



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Expiry Review No. RR-2004-002

Women's Boots

*Order issued
Friday, April 29, 2005*

*Reasons issued
Tuesday, May 10, 2005*

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IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on May 1, 2000, in Review No. RR-99-003, continuing, with amendment, its order made on May 2, 1995, in Review No. RR-94-003, continuing, with amendment, its findings made on May 3, 1990, in Inquiry No. NQ-89-003 concerning:

**WOMEN'S LEATHER AND NON-LEATHER BOOTS ORIGINATING IN OR
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76.03(3) of the *Special Import Measures Act*, has conducted an expiry review of the above-mentioned order concerning women's leather and non-leather boots originating in or exported from the People's Republic of China.

Pursuant to subparagraph 76.03(12)(a)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order in respect of the above-mentioned products originating in or exported from the People's Republic of China.

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James A. Ogilvy
Presiding Member

Richard Lafontaine
Richard Lafontaine
Member

Meriel V. M. Bradford
Meriel V. M. Bradford
Member

Hélène Nadeau
Hélène Nadeau
Secretary

The statement of reasons will be issued within 15 days.

Place of Hearing: Ottawa, Ontario
Dates of Hearing: March 7 to 11, 2005

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STATEMENT OF REASONS

BACKGROUND

1. This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,¹ of the order made by the Canadian International Trade Tribunal (the Tribunal) on May 1, 2000, in Review No. RR-99-003, continuing, with amendment, its order made on May 2, 1995, in Review No. RR-94-003, continuing, with amendment, its findings made on May 3, 1990, in Inquiry No. NQ-89-003 concerning women's leather and non-leather boots originating in or exported from the People's Republic of China (China) (the subject goods).
2. On August 18, 2004, the Tribunal issued a notice of expiry review² to all interested parties. A revised notice was issued and posted on the Tribunal's Web site on October 5, 2004.
3. As part of these proceedings, the Tribunal and the Canada Border Services Agency (CBSA) sent questionnaires to Canadian producers, importers and exporters/foreign producers of women's boots.
4. On August 19, 2004, the CBSA initiated an expiry review investigation to determine whether the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.
5. On December 16, 2004, the CBSA determined that, pursuant to subsection 76.03(7) of *SIMA*, the expiry of the order was likely to result in the continuation or resumption of dumping of the subject goods.
6. On December 17, 2004, following the CBSA's determination, the Tribunal proceeded with its expiry review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the order respecting the subject goods was likely to result in injury or retardation. As part of this process, the Tribunal requested domestic producers and certain importers to update responses submitted to the CBSA to include data for the first nine months of 2003 and 2004. The Tribunal asked those domestic producers and importers that had not submitted a completed questionnaire to the CBSA to complete the entire questionnaire.
7. Major importers were provided with information concerning imports of women's boots that they had previously declared in customs entry documentation to the CBSA and were asked to confirm or correct the import data for the period from January 1, 2001, to September 30, 2004.
8. The record of these proceedings includes the following: all relevant documents from the CBSA, including its protected *Expiry Review Report*, statement of reasons, index of background information and related documents; the protected and public replies to the expiry review questionnaires; the Tribunal's public and protected pre-hearing staff reports; requests for information and parties' replies provided in accordance with the Tribunal's directions; witness statements and exhibits filed by the parties in this expiry review; the transcript of the hearing; and the order and the public and protected pre-hearing staff reports issued in Review No. RR-99-003. All public exhibits were made available to interested parties, while protected exhibits were provided only to counsel who had filed a declaration and undertaking with the Tribunal in respect of protected information.

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

2. C. Gaz. 2004.I.2311.

9. The Shoe Manufacturers' Association of Canada (SMAC), which appeared on behalf of its members, and Penshu Inc. (Penshu) were represented by counsel at the hearing. They submitted evidence and made arguments in support of a continuation of the order.

10. The Canadian Association of Importers and Exporters Inc. (CAIE), Aldo Group Inc. (Aldo), M & M Footwear Inc. (M & M), Stage4 International Footwear, Inc. (Stage4), Sherson Group Inc. (Sherson), The Shoe Group Inc. and V.W.V. Enterprises were represented by counsel at the hearing. They submitted evidence and made arguments in support of a rescission of the order. Distribution Le Dépôt Inc. (Le Dépôt) also submitted evidence and made arguments in support of a rescission of the order.

11. The following companies requested that the Tribunal consider and grant various product exclusions: Aldo, Cougar Shoes Inc. (Cougar), Le Dépôt, Le Château Inc., M & M, New Balance Canada Inc., Reebok Canada Inc., Sherson, Southern Cross Sheepskins Inc., Stage4, Sterling Shoes Inc. and Wolverine Canada Inc.

12. Tribunal witnesses from Wal-Mart Canada Corp. (Wal-Mart) and Sears Canada Merchandising Services (Sears) testified at the hearing.

PRODUCT

Product Definition and Description

13. For the purpose of this expiry review, the subject goods are defined as women's boots with uppers made of leather and non-leather materials and manufactured in sizes 4 and up (European equivalent 34 and up) originating in or exported from China.

14. Footwear covering the ankle is considered a boot. These boots include booties, bootlets, winter boots, cowboy boots, utility and work boots.

15. Leather boots are defined as boots that have leather as the main component of the upper. Non-leather boots have uppers that are made from materials such as satin, polyurethane and vinyl-coated fabrics. Additional pieces such as tongues, scuff pads, toecaps, logos, decorations, trim and heels are not considered to be part of the main component of the upper.

16. The following types of footwear are not included in the product definition: sports footwear, waterproof rubber footwear, waterproof plastic footwear, safety footwear, orthopedic footwear, canvas footwear, disposable footwear, unassembled footwear, and overshoes worn over other footwear.

Production Process

17. The production process for women's boots may vary with the type and quality of footwear produced and with the size, age and type of equipment used in a plant. However, it typically consists of assembly-line operations divided into several departments including the pattern department, the cutting department, the fitting department, the lasting department and the finishing department.

18. The production process begins in the pattern department where patterns are cut for a certain style. From the different patterns, dies are made for use in the cutting department. The cutting department cuts components from leather or other materials, as well as the lining, using dies and a cutting machine. The components and pieces of lining are then bundled in multiples before they are sent to the fitting department. In the fitting department, all these different parts are stitched and assembled. This department is also

responsible for many other tasks such as perforating, pinking,³ skiving,⁴ seam rubbing and taping, cementing and folding, eyeletting, lacing, and waterproofing the seams, if applicable. Meanwhile, the outsoles, insoles, counters, box toes and other various bottom stock items are assembled. In the lasting department, the insole is attached to the bottom of a plastic form known as a “last”. The boot or upper is pulled over the last by various types of machines, which secure the upper to the insole. The sole is pressed to the roughed and cemented lasted upper. In the finishing department, the boot is cleaned, touched up and sprayed. After final inspection, the finished boot is packed for shipping.

