



Ottawa, Monday, June 1, 1992

Review No.: RR-91-005

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the finding of material injury made by the Canadian International Trade Tribunal on October 13, 1989, in Inquiry No. NQ-89-002, respecting:

BRASS REPLACEMENT KEY BLANKS ORIGINATING IN OR EXPORTED FROM ITALY AND PRODUCED BY OR ON BEHALF OF SILCA S.p.A. OF ITALY, ITS SUCCESSORS AND ASSIGNS

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76(2) of the *Special Import Measures Act*, has conducted a review of the finding of material injury made by the Canadian International Trade Tribunal on October 13, 1989, in Inquiry No. NQ-89-002.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal rescinds the above-mentioned finding.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Charles A. Gracey

Charles A. Gracey
Member

Desmond Hallissey

Desmond Hallissey
Member

Robert J. Martin

Robert J. Martin
Secretary



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**BRASS REPLACEMENT KEY BLANKS ORIGINATING IN OR EXPORTED FROM
ITALY AND PRODUCED BY OR ON BEHALF OF SILCA S.p.A. OF ITALY,
ITS SUCCESSORS AND ASSIGNS**

Special Import Measures Act - Whether to rescind or continue, with or without amendment, the finding of material injury made by the Canadian International Trade Tribunal relating to the above-mentioned goods.

Place of Hearing: Ottawa, Ontario
Date of Hearing: April 21, 1992

Date of Order and Reasons: June 1, 1992

Tribunal Members: Arthur B. Trudeau, Presiding Member
Charles A. Gracey, Member
Desmond Hallissey, Member

Director of Research: Peter Welsh
Research Manager: John Gibberd
Statistical Officer: Margaret Saumweber

Counsel for the Tribunal: Gilles B. Legault

Registration and
Distribution Officer: Margaret J. Fisher

Participants: Peter Clark, Chris Hines and
John Haime
for Ilco Unican Inc.

(Manufacturer)

Richard G. Dearden
for Silca S.p.A.

(Exporter)

Witnesses:

Aaron M. Fish
Chairman of the Board
Unican Security Systems Ltd.

Massimo Bianchi
Managing Director
Silca S.p.A.

David J. Powell
Vice President & General Manager
Silca Keys U.S.A. Inc.

Address all communications to:

The Secretary
Canadian International Trade Tribunal
20th Floor
Journal Tower South
365 Laurier Avenue West
Ottawa, Ontario
K1A 0G7



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BRASS REPLACEMENT KEY BLANKS ORIGINATING IN OR EXPORTED FROM ITALY AND PRODUCED BY OR ON BEHALF OF SILCA S.p.A. OF ITALY, ITS SUCCESSORS AND ASSIGNS

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
CHARLES A. GRACEY, Member
DESMOND HALLISSEY, Member

STATEMENT OF REASONS

THE BACKGROUND

This is a review under subsection 76(2) of the *Special Import Measures Act* (SIMA),¹ of the finding of material injury made by the Canadian International Trade Tribunal (the Tribunal) on October 13, 1989, in Inquiry No. NQ-89-002, respecting brass replacement key blanks originating in or exported from Italy and produced by or on behalf of Silca S.p.A. (Silca) of Italy, its successors and assigns.

On September 20, 1991, the Tribunal received a letter from counsel for Silca and Klassen Bronze Limited (Klassen), an importer of the subject goods, requesting a review of the finding on the basis that Ilco Unican Inc. (Ilco), the sole Canadian producer, no longer made the subject goods. As Ilco had ceased production during 1991, the Tribunal decided, in accordance with subsection 76(3) of SIMA, that a review of the finding was warranted. On January 15, 1992, the Tribunal issued a notice of review. This notice was forwarded to all known interested parties and was published in Part I of the February 22, 1992, edition of the *Canada Gazette*.

As part of this review, the Tribunal sent a questionnaire to Ilco, the manufacturer, and to importers of the subject goods. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports relative to the review. Tribunal members and staff visited the facilities of Ilco in Montréal to view the manufacturing process. Tribunal staff also visited three importers, Klassen of New Hamburg, Ontario, National Key Division Minit of Canada Ltd. of Kitchener, Ontario, and Curtis Industries of Canada Limited (Curtis) of Mississauga, Ontario. The record of this review consists of all relevant documents, including the

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

original finding, the notice of review, the public and confidential sections of replies to the questionnaires, and the public and protected staff reports. All public exhibits were made available to interested parties, while protected exhibits were provided to independent counsel who had given undertakings respecting the non-disclosure of confidential information.

