respect of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and the People's Republic of China (China), excluding bicycles with an FOB Chinese Taipei or China selling price exceeding CAN\$225 and excluding bicycles with foldable frames and stems (the subject goods).

2. On July 22, 2013, the Tribunal received a request for an interim review from Outdoor Gear Canada (OGC) (Interim Review No. RD-2013-001). On July 31, 2013, the Tribunal received a second request for an interim review from Trek Bicycle Corporation (Trek) (Interim Review No. RD-2013-002).<sup>3</sup>

3. In accordance with rule 6.1 of the *Canadian International Trade Tribunal Rules*,<sup>4</sup> the Tribunal combined the two proceedings, given their similarities.

### INITIATION OF AN INTERIM REVIEW

4. On August 8, 2013, the Tribunal initiated an interim review on its own initiative. In the Tribunal's view, an interim review was warranted in light of evidence that circumstances had changed since the making of the order, i.e. domestic production of bicycles had ceased.

5. In accordance with paragraph 25(c) of the *Rules*, the Tribunal decided to conduct the interim review by way of written submissions.

6. On September 4, 2013, the Tribunal received written submissions in support of the rescission of the order from OGC and Trek. On September 5, 2013, the Tribunal received additional submissions in support of the rescission of the order from the Bicycle Trade Association of Canada (BTAC), Giant Manufacturing Co., Ltd. (Giant) and the Taiwan Bicycle Exporters' Association (TBEA).

7. On September 5, 2013, the Tribunal received a written submission opposing the rescission of the order from Action Traders Ltd. (Action Traders), an importer of bicycles from China. The Tribunal notes that Raleigh Canada Limited (Raleigh), the sole domestic producer when the order was made, did not file a submission in opposition to the rescission of the order.

8. On September 11 and 12, 2013, respectively, OGC and the BTAC filed submissions in reply to Action Traders' submission.

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

2. (7 December 2012), RR-2011-002 (CITT).

3. The Tribunal received essentially identical requests in January 2013 (Request for Interim Review Nos. RD-2012-002 and RD-2012-003). Its order and reasons for not initiating an interim review at that time were issued on March 27, 2013.

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

## POSITIONS OF PARTIES

### Submissions in Support of the Rescission of the Order

9. OGC and Trek requested that the Tribunal rescind the order on the basis of two announcements made by Raleigh's foreign parent, Accell Group N.V. (Accell Group). On January 15, 2013, Accell Group announced that Raleigh would be ceasing domestic production in June 2013. In addition, on July 26, 2013, Accell Group issued a press release, which stated the following:

In Canada, as announced in the beginning of the year, Accell Group terminated the production and assembly activities in Waterloo (Quebec) as of the end of June 2013. The sales organisation has been adapted, which will now focus entirely on the specialist retail and multi-sports channel, as Accell Group does in the US. The premises in Oakville (Ontario) have been sold. The reorganisation will make a positive contribution to Accell Group results from 2014.<sup>5</sup>

10. OGC and Trek submitted that, with the cessation of domestic production, the order was no longer required and should therefore be rescinded immediately.

11. Likewise, the BTAC, Giant and the TBEA submitted that, since there is no domestic production, there can no longer be injury to a domestic industry and that, therefore, the order should be rescinded immediately.

### Submissions in Opposition to the Rescission of the Order

12. Action Traders acknowledged that there was no current domestic production, but contended that the rescission of the order would result in the resumption of the dumping of the subject goods and instability in the domestic market.<sup>6</sup>

13. Action Traders further submitted that it was seeking out locations in Canada that, in its view, might be financially reasonable and attractive to test-run production.<sup>7</sup> However, as noted by the BTAC, Action Traders did not submit any credible evidence of any substantial commitment to re-establish the domestic production of bicycles similar to the subject goods.<sup>8</sup>

## ANALYSIS

14. The purpose of an interim review is to determine whether the circumstances require a finding or order to be rescinded or continued, with or without amendment.<sup>9</sup> This is consistent with Article 11.1 of the World Trade Organization (WTO) *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* and Article 21.1 of the WTO *Agreement on Subsidies and Countervailing Measures*, which provide that a duty "... shall remain in force only as long as and to the extent necessary ..." to counteract the dumping or subsidizing which is causing injury to a domestic industry.

15. In this case, the uncontroverted evidence on the record indicates that domestic production ceased in June 2013. In addition, the Tribunal is not convinced that domestic production is likely to resume in the near future.

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5. Exhibit RD-2013-001-01A, Vol. 1 at 6.

6. Exhibit RD-2013-001-04.06, Vol. 1 at 5.

7. *Ibid.* at 4.

8. Exhibit RD-2013-001-06.02, Vol. 1 at para. 16.

9. Subsection 76.01(5) of *SIMA*.

16. In *Certain Stainless Steel Round Bar*,<sup>10</sup> where domestic production had ceased, the Tribunal stated as follows:

15. In these circumstances, with no domestic production in the near future, the Tribunal finds that it is unlikely that injury will continue or recur if the duties are removed and, therefore, that the Finding and the Order are no longer necessary.

16. If and when domestic production resumes, the domestic industry will have recourse to seek remedial action should it believe that injurious dumping or subsidization has recurred or is likely to recur.

17. The same rationale applies in this case. As there is no domestic production, and as it is unlikely that domestic production will resume in the near future, it is unlikely that injury to a domestic industry will continue or recur if the current order is rescinded. The Tribunal therefore finds that the order is no longer necessary.

18. Should Action Traders or any other entity seek to re-establish domestic production and dumping of the subject goods continues or resumes, its recourse would be to file a complaint with the Canada Border Services Agency pursuant to section 31 of *SIMA*.

## DECISION

19. Having found that the order is no longer necessary, the Tribunal hereby rescinds the order pursuant to paragraph 76.01(5)(a) of *SIMA*.

Pasquale Michaele Saroli  
Pasquale Michaele Saroli  
Presiding Member

Serge Fréchette  
Serge Fréchette  
Member

Jason W. Downey  
Jason W. Downey  
Member

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10. (18 January 2005), RD-2004-003 to RD-2004-007 (CITT).