19. There are additional methods of constructing boots, including welting, stitch-down, and vulcanization, but the cemented method described above is the most widely used, as it is a relatively inexpensive process.

Product Applications

20. Women’s leather and non-leather boots can be worn for a variety of purposes and occasions. Types of boots designed to meet these purposes and occasions include: (1) winter boots, predominantly waterproof and lined with materials designed to keep the feet warm and dry; (2) city boots, fashionable and capable of being worn all day both indoors and outdoors; (3) dress boots, trendy, highly fashionable, having higher heels and intended principally to be worn indoors to complement an outfit; and (4) other boots, such as work boots, motorcycle boots and hiking style boots.

DOMESTIC PRODUCERS

21. During the period of review, from January 1, 2001, to September 30, 2004, the following 12 firms were identified as domestic producers of women’s boots: Alfred Cloutier Ltée⁵ (Alfred Cloutier), Saint-Émile, Quebec; Chaussures Régence Inc. (Régence), Charlesbourg, Quebec; Chaussures Saute-Mouton Inc. (Saute-Mouton), Charlesbourg, Quebec; DeLuca Shoes Inc. (DeLuca), Montréal, Quebec; Pier-2 Inc. (Pier-2), Saint-Émile, Quebec; PAJAR Production Ltée (Pajar), Montréal, Quebec; Santana Inc. (Santana), Sherbrooke, Quebec; T.T. Group Limited (TT), Glencoe, Ontario; Auclair & Martineau Inc., Saint-Émile, Quebec; Boucher-Lefavre Inc., Montréal, Quebec; Maxine Footwear (Niagara Shoes), Port Colborne, Ontario; and Penshu, Montréal, Quebec.

22. The complainant in this case is SMAC. Eight of the twelve domestic producers of women’s boots are members of SMAC. These companies are: Alfred Cloutier, Régence, Saute-Mouton, DeLuca, Pier-2, Pajar, Santana, and TT.

EXPORTERS

23. The CBSA reported that, in 2004, there were several hundred firms in China that exported boots to Canada. The Tribunal’s exporters’ questionnaire was sent to 463 actual or potential exporters of women’s boots in China, but none replied. Only four exporters, all in countries other than China, provided limited information to the Tribunal.

3. Pinking is piercing, normally for decorative purposes.

4. Skiving is splitting, paring or grinding the surface of the material to be used so that, on overlaps, the material does not hurt the foot.

5. In 2003, Alfred Cloutier ceased production of women’s boots at its facility in Saint-Émile, Quebec.

IMPORTERS

24. The Tribunal's importers' questionnaire was sent to 382 actual or potential importers of women's boots. Forty-six companies replied in full or in part. Of the 46 respondents, 17 companies reported that they imported women's boots from China in 2004. Imports by these 17 companies represented 52 percent of the imports of the subject goods in that year.

25. Importers of women's boots can be classified in three broad categories: domestic producers, wholesalers/distributors and retailers. The larger importers of women's boots during the period of review include: Aldo, Browns Shoe Shops Inc., Cougar, M & M, Sears, TT, Wal-Mart, Winners Merchants International L.P., Yellow Group Inc. and Zellers Inc.

PRODUCT DISTRIBUTION AND MARKETING

Domestic Product

26. Domestic producers of women's boots sell their products either to independent commissioned sales agents or directly to national retail stores and independent specialty stores.

27. Domestic producers attend national and international footwear shows to get exposure, to promote and sell their product, and to see the new fashion trends in the industry.

Imported Product

28. Wholesalers-distributors import the goods for resale to large national mass merchandisers and retailers or independent specialty stores. A number of large retailers and mass merchandisers also import directly for resale to the consumer.

SUMMARY OF PAST PROCEEDINGS

29. Imports of women's boots from China have been subject to anti-dumping measures in Canada since May 3, 1990, when they were part of a larger body of women's footwear imported from a number of countries. A summary of the Tribunal's findings and the orders it has made since that time regarding women's boots follows.

Inquiry No. NQ-89-003

30. On May 3, 1990, the Tribunal found: (1) that the dumping of women's leather boots originating in or exported from Brazil, Poland, Romania and Yugoslavia and of women's leather and non-leather boots originating in or exported from China and Taiwan,⁶ and the subsidizing of women's leather boots from Brazil caused, were causing and were likely to cause material injury to the production in Canada of like goods; and (2) that the dumping of women's leather shoes originating in or exported from Brazil and of women's leather and non-leather shoes originating in or exported from China and Taiwan, and the subsidizing of women's leather shoes from Brazil caused, were causing and were likely to cause material injury to the production in Canada of like goods.

6. Now referred to as Chinese Taipei.

Review No. RR-94-003

31. On May 2, 1995, the Tribunal continued its findings in respect of the dumping in Canada of women's leather and non-leather boots originating in or exported from China. The Tribunal rescinded its findings in respect of the dumping of women's leather boots from Brazil, Poland, Romania and the former Yugoslavia; the dumping of women's leather and non-leather boots from Taiwan; and the subsidizing of women's leather boots from Brazil.⁷

32. In addition, the Tribunal continued its findings in respect of the dumping in Canada of women's leather and non-leather shoes originating in or exported from China. The Tribunal rescinded its findings in respect of the dumping of women's leather shoes from Brazil; the dumping of women's leather and non-leather shoes from Taiwan; and the subsidizing of women's leather shoes from Brazil.⁸

33. The Tribunal excluded a number of products from its order concerning women's shoes from China on the basis that imports of these products did not compete with domestic production of women's shoes.

Review No. RR-99-003

34. On May 1, 2000, the Tribunal continued its order made on May 2, 1995, in Review No. RR-94-003, in respect of the dumping in Canada of women's leather and non-leather boots originating in or exported from China and made an amendment to rescind the portion of the order respecting women's leather and non-leather shoes⁹ originating in or exported from China.

POSITIONS OF THE PARTIES¹⁰**Position of the Participating Domestic Producers**

35. The participating domestic producers argued that the expiry of the order is likely to result in injury and that the order should therefore be continued.