Public and *in camera* sessions were held in Ottawa, Ontario, on April 21, 1992.

Ilco, the sole domestic manufacturer of the subject goods, was represented by counsel at the hearing, submitted evidence and made argument in support of continuing the finding. Silca, the exporter of the subject goods, was represented by counsel at the hearing, submitted evidence and made argument in support of rescinding the finding or, alternatively, restricting the finding to those types of brass replacement key blanks which Ilco is now making in Canada.

THE PRODUCT

The subject goods are brass replacement key blanks originating in or exported from Italy and produced by or on behalf of Silca, its successors and assigns.

A replacement key blank is used for the duplication of existing cut keys. Key blanks are manufactured to duplicate various original lock specifications in shape, thickness and profile. There are thousands of different profiles to match the keyway of specific locks. Although key blanks may have different model numbers depending on the particular producer, schedules are available which permit a producer's keys, whether imported or domestic, to be matched to a particular need or to the specifications of a particular lockset. Thus, imported and domestically produced blanks may be easily substituted for one another.

The relative sales volume of a particular type of original lock is, in large part, the determining factor in the demand for replacement key blanks for that type of lock. In turn, the sales volume of original locks and keys varies between a manufacturer's product lines and between manufacturers, and some types of locks are no longer sold, although they remain in use. Thus, the demand for some types of replacement key blanks is quite large and permits manufacturers to have large volume production runs, while the demand for others types of replacement blanks is smaller and only sustains medium- to low-volume production runs.

Key blanks are manufactured in brass, nickel silver, steel and die-cast zinc. The vast majority of key blanks sold for the Canadian replacement market are made of brass, and generally have a nickel finish.

The manufacturing process begins with a metal coil or strip, brass in the case of the subject goods, usually between 2 1/4 and 3 1/8 in. wide, which is punched into shapes of keys. These shapes or punchings are then stacked on rods to facilitate handling and feeding into the various machines used in the manufacturing process. The punchings are washed in a solution of detergent to remove the grease film left by the blanking process, and the cleaned punchings are fed through a milling machine to make the specific grooves to fit the different types of locks. If backgrinding is required, as for some key blanks sold in the Canadian market, it is done at the time of milling. Backgrinding consists of rounding off the top edges of a key for easier insertion in a lock.

The milled key blanks are then fed through a coining process where the identifying number and logo of the manufacturer, or the private label of the customer, are inscribed with a die. The coined keys are burnished in tumbling barrels, then lacquered or electroplated with nickel, depending on the finish required. The finished blanks are then packaged and shipped.

Key blank manufacturers can either purchase their brass stock from suppliers, or they can operate their own brass mills, as an Ilco-affiliated company does in Rocky Mount, North Carolina. Producers also have the option of designing and manufacturing their own tooling or purchasing it from outside suppliers.

THE DOMESTIC INDUSTRY

Ilco is one of a number of international operating companies of parent Unican Security Systems Ltd. (Unican) of Montréal, Quebec. Unican through its subsidiaries is involved in the manufacturing and marketing of security products and furniture hardware. Security products include key blanks, push-button locks, electronic access systems and key originating/duplicating machines. In addition to its two Canadian plants, Unican operates factories in the United States, Australia and Italy. Unican's largest facility is located in Rocky Mount, North Carolina. This plant is a major producer of key blanks, among other things, and has its own brass mill to provide brass strip.

In April 1985, Ilco acquired the assets of Dominion Lock Company Ltd. (Dominion Lock), Canada's major manufacturer of key blanks, including the subject brass replacement key blanks. Dominion Lock, which had been manufacturing key blanks in Montréal since 1933, now operates as a division of Ilco. Key blanks are produced at the old Dominion Lock factory on Décarie Blvd., which is also used to assemble push-button locks and electronic card access systems. In addition to manufacturing key blanks in Canada, Ilco imports finished key blanks and key blank punchings for further processing from its affiliated plant in Rocky Mount. Ilco was the sole Canadian manufacturer of brass replacement key blanks between 1989 and May 1991. In May 1991, Ilco ceased production of key blanks and then, in February 1992, resumed production.

