



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Dumping and Subsidizing

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## ORDER AND REASONS

Expiry Review No. RR-2005-001

Garlic

*Order and reasons issued  
Monday, March 19, 2007*

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IN THE MATTER OF an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*, of the finding of the Canadian International Trade Tribunal made on May 2, 2001, in Inquiry No. NQ-2000-006, and of its order made on March 20, 2002, in Expiry Review No. RR-2001-001, continuing without amendment, its finding made on March 21, 1997, in Inquiry No. NQ-96-002, concerning:

**GARLIC ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S  
REPUBLIC OF CHINA AND VIETNAM**

**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 its finding made on May 2, 2001, in Inquiry No. NQ-2000-006, and of its order made on March 20, 2002, in Expiry Review No. RR-2001-001, continuing without amendment, its finding made on March 21, 1997, in Inquiry No. NQ-96-002, concerning garlic originating in or exported from the People's Republic of China and Vietnam.

Pursuant to subparagraph 76.03(12)(a)(ii) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order made on March 20, 2002, in Expiry Review No. RR-2001-001 in respect of fresh garlic originating in or exported from the People's Republic of China.

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

Pierre Gosselin  
Pierre Gosselin  
Member

Zdenek Kvarda  
Zdenek Kvarda  
Member

Susanne Grimes  
Susanne Grimes  
Acting Secretary

Tribunal Members:	Meriel V. M. Bradford, Presiding Member Pierre Gosselin, Member Zdenek Kvarda, Member
Director of Research:	Rose Ritcey
Lead Research Officer:	Douglas Kemp
Research Officer:	Rhonda Heintzman
Statistical Officer:	Rebecca Campbell
Counsel for the Tribunal:	Nick Covelli Philippe Cellard
Assistant Registrar:	Gillian E. Burnett
Registrar Support Officer:	Stéphanie Doré

Please address all communications to:

The Secretary  
Canadian International Trade Tribunal  
Standard Life Centre  
333 Laurier Avenue West  
15th Floor  
Ottawa, Ontario  
K1A 0G7

Telephone: 613-993-3595  
Fax: 613-990-2439  
E-mail: [secretary@citt-tcce.gc.ca](mailto:secretary@citt-tcce.gc.ca)

## STATEMENT OF REASONS

### BACKGROUND

1. This is an expiry review, under subsection 76.03(3) of the *Special Import Measures Act*,<sup>1</sup> of the finding<sup>2</sup> of the Canadian International Trade Tribunal (the Tribunal) made on May 2, 2001, in Inquiry No. NQ-2000-006, concerning garlic, fresh or frozen, originating in or exported from the People's Republic of China (China) and Vietnam (the finding), and of the Tribunal's order made on March 20, 2002, in Expiry Review No. RR-2001-001,<sup>3</sup> concerning fresh garlic originating in or exported from China<sup>4</sup> (the order).
2. On June 28, 2005, the Tribunal issued a notice of expiry, pursuant to subsection 76.03(2) of *SIMA*, informing interested parties that the finding and the order were scheduled to expire on May 1, 2006, and March 19, 2007, respectively.
3. On August 26, 2005, the Tribunal decided to join the expiry reviews of the finding and the order and issued a single notice of expiry review to all interested parties. The Tribunal joined the expiry proceedings with respect to the finding and the order pursuant to its authority under rule 6.1 of the *Canadian International Trade Tribunal Rules*<sup>5</sup> and pursuant to the Tribunal's *Draft Guideline on Expiry Reviews*. In making its decision, the Tribunal had regard to the proximity in time of the expiries, the overlap in the subject goods and sources of subject goods, the desire to avoid unnecessary administrative duplication and the desire to avoid potential confusion for participants. On this basis, the Tribunal decided that a single expiry review would provide for a more expeditious process without causing any unfairness.
4. As part of this expiry review, the Tribunal and the Canada Border Services Agency (CBSA) sent questionnaires to Canadian growers, importers and exporters/foreign growers of fresh or frozen garlic.
5. On August 29, 2005, the CBSA initiated an expiry review to determine whether the expiry of the finding and the order was likely to result in the continuation or resumption of dumping of the subject goods.
6. On December 22, 2005, the CBSA determined that, pursuant to subsection 76.03(7) of *SIMA*, the expiry of the finding and the order was likely to result in the continuation or resumption of dumping of the subject goods.
7. On December 23, 2005, following the CBSA's determination, the Tribunal continued its review to determine, pursuant to subsection 76.03(10) of *SIMA*, whether the expiry of the finding and the order was likely to result in injury.
8. On January 25, 2006, pursuant to subsection 76.03(10) of *SIMA*, the Tribunal issued a notice of determination that the expiry of the finding and the order was unlikely to result in injury.
9. On May 1, 2006, pursuant to subparagraph 76.03(12)(a)(ii) of *SIMA*, the Tribunal issued an order, with reasons, rescinding its finding made on May 2, 2001, in Inquiry No. NQ-2000-006. The Tribunal concluded that, as domestic garlic growers had not responded to the questionnaire, it had no information on

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

2. The finding excluded fresh garlic subject to the Tribunal's finding made in Inquiry No. NQ-96-002.

3. The order continued, without amendment, the Tribunal's finding made on March 21, 1997, in Inquiry No. NQ-96-002.

4. Imported into Canada from July 1 to December 31, inclusive, of each calendar year.

5. S.O.R./91-499.

sales, pricing or financial results on which to base its analysis of the likely impact of the dumped goods on the domestic industry. Therefore, in the absence of positive evidence, the Tribunal found that the expiry of the finding and the order was unlikely to result in injury to the domestic industry.

10. In its reasons, the Tribunal indicated that it is its standard practice, when rescinding findings and orders, to do so at the end of their full term. Accordingly, the Tribunal stated that it would issue two separate orders in this case: one rescinding the finding on the date of its expiry (May 1, 2006) and a second rescinding the order on the date of its expiry (March 19, 2007).

11. In view of the above, the Tribunal, pursuant to subparagraph 76.03(12)(a)(ii) of *SIMA*, hereby rescinds its order made on March 20, 2002, in Expiry Review No. RR-2001-001.

Meriel V. M. Bradford  
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Presiding Member

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Member

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Zdenek Kvarda  
Member