36. The participating domestic producers submitted that, given the increase in the volume of subject imports during the period of review and the available capacity in China, the volume of subject imports is likely to increase significantly upon expiry of the order.

37. With respect to the likely prices of the subject goods and their effect on the prices of like goods, the participating domestic producers argued that, in a market with flat to declining prices, domestic producers have been unable to recover increased costs of materials, labour and overhead.

38. In addressing the likely performance of the domestic industry, taking into account its recent performance, the participating domestic producers submitted that it is in a critically vulnerable position in terms of production, capacity utilization, employment levels, prices, sales, market share, exports and profits.

7. The Tribunal found no likelihood of resumed dumping of imports from Brazil, Poland, Romania, Taiwan and the former Yugoslavia. It also found no likelihood of material injury to domestic production from the subsidizing in Brazil.

8. The Tribunal found no likelihood of resumed dumping of imports from Taiwan and Brazil. It also found no likelihood of material injury to domestic production from the subsidizing in Brazil.

9. SMAC informed the Tribunal that it would not be making any allegations of injury with respect to the importation of women's shoes from China.

10. This section outlines a number of key submissions made by parties. It is not intended to be exhaustive.

39. The participating domestic producers argued that the likely impact on the domestic industry, if the order were allowed to expire, could be approximated by the history of the domestic industry's performance during the period of review. While anti-dumping duties amounting to 29 percent of the export price of the subject goods were collected during that period, the participating domestic producers submitted that the prices of the subject goods do not appear to have been affected by those duties. Importers were able to use various approaches to absorb the cost of the anti-dumping duties and still increase sales of the subject goods at the expense of the domestic industry. With respect to the winter boot segment of the market, the participating domestic producers submitted that the subject goods competed strictly on price. They further submitted that, with respect to the dress boot or higher fashion segment of the market, the dumping of the subject goods permitted a greater variety of styles without the price increases that such variety would otherwise require. Dumping also enabled boots of more complex construction to be sold in Canada at a price that competed with boots of much simpler construction.

40. The participating domestic producers submitted that the expiry of the order and the consequent elimination of anti-dumping duties would translate into lower prices for the subject goods as a result of the competition among importers and among retailers. This would in turn exert downward pressure on the price of like goods and cause declines in the domestic industry's sales, market share, capacity utilization and profits.

41. The participating domestic producers also argued that the existence of trade remedy measures taken against Chinese footwear in other jurisdictions provides probative evidence that injury from the dumped subject goods will resume if the order expires.

42. With respect to their experience in the U.S. market, the participating domestic producers submitted that the volume of their exports of lower-priced women's boots has decreased. Thus, while the average unit price has increased, the total volume and value of sales have decreased.

Positions of Importers and Others

CAIE

43. The CAIE submitted that the expiry of the order was not likely to result in injury to the domestic industry and that, consequently, the order should be rescinded.

44. With respect to the likely volume of imports of the subject goods upon expiry of the order, the CAIE argued that there was no reason for the prices of the subject goods to drop and that, as a result, there would be no reason for the volume of the subject goods to increase. In this respect, the CAIE further submitted that Canada, which requires relatively small production runs, is an increasingly unattractive market for Chinese producers. The demand for Chinese footwear has exploded in large markets around the world, notably in the European Union, where quotas against Chinese footwear were eliminated January 1, 2005. The CAIE also commented on various supply constraints in China, such as weekly electrical brown-outs, shortages of appropriately skilled labour and shipping issues.

45. With respect to the likely prices of the subject imports if the order were allowed to expire and to the effect on the prices of like goods, the CAIE argued that, even if the prices of the subject goods fell, this would not undercut, depress or suppress the prices of like goods because the subject goods do not compete with like goods. The CAIE submitted that the subject goods and domestically produced like goods target different product markets. According to the CAIE, the likelihood that there would not be any price effect from the expiry of the order is borne out by the experience in the United States. There, imports from China

have not undercut, depressed or suppressed the prices of imports from Canada in the absence of anti-dumping duties against imports of women's boots from China.

46. The CAIE argued that the performance of the domestic industry would not be adversely affected by the expiry of the order because the domestic industry's core products, functional, "warm-lined" waterproof boots, do not compete with the subject goods. As a consequence, continuing the order would not significantly benefit the industry.

47. With respect to the imposition of anti-dumping and countervailing measures by authorities in countries other than Canada, the CAIE noted that no G8 country imposes anti-dumping measures against women's boots from China. The findings that are in place around the world on Chinese footwear are not specific to women's boots, but cover broad ranges of footwear. According to the CAIE, this calls into question the relevance of those findings for the purpose of this expiry review.

48. The CAIE argued that the continuation of the order and the collection of anti-dumping duties at the current rate of 72.1 percent on the subject goods would not result in retailers stocking or consumers buying domestically produced goods. Retailers would instead stop buying the subject goods and source their imports of low-end footwear from other low-cost producing countries or possibly leave gaps in their product mix.

49. The CAIE argued that the greatest competitive threat faced by the domestic industry is the competition among Canadian boot manufacturers themselves.

Aldo

50. Aldo submitted that the expiry of the order was not likely to result in injury to the domestic industry and that the order should be rescinded.

51. Aldo argued that the women's boots produced by the Canadian industry are not like goods to the women's fashion boots imported from China.

52. With respect to the likely volume of the subject goods upon expiry of the order, Aldo argued that there could be an increase in the volume of women's fashion boots imported from China, but that it would not be significant because there were no U.S. anti-dumping measures against imports of women's boots from China and, in the European Union, quotas against Chinese footwear had recently been removed.

53. With respect to the likely prices of the subject goods if the order were allowed to expire, Aldo argued that prices will likely remain unchanged at both the wholesale and retail levels.

ANALYSIS

54. Following the CBSA's determination that the expiry of the order in respect of the subject goods is likely to result in the continuation or resumption of dumping, the Tribunal is required, pursuant to subsection 76.03(10) of *SIMA*, to determine whether the expiry of the order is likely to result in injury or retardation, as the case may be, to the domestic industry. Given that there is currently an established domestic industry, the issue of whether the expiry of the order is likely to result in retardation does not arise in this expiry review.¹¹ Therefore, the Tribunal is required, pursuant to subsection 76.03(12), to make an

11. Subsection 2(1) of *SIMA* defines retardation as the material retardation of the establishment of a domestic industry.

order either rescinding the order, if it determines that the expiry of the order is unlikely to result in injury, or continuing the order, with or without amendment, if it determines that the expiry of the order is likely to result in injury.