After taking over Dominion Lock in 1985, Ilco began a rationalization of production between Canada and the United States. Key blank production, which was considered to be low volume at Ilco's affiliated plant in Rocky Mount, was transferred to Canada and added to the production already carried out at the Dominion Lock plant in Montréal. The plan for Montréal to make low-volume keys along with some high-volume keys for the Canadian market did not work well. Inventories moved too slowly, and the decision was made to move the production of low- and medium-volume replacement key blanks along with related inventories to the plant in Rocky Mount. Also, Canadian production was suspended during 1991 to permit the rationalization of inventories and domestic manufacturing facilities. Ilco resumed Canadian production in February 1992 as part of a plan for the Montréal plant to concentrate on the production of seven or eight high-volume key blanks in terms of the Canadian and export markets.

Ilco's primary market for brass replacement key blanks is locksmith supply distributors. The company's other markets include buying groups and hardware distributors, speciality distributors to speciality kiosks and auto dealers, original equipment manufacturers and hotels.

Many of the firms which import key blanks also make purchases from Ilco. In some cases, the importers only buy "oddball" or low-demand blanks from Ilco and, in other cases, Ilco is an important source of supply. The two largest importers of brass replacement key blanks are Klassen and Curtis. These two firms distribute their key blanks to retailers primarily through full-service programs. The retailers, which run the range from hardware to Canadian Tire stores, are supplied with key-cutting machines, key blanks and display racks for which they pay a flat charge per key blank. The flat fee includes the costs of miscut keys, regular service visits to the retailers and maintenance of the key-cutting machines. Importers, such as the National Key Division Minit of Canada Ltd., which operates under the trade name Things Engraved, and the Mister Minit Division of Minit of Canada Ltd., offer key-cutting services in their retail shops located throughout Canada. Other importers run the range from locksmith and hardware distributors to automotive firms.

THE SUMMARY OF THE 1989 FINDING

On October 13, 1989, the Tribunal found that the dumping of brass replacement key blanks produced by or on behalf of Silca had caused, was causing and was likely to cause material injury. The Tribunal excluded "Color Plus" key blanks from the finding, as no comparable product was produced in Canada.

The complainant, Ilco, was the sole Canadian producer of brass replacement key blanks and accounted for approximately one-half of domestic sales. A portion of Ilco's sales consisted of imports of key blanks produced by an Ilco affiliate in the United States. As well, this affiliate exported brass punchings to Canada which Ilco processed into key blanks. Ilco, along with its affiliates in the United States and other countries, was the largest producer of key blanks in the world.

Over the years 1985-89, key blank imports came mainly from the United States and, in growing volumes, from Italy. The imports from Italy were supplied largely by Silca, the second largest producer in the world. The majority of Silca's blanks were exported directly to Canada from Italy, but a portion of the blanks were imported through two American firms. The largest Canadian importer of Silca blanks was Klassen.

The Tribunal was of the opinion that Klassen switched from Ilco to Silca key blanks largely because of the lower prices offered by Silca and that these lower prices were made possible by dumping. The Tribunal also stated that the low prices made it possible for Klassen to subsequently secure a large volume of sales from Home Hardware Stores Limited (Home Hardware). Ilco's lost sales to Klassen and Home Hardware represented 15 percent of its production for the domestic market. The Tribunal was persuaded that the lost sales had resulted in a reduction in Ilco's profits that was roughly equal to Ilco's average annual profits in the previous three years from key blank production sold domestically. The Tribunal found that this resulting injury caused by the dumping of the subject Silca key blanks was material.

Finally, the Tribunal was satisfied that, if the dumping of Silca's blanks were to continue without the imposition of anti-dumping duties, material injury would persist. The Tribunal observed that Silca's aggressive pricing and the establishment of a warehouse in Cleveland, Ohio, to serve the North American market demonstrated the company's intent of increasing its presence in Canada. The Tribunal stated that the significant increase in Silca imports had resulted in increased sales and an accumulation

of dumped imports. The Tribunal held that this buildup, along with little indication that dumping would cease, could give rise to further material injury.

THE POSITION OF PARTIES

The Producer

Ilco submitted that the finding should be continued. The company is, and will be, producing in Canada like goods, but, if the finding is rescinded, dumping of the subject goods in Canada will resume and force the termination of production in Canada.