Classes of Goods and Like Goods

55. Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as goods that are identical in all respects to the other goods, or, in the absence of any such goods, goods the uses and other characteristics of which closely resemble those of the other goods.

56. In considering the issue of like goods, the Tribunal typically looks at a number of factors, including the physical characteristics of the goods, their method of manufacture, their market characteristics and whether the domestic goods fulfil the same customer needs as the subject goods.

57. As indicated above, footwear covering the ankle is considered a boot for the purpose of this expiry review. Subject to certain exceptions outlined earlier, the women’s footwear imported from China that corresponds to this definition is subject to the expiry review.

58. When goods subject to an inquiry or an expiry review are not like goods in relation to one another, separate classes of goods are established. Although the subject goods, as noted earlier, include a wide variety of goods aimed at different segments of the women’s boot market, the Tribunal does not find that their characteristics are sufficiently different to justify the creation of separate classes of goods.

59. With respect to the issue of which domestically produced goods are like goods in relation to the subject goods, the Tribunal finds that the women’s boots produced in Canada that correspond to the definition of the subject goods are like goods to the subject goods.

Domestic Industry

60. Having decided which are the like goods in this expiry review, the Tribunal must now consider which producers constitute the domestic industry. Subsection 2(1) of *SIMA* defines “domestic industry”, in part, as follows: “the domestic producers as a whole of the like goods or those domestic producers whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods”.

61. The domestic producers that participated in this expiry review, taken together, represented more than 80 percent of the total domestic production of the like goods.¹² Therefore, the Tribunal finds that, for the purposes of this expiry review, these domestic producers constitute the domestic industry.

Likelihood of Injury

62. Subsection 37.2(2) of the *Special Import Measures Regulations*¹³ lists the factors that the Tribunal may consider in addressing the question of likelihood of injury in cases where the CBSA has determined that there is a likelihood of continued or resumed dumping if the finding or order is allowed to expire.

12. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 21, 22.

13. S.O.R./84-927 [*Regulations*].

63. In making its assessment of the likelihood of injury, the Tribunal has consistently taken the view that the focus must be on circumstances that can reasonably be expected to exist in the near to medium term, generally 18 to 24 months, as opposed to more remote circumstances.¹⁴

64. The Tribunal has also taken into account the evidence that shows the segmentation of the Canadian women's boot market into the following four segments: (1) winter boots; (2) city boots; (3) dress boots; and (4) other boots.

65. The factors that the Tribunal considered important to its analysis of injury in this case are: the likely volume of dumped imports; the likely prices of dumped imports and their effect on the prices of like goods; the likely performance of the domestic industry; the likely performance of the women's boot industry in China; the likely impact of dumped goods on the domestic industry; changes in domestic and international market conditions; the imposition of anti-dumping measures by authorities of foreign countries; and other factors.

Likely Volume of Dumped Imports

66. The evidence on the record shows that the volume of imports of the subject goods continuously trended upwards throughout the period of review in both absolute numbers and market share.¹⁵ Imports of women's boots from China increased, notwithstanding the CBSA's ministerial specification that levied a 29 percent anti-dumping duty throughout the period of review. It is clear from the evidence and testimony that importers of the subject goods were able to accommodate the 29 percent anti-dumping duty in their pricing strategies.

67. On January 31, 2005, the CBSA concluded a review of the normal values and export prices of women's leather and non-leather boots originating in or exported from China. The review was part of the CBSA's enforcement of the Tribunal's order of May 1, 2000. During the review, no exporter provided a complete response to the CBSA's questionnaire. Therefore, the CBSA decided that normal values for all exporters would be determined in accordance with a ministerial specification. Effective January 31, 2005, according to the new ministerial specification, where exporters have not provided sufficient information, an anti-dumping duty equal to 72.1 percent of the export price is applied to imports of the subject goods.

68. The Tribunal notes that there is little, if any, evidence on the record of importations that were subject to the new 72.1 percent anti-dumping duty rate.¹⁶ However, calculations based on average prices during the period of review show that the new anti-dumping duty rate would result in average Chinese prices being higher than those of some competitors in other low-cost exporting countries.

69. Import data on the record cover the period of review from January 1, 2001, to September 30, 2004. The Tribunal has no reason to believe that, if the anti-dumping duty rate of 29 percent had remained in place beyond January 31, 2005, the upward trend in the volume of imports evidenced during the period of review would not have continued beyond the period of review. However, given the new anti-dumping duty of 72.1 percent, the Tribunal believes that the volume of imports of the subject goods would likely diminish markedly if the Tribunal's order were continued. Importers testified that if the order were continued, they

14. *Preformed Fibreglass Pipe Insulation* (17 November 2003), RR-2002-005 (CITT) at 11; *Certain Prepared Baby Foods* (28 April 2003), RR-2002-002 (CITT) at 8.

15. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-05A, Administrative Record, Vol. 1A at 167, 172.

16. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 401, 402, 405.

would stop purchasing the subject goods and would source their requirement for rapidly changing styles of city and dress boots from other countries that can supply them.¹⁷

70. On the other hand, the Tribunal is of the view that the volume of imports of the subject goods is likely to climb if the anti-dumping duty is removed. The Tribunal notes that even a domestic producer¹⁸ testified that it is awaiting the outcome of this expiry review and that, if the Tribunal rescinds the order, it will likely import women's boots from China instead of importing from its current source, Vietnam.

71. The Tribunal heard testimony from a number of witnesses who indicated that Chinese producers focus on the segment of the women's boot market where they have a competitive advantage, that is, stylish, fashionable, non-waterproof, non warm-lined city and dress boots. Chinese producers can take advantage of the higher cost ratio of labour to material for these types of boots. Witnesses for both the domestic producers and the importers confirmed that the opposite is true for Canadian producers. In Canada, producers have a comparative advantage when the cost ratio of input materials, such as warm linings, top quality leathers and waterproofing, to labour is higher.¹⁹ This explains why the higher volumes of imports from China are fashionable city and dress boots, whereas domestic producers for the most part concentrate their efforts on the warm-lined, waterproof, winter boots.

72. The Tribunal observes that the majority of the volume of imports of the subject goods over the period of review was in the lower price range of the women's boot market, at average unit wholesale prices below \$30. This is a portion of the market where the domestic producers did not participate to any significant degree during the entire period of review and where the competition is almost entirely among imports.²⁰

73. The evidence also shows that there are high-priced, high-fashion dress boots being imported into Canada from China. Companies such as Sherson, Stage4 and Town Shoes import high-quality, high-fashion dress boots, which are typically made for the market in branded and licensed footwear, such as Nine West, Franco Sartos and Anne Klein. Testimony indicated that branded and licensed products command a premium in the Canadian market. Retailers that carry branded and licensed products testified that domestic producers cannot deliver the required high-fashion styling. Based on the evidence and the numerous physical exhibits on the record, the Tribunal accepts the argument that, in general, the domestic producers do not produce the trendy, high-fashion dress boots that the branded and licensed footwear market demands. The Tribunal observed that the evidence on the record does not demonstrate that these high-end imports compete, to any significant degree, with Canadian-produced women's boots.

74. The evidence on the record does not indicate that producers of women's boots in China have penetrated, to any significant degree, the traditional winter boot market in Canada,²¹ the segment that is currently dominated by Canadian producers. In fact, the Tribunal heard testimony that China lacks the appropriate tooling and larger lasts that are required to produce warm-lined winter boots. Further, the recent removal of import quotas on footwear from China by the European Union has resulted in an enormous and escalating demand there for footwear produced in China. The Tribunal heard testimony that this new and

17. *Ibid.* at 380, 381; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 660-61.

18. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 158, 159.

19. *Ibid.* at 77, 78, 249-51; *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 377, 378.

20. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-05A, Administrative Record, Vol. 1A at 184; *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 238.

21. *Transcript of In Camera Hearing*, Vol. 2, 9 March 2005, at 187-90; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 633-35.

increasing demand is putting supply pressures on Chinese producers.²² As a result, the Tribunal is convinced that it is unlikely that China will participate to any significant degree in the winter boot market in the near to medium term. This would appear to be especially true for the segment of the market that is most important to the domestic industry, that is, the high-cost, high-priced, waterproof, warm-lined, leather winter boot segment.

75. While the Tribunal expects that, if the order expires, the imports from China of city and dress boots will likely increase in response to market demand, it sees these as largely displacing current imports from non-subject exporting countries. It does not see major volumes of imports of winter boots, the segment where Canadian producers have concentrated their production, that will challenge domestic offerings within the foreseeable future. In this regard, the Tribunal is convinced that much of the import activity that would likely take place if the order were rescinded would be in the low price range of the women's boot market, which is principally made up of non-winter boots.

76. Evidence on the record indicates that the volume of imports of other boots, such as hiking style boots and snowboard style boots, has increased in recent years. In this connection, the Tribunal is of the view that the evidence and testimony²³ do not indicate that hiking style boots, such as those imported from China by Cougar, compete to any significant degree with domestically produced women's boots. In terms of future trends in the Canadian market, witnesses indicated that imports of hiking style boots in Canada are expected to decrease for the 2005 and 2006 fall seasons, as the fashion is moving away from this hiking style look and moving toward the "aboriginal-type" mukluk boot.²⁴

77. With respect to the snowboard style boots, the witness from Cougar noted that this type of boot is not made in Canada. Canadian boots tend to have simple designs with few pieces, have high material content and low labour content. On the other hand, the snowboard style boot that Cougar imports is more complicated, with a combination of several types and pieces of material.²⁵ In response to questions about the production of snowboard style boots, domestic producers clearly stated that they do not produce these boots and have no intention of producing this style of boot in the future.²⁶ The evidence on the record does not indicate that snowboard style boots compete with domestically produced women's boots.

Likely Prices of Dumped Imports and their Effect on the Prices of Like Goods

78. The Tribunal first notes that the majority of imports of the subject goods over the entire period of review were concentrated in the lower price points of the women's boot market, at average unit wholesale prices below \$30. Imports of the subject goods were consistently at average prices that were lower than domestic average prices and remained at the low end of the average market prices. The average unit import price for subject women's boots trended upward slightly during the period of review. This rising trend of Chinese average prices²⁷ was explained and confirmed by a number of witnesses who testified at the hearing. Witnesses from Aldo, Sherson, and Town Shoes and The Shoe Company²⁸ each confirmed that the

22. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 384, 412, 413; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 479-81.

23. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 421; *Transcript of In Camera Hearing*, Vol. 2, 9 March 2005, at 168-69.

24. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 441, 442; *Transcript of In Camera Hearing*, Vol. 2, 9 March 2005, at 184-85; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 571, 572.

25. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 377, 378.

26. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 119.

27. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-05A, Administrative Record, Vol. 1A at 169, 175.

28. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 484-86, 531-36, 605.

higher Chinese unit prices are explained by the changing fashion trend away from ankle-length “booties” to high-shaft and three-quarter length boots, which require more material and therefore cost more to produce. Evidence also showed that raw materials purchased on the world market and other input costs have increased, resulting in general price increases for women’s boots.²⁹

79. In the Tribunal’s view, Chinese prices may continue to trend upward as long as high-shaft city and dress boots are in vogue. If and when the fashion trend shifts to lower-shaft boots that require less material, it is likely that prices will decline. However, as this occurs, the Tribunal anticipates that such price movement would not be restricted to boots from China, but rather market prices of these products from all sources would move in a similar direction. The Tribunal is of the view that the price movement would be concentrated among imports, which account for most of these types of boots in the Canadian market, with limited influence on the movement in the prices of the winter boot segment on which the domestic industry concentrates. The Tribunal also notes that the entire women’s boot market, including that of winter boots, would be subject to fluctuations in the cost of inputs.

80. Importers testifying before the Tribunal indicated that if the anti-dumping duty were eliminated, they would not lower prices to their customers, but would maintain the same price points. Some submitted that, for branded products, the Canadian market does not now permit importers/licenseses to earn their benchmark margins and that the removal of anti-dumping duty would simply allow importers to meet their target margins rather than reduce prices to retailers or consumers.³⁰ Also, in regard to branded products, witnesses from Sherson and Wolverine stated that, in order to retain the integrity of their brands, they would not lower their prices.³¹ Still, the Tribunal recognizes that if importers are motivated to increase market share, prices may drop with the removal of the anti-dumping duty.

81. Basing its conclusion on the evidence and testimony, the Tribunal is convinced that, because of the range of price points demanded by retailers and consumers³² and the product mix in the market, any change in the price of imports from China will have a far greater competitive impact on low-priced imports from non-subject countries than on domestic products. The evidence indicates that imports from China at the low price end of the market do not compete, to any significant degree, with Canadian-made boots. That is, the domestic producers specialize in warm-lined, waterproof, winter boots over \$30 per unit wholesale,³³ whereas the majority of imports from China are non-winter boots with a wholesale price of less than \$30.

82. With respect to the higher-priced, branded, dress boots imported under licence from China, evidence also indicates that they do not compete with Canadian-made women’s boots. Therefore, their prices will not influence the pricing of domestically produced women’s boots.

83. Given the demonstrated lack of toe-to-toe competition between imports of boots from China and the winter boot segment of the market focused on by domestic producers, the Tribunal is of the view that increased imports are not likely to undercut domestic prices, cause price depression or cause price suppression to the vast majority of domestically produced women’s boots.

29. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 405, 406, 438, 439; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 694; *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 838.

30. *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 751, 772, 773.

31. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 481, 482; *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 713.

32. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 369-71, 376, 377, 397, 398, 401; *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 842-44, 908.

33. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-05A, Administrative Record, Vol. 1A at 184; *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 333-36.

Likely Performance of the Domestic Industry

84. Only 5 of the 12 identified domestic producers of women's boots provided the Tribunal with financial data for the years 2001 to 2003. The Tribunal observes that, over the period of review, sales volumes, sales values, gross margins and net incomes reported by these companies declined for both domestic and export sales.³⁴ Other injury indicators, such as capacity utilization, employment and investments made by domestic producers, also declined.³⁵ Nevertheless, one company did acknowledge that it had a good year in 2004.³⁶

85. SMAC submitted that, since 2002, six companies that produced women's boots shut down production in Canada: The Brown Shoe Company, Grenico, Barbo (a Division of Alfred Cloutier), SM Footwear, Perfect Footwear and H.H. Brown Ltd.³⁷ Generally, the evidence presented to explain why these plants closed did not point to imports from China.³⁸ For example, the Brown Shoe Company closed because of decisions made by its U.S. parent, even though the company was profitable. The witness from Pier 2 acknowledged that its plant in Québec closed principally because of other factors.³⁹ Moreover, this plant produced primarily men's boots.

86. Given the reduced activity in boot making in Canada, there is now less support in terms of input suppliers and machinery mechanics for the manufacturing industry that remains in operation in Canada. Domestic producers testified that most of their input material must be imported.⁴⁰ One domestic manufacturer indicated that planning production was difficult, as it had to gamble on numbers when ordering supplies.⁴¹

87. The evidence on the record shows that some effort has been made by domestic producers to raise the quality of domestically produced women's boots and to increase efficiencies and competitiveness. For example, one Canadian producer reported a recent investment in specialized equipment, which has resulted in the ability to do smaller runs more efficiently and cost effectively.

88. The Tribunal observes that the domestic industry has been slow to take the lead in creating a demand for its products and in adjusting its practices to the requirements of today's market. For example, the evidence before the Tribunal suggests that it was only recently that domestic producers started to promote themselves actively to potential customers rather than waiting for customers to show an interest in them. Past practice seems to have been limited to attending annual trade shows in places such as Las Vegas and Toronto. Direct advertising by the domestic industry, as a whole, was limited during the period of review. The Tribunal is of the view that, if domestic producers were to increase their marketing and direct sales efforts, they could see improvements in their performance. This is demonstrated by the recent experience of Penshu.⁴²

89. Evidence suggests that advertising by retailers can also be a powerful tool to increase sales. The witness from Sears described the importance of that company's catalogue business and how advertising on

34. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-06A, Administrative Record, Vol. 2A at 188-89.

35. *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-05A, Administrative Record, Vol. 1A at 192, 195, 199, 200.

36. *Transcript of In Camera Hearing*, Vol. 1, 8 March 2005, at 131, 132.

37. Producer's Exhibit A-01, para. 8, Administrative Record, Vol. 11.

38. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 336-37.

39. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 123, 124.

40. *Ibid.* at 230; *Transcript of In Camera Hearing*, Vol. 1, 8 March 2005, at 14, 42, 43, 76, 109, 110.

41. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 230, 231.

42. *Ibid.* at 25; *Transcript of In Camera Hearing*, Vol. 1, 8 March 2005, at 128, 129, 131, 132.

its front page, for example, can have a significant impact on the volume of sales of goods presented there. This kind of advertising and exposure can work either for or against domestic producers, depending on whether the retailer chooses to feature domestic or imported product.⁴³

90. In the city and dress boot segments of the market, the domestic industry does not appear to offer what the market demands.⁴⁴ The annual product development cycle of domestic producers is seen by retailers as being too slow for the fast-moving fashion segment of the business, where trends and tastes change several times per year. There is recognition that “newness” is very important and that the number one priority for a retailer is to “wow the customer”. These market demands for the city and dress boot segments are of a higher priority than factors such as comfort and price.⁴⁵ As a result, the fashion-conscious retailers are pressuring suppliers to help them cut down inventory costs and increase the speed of delivering the newest fashion city and dress boots to the market.⁴⁶

91. While Chinese producers offer quick turnaround of new and trendy designs, Canadian producers generally have an annual or semi-annual product development cycle. Many domestic producers develop a new product line offering only once a year. In this annual offering, the Tribunal heard, many of the models are “classic” designs that are repeated year after year.⁴⁷ However, there was testimony that indicated that the proportion of classic styles to new styles had been dropping.⁴⁸

92. The average cost of producing women’s boots in Canada is over \$40 per pair.⁴⁹ This relatively high average cost, when set in the context of the pressure of meeting certain price points demanded by retailers and their customers, has forced domestic producers to find non-price solutions to remain competitive. In this case, the evidence suggests that, over the period of review, a large majority of the production of women’s boots by domestic producers is for the specific market niche of quality, waterproof, warm-lined, leather winter boots.⁵⁰ By every indication, domestic producers plan to continue to focus on this market niche in the future. The balance of domestic production focuses on waterproof, warm-lined, non-leather boots, but at lower price points.⁵¹ In this regard, the Tribunal heard testimony from retailers that they will continue to source domestic product to satisfy the market demand for warm-lined winter boots and that this type of boot will continue to be in demand. The domestic producers have, by and large, maintained their hold on the winter boot segment of the market and, with some additional marketing efforts, their financial and market position could even improve.

43. *Transcript of In Camera Hearing*, Vol. 3, 10 March 2005, at 312, 313.

44. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 506, 581, 582, 658; *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 781, 851, 852.

45. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 215, 225, 226; *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 427.

46. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 575, 576.

47. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 81, 82.

48. *Ibid.* at 215.

49. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-06A, Administrative Record, Vol. 2A at 188; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 685-88.

50. *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-06A, Administrative Record, Vol. 2A at 218, 219; *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 22, 112, 120, 121, 249-51.

51. All of the women’s boots produced by TT are lined with an insulating membrane. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 65.

Likely Performance of the Women's Boot Industry in China

93. China is the largest producer of footwear in the world, according to a report published by the Shoe and Allied Trade Research Association (SATRA).⁵² In 2002, China's share of world production grew to account for close to 56 percent of total world production, compared with 11 percent two decades ago. The data confirm that China is clearly export-oriented with about 60 percent of its production destined for export markets in 2002.

94. The Tribunal heard testimony that there are major districts devoted to footwear manufacture in China. In addition to its vast boot-making capacity, China has an extensive range of upstream support industries that produce readily available inputs for the boot-making industry. However, notwithstanding China's huge manufacturing capacity, the design and marketing functions are highly dependent on the expertise of companies in other countries, most notably Italy, other European countries and the United States.

95. Given that the European Union recently removed quotas on imports of footwear from China, the consequent sudden increase in demand for Chinese product has resulted in certain difficulties for Chinese producers. The Tribunal heard testimony that producers in China are currently facing constraints, such as labour shortages, electrical shortages and transportation difficulties.⁵³

96. In the Tribunal's view, the increasing European demand for output by Chinese footwear manufacturing facilities will further strengthen Chinese manufacture of the full range of footwear, including women's boots. However, European competition for Chinese factory time combined with internal constraints facing Chinese producers will place strains on production, exports and ultimately the availability of products for the Canadian market. In this regard, one witness indicated that the small runs for the Canadian market in general were not attractive to Chinese manufacturers.⁵⁴

97. As previously noted, the record does not indicate that producers of women's boots in China have penetrated, to any significant degree, the traditional winter boot market in Canada, nor have they shown the interest in doing so. The Tribunal is of the view that it is unlikely, given the current market conditions in China, that the Chinese producers will re-tool and obtain the larger lasts necessary to produce warm-lined, waterproof winter boots to serve the comparatively small Canadian market in the near to medium term.

Likely Impact of Dumped Goods on the Domestic Industry

98. In considering the likely impact of dumped goods on the domestic industry, the Tribunal took into account relevant economic factors, including any potential decline in output, sales, market share, profits, productivity, return on investments and utilization of production capacity, and any potential negative effects on cash flow, inventories, employment, wages, growth or the ability to raise capital.

99. The macro statistics for the market for women's boots in Canada might seem to support a finding of likelihood of injury as a result of a strong and growing presence of the subject goods in the Canadian market and the negative financial position of the domestic industry. However, evidence suggests that examining the market as an undifferentiated whole for purposes of impact analysis would be misguided. The Tribunal is strongly persuaded by the facts and testimony that one must look beyond the macro data.

52. SATRA Technology Centre is an international organization that serves a range of consumer goods industries.

53. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 479, 480.

54. *Ibid.* at 634, 635.

100. Testimony clearly indicates that, for strategic reasons, the domestic industry has chosen to specialize in the winter boot segment of the market, with an emphasis on leather, waterproof, warm-lined boots, while the evidence suggests that the subject goods are heavily concentrated in the non-winter segments, such as city and dress boots. Domestic producers were generally unable to establish that there existed toe-to-toe competition between domestically produced boots and the subject goods.⁵⁵

101. It is clear to the Tribunal that, despite large increases in the volume of imports of the subject goods, the significant portion of those imports that falls below an average wholesale price of \$30 did not, to any major degree, affect domestic producers during the period of review and will not do so in the foreseeable future. With respect to higher-priced city and dress boots from China, the Tribunal notes that, given the lack of competition between them and the domestically produced women's boots, they are not likely to have a significant impact on domestic producers of women's boots. Therefore, the impact of the subject imports on the winter boot segment of the market generally served by domestic producers is unlikely to be significant whether the volume of imports from China rises or falls.

102. Domestic producers presented various allegations of sales lost to imports of the subject goods. However, the Tribunal notes that the volume of domestic sales that has clearly been identified as being lost to imports from China was very limited. Most of the allegations of lost sales were vague. In response to questions, producers could not definitively say that a specific sale was lost to imports from China due to price competition. Domestic producers failed to make specific links between their reported losses and imports from China.⁵⁶ For example, Pier 2 reported that it lost a large volume of sales at a major account, but could not identify the source of imports to which its sales were lost.⁵⁷ As well, TT reported that it had lost sales, but to another Canadian producer.⁵⁸

103. In the Tribunal's view, the domestic industry's difficulty in demonstrating the impact of imports from China on it reflects in part the shifts and changes that had already taken place in the Canadian market prior to the period of review. SMAC submitted that it had counselled⁵⁹ its members to turn to boot making as a survival strategy, given that the cost ratio of material to labour required for boots is higher than that required for shoes. This appears to have been taken one step further by domestic manufacturers, in that there is now a relatively high degree of specialization in the winter boot manufacture in Canada. As a result, the Tribunal observes that the domestic producers' most important segment, winter boots, is largely without competition from the subject goods.

104. As noted, arguments put forward by the domestic industry did not establish significant competition between domestically produced women's boots and the subject goods. The evidence clearly shows that the domestic industry places an emphasis on the production of warm-lined, waterproof boots. In fact, the great majority of the production of women's boots by the domestic industry for the Canadian market is made up of warm-lined, waterproof boots.⁶⁰ This overall industry emphasis indicates that, in general, domestic producers have not had, do not have and do not expect to have any significant interest in producing dress or city boots.

55. *Transcript of Public Hearing*, Vol. 4, 10 March 2005, at 854; *Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-5A, Administrative Record, Vol. 1A at 184.

56. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 31, 101.

57. *Ibid.* at 186.

58. *Ibid.* at 33, 34.

59. *Ibid.* at 249-51.

60. *Ibid.* at 22, 23, 59, 65, 66, 86, 112, 121, 207, 208; *Protected Pre-hearing Staff Report*, Tribunal Exhibit RR-2004-002-06A, Administrative Record, Vol. 2A at 165, 180; Producer's Exhibit A-18, para. 6, Administrative Record, Vol. 11.

105. Arguments were made by both sides asserting that the situation in the United States illustrated what would happen in Canada if the order were rescinded. On the one hand, domestic producers argued that their volume of export sales to the United States decreased over the period of review as a result of increased competition of low-priced imports from China. On the other hand, the CAIE argued that the average unit price of Canadian-made women's boots in the United States has increased, showing the ability of Canadian producers to compete in the U.S. market where imports from China are not subject to anti-dumping duties. The limited evidence with respect to other relevant market conditions or trends in the United States does not permit the Tribunal to draw any useful inferences for the Canadian market from the situation in that market.

106. In summary, based on the above, the Tribunal is of the view that the expiry of the order is not likely to have a significant impact on domestic producers with respect to the factors listed in paragraph 37.2(2)(e) of the *Regulations*.

Changes in Domestic and International Market Conditions

107. Since the last expiry review, changes have taken place in both the domestic and international markets for footwear and women's boots in particular.

108. As previously noted, several Canadian plants that produced women's boots have closed. It has clearly become more difficult for domestic producers of women's boots to get the local input supplies and technical support that they once had. The Tribunal heard that upstream input industries are all but gone and that very few raw material input components are still produced in Canada. In addition, the availability of experienced workers to repair and service production machinery is limited and expensive.⁶¹ The Tribunal notes that these changes add to the difficulties facing domestic producers of women's boots in Canada.

109. The fashion trends in the market are changing ever more rapidly. As a result, there is an escalating requirement for producers of women's boots to follow these trends and deliver new product to the market quickly throughout the year. Evidence suggests that these increasing demands have reduced the ability of domestic producers to rely on their "classic" boot models or on an annual or semi-annual cycle of product development.⁶²

110. Major retailers testified that the turnaround time taken by domestic producers to produce and ship products following receipt of an order for a new style of boot is significantly longer than that provided by Chinese plants. The rapidly changing designs of city and dress boots, in particular, result in rapid changes in the needs and demands of customers. The Chinese producers are reportedly able to ship throughout the year and within three to five weeks of receiving an order for a new style. The witness from Aldo described that company's "fridge" concept.⁶³ The fridge is the basket of all the evolving styles, which Aldo has already designed and which are ready to be put into production for delivery to their stores throughout the year. It is clear to the Tribunal that Aldo sourced these new, trendy, city and dress boots from China because similar boots, in similar volumes, were not available under the same quick turnaround conditions from domestic producers throughout the year.

111. Finally, the Tribunal heard about the dramatic change that has occurred in the international market. Specifically, import quotas in the European Union on Chinese footwear were dropped at the beginning

61. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 403; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 683, 684.

62. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 215.

63. *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 566, 567, 652.

of 2005. The Tribunal heard testimony that, as a result, European designers and importers are now competing for Chinese plant capacity. Accordingly, Chinese plants are under pressure to supply the European Union with all types of footwear. The Tribunal is of the view that Chinese plants are likely to pay attention to the new and increasing European demand before incurring additional investment costs to retool and adjust their manufacturing capabilities to serve the smaller Canadian winter boot market.⁶⁴

Imposition of Anti-dumping Measures by Authorities of Foreign Countries

112. SMAC argued that the existence of trade remedy measures taken against Chinese footwear in other jurisdictions provides evidence that injury from the subject goods will resume if the order is rescinded.

113. The Tribunal notes that the findings that are in place around the world on Chinese footwear cover broad ranges of footwear. Further, the Tribunal does not know the nature of the competition between the goods that are the subject of these anti-dumping measures and the goods produced in those countries where the measures are applied. Therefore, the Tribunal is not convinced that the existence of these anti-dumping measures is relevant to this expiry review.

Other Factors

114. The Tribunal considers that there are several factors, other than the presence of the subject imports in the domestic market, that may affect the domestic industry now and in the near to medium term.

115. Certain retailers and importers testified that domestic producers do not market their products effectively. Specifically, witnesses testified that domestic producers seldom call on potential or current customers to promote new lines⁶⁵. In this regard, the witness from Santana acknowledged that his company had poor sales representation in Quebec.⁶⁶ However, the Tribunal does note the efforts of Penshu to market its “La Canadienne” line.

116. Further, there is little evidence of strategic and long-term planning carried out by domestic producers. In this regard, the investments made by most of the domestic producers appear to be minimal and not strategic, although there are exceptions, where, for example, at least one producer has made recent investments to permit smaller production runs for independent stores, which previously would have been uneconomical.

117. The Tribunal observes that the change in fashion trends has had a direct impact on Canadian producers. The shift by consumers to more fashionable boots has accounted for some reduction in sales for domestic producers.⁶⁷ Retailers argued that the domestic producers fail to produce new designs that keep pace with the year-round demand for rapid design changes in the city and dress boot segments of the women’s boot market. In the winter boot segment, on the other hand, features such as quality, warmth and waterproofing are more important than new and trendy styling.

118. Finally, the strengthening of the Canadian dollar against the U.S. dollar during the period of review has also affected Canadian producers in two ways. First, evidence indicated that many of the inputs used by

64. *Transcript of Public Hearing*, Vol. 2, 8 March 2005, at 384; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 479, 634, 635; *Transcript of In Camera Hearing*, Vol. 2, 9 March 2005, at 187-90.

65. *Transcript of In Camera Hearing*, Vol. 2, 9 March 2005, at 136; *Transcript of Public Hearing*, Vol. 3, 9 March 2005, at 545-47, 596, 597.

66. *Transcript of Public Hearing*, Vol. 1, 7 March 2005, at 243, 244.

67. *Transcript of In Camera Hearing*, Vol. 3, 10 March 2005, at 255-57.

domestic boot manufacturers are now imported. Therefore, when these inputs were priced in U.S. dollars, they became less expensive during the period of review. Second, domestic producers' exports of women's boots to the United States have been affected negatively. Canadian product has become more expensive in the U.S. market as a result of the stronger Canadian dollar. In this regard, the Tribunal notes that witnesses from Canadian producers testified that they had only recently applied certain strategies to reduce their exposure to exchange rate fluctuations.

REQUESTS FOR PRODUCT EXCLUSIONS

119. The Tribunal received a number of requests for product exclusions. However, given the Tribunal's decision to rescind the order, it is not necessary to deal with them.

CONCLUSION

120. In conclusion, the Tribunal recognizes that the expiry of the order is likely to result in an increased volume of subject goods at lower prices. However, this should not have a significant impact on the price of like goods or on the domestic industry because of the low degree of competition between the subject goods and the women's boots produced in Canada.

121. The Tribunal finds that the expiry of the order concerning women's leather and non-leather boots from China is not likely to result in material injury to the domestic industry.

122. Therefore, pursuant to subparagraph 76.03(12)(a)(ii) of *SIMA*, the Tribunal rescinds its order in respect of the subject goods.

James A. Ogilvy
James A. Ogilvy
Presiding Member

Richard Lafontaine
Richard Lafontaine
Member

Meriel V. M. Bradford
Meriel V. M. Bradford
Member