Ilco's original plan to increase the volume of Canadian production by moving the manufacturing of low-volume U.S. production to Canada did not work. As a result, the Canadian production of medium- and low-volume key blanks and related inventories were moved to Rocky Mount in order to improve efficiency, inventory control and inventory turnover for Canadian and U.S. operations. Also, the Canadian and U.S. recessions caused inventories to climb to unacceptable levels, and key blank production was suspended in Montréal in 1991 to reduce inventories and, as well, allow for the rationalization of the other product line production areas in Canada. Ilco resumed Canadian production in February 1992 as part of a short-term plan to produce seven or eight high-volume key blanks to supply the Canadian and export markets. This plan will be reviewed in the fall of 1992 and, if conditions permit, production will be expanded.

Ilco submitted that Silca cannot export the subject goods to Canada in volume at other than dumped prices and referred to the drop-off in Silca imports subsequent to the finding to support this argument. The finding has made Silca less competitive and has enabled Ilco to regain a lost account and sell one million subject blanks to Klassen.

Ilco's counsel argued that Silca had dumped in the past and would dump again if the finding were rescinded. They placed little weight on the fact that all of Silca's sales into Canada, since the finding, have been at normal values. Also, they were sceptical of Silca's claim that its capacity in Italy is committed to supplying Europe and the Middle East and of Silca's intention to supply the Canadian market from U.S. production. They questioned why Silca wanted a rescission and argued that low-volume blanks would come from Italy. In addition, Silca with its new position in the North American market will attempt to buy market share with the subject goods from the source that best suits the company.

Ilco's counsel questioned Silca's alternative argument that, if the finding is to be continued, it should be continued only against the seven or eight high-volume blanks included in Ilco's short-term plan. They pointed to the argument as evidence that Silca must intend to import blanks from outside of North America into Canada.

The Exporter

Silca requested that the finding be rescinded. Counsel argued that it is highly unlikely that there will be a resumption of dumping or material injury to the domestic producer in absence of the finding. Silca Keys U.S.A. Inc. (Silca Keys) will be supplying Canada and Silca's capacity in Italy will be occupied serving Europe and the Middle East.

Silca Keys was established and mandated to produce and sell every profile required by a customer in North America. Silca Keys commenced production in April 1990 and is close to producing 318 profiles at its Twinsburg, Ohio, factory which has an annual capacity of 60 million key blanks. The 318 profiles meet 95 percent of the requirements of Canadian customers and include the profiles that Ilco is producing or plans to produce in the near future for the Canadian market. To meet the other 5 percent of customer needs, Silca Keys will produce a profile for an order if it is economical. As well, Silca Keys intends to expand the number of profiles that it manufactures.

Silca's counsel noted that Silca has sold the subject goods into the Canadian market at normal values since the finding and that anti-dumping duties paid subsequent to the finding were on goods shipped prior to the finding and stored in a bonded warehouse. Silca's exports to Canada fell after the finding because the company's capacity in Italy was almost fully used serving other markets in Europe and the Middle East. Silca has focused on implementing its North American strategy in the United States before Canada.

Counsel argued that Ilco's real vulnerability is to U.S. competition. The import share data provided by the Tribunal show that the competition will come from that country. Both parties agreed that prices are now uniform between Canada and the United States.

Counsel argued that Silca wants a rescission because some customers do not want to deal with a company against which there is a finding, even though that company is not dumping.

Counsel noted that Ilco, when questioned, answered that no injury had been caused by dumping since the finding and that the suspension of Canadian production was unrelated to Silca. Ilco stated that it would be possible to maintain production in Canada and grow if Silca did not sell into Canada at dumped prices. Silca noted Ilco's reply that it could withstand legitimate U.S. competition. Silca indicated that Silca Keys' pricing would class it as legitimate competition.

Alternatively, counsel submitted that, if the finding is to be continued, it should be continued only against the seven or eight high-volume key blanks listed in Ilco's short-term plan.

THE ECONOMIC INDICATORS

The domestic market for brass replacement key blanks was stable subsequent to the finding, with estimated annual sales of over 40 million pieces. Compared to 1989, Ilco's domestic sales were stable in 1990 and grew by 11 percent in 1991. The company's market share increased by a few percentage points after the finding. The percentage of Ilco's Canadian sales supplied from domestic production, however, declined significantly as the company's domestic sales of imports increased. Ilco's domestic production of brass replacement key blanks was suspended in May 1991 and resumed in February 1992. Sales of Silca key blanks dropped off markedly subsequent to the finding.

Total imports of brass replacement key blanks were stable in 1990, but grew by 39 percent in volume in 1991, as a result of a significant increase in Ilco's imports.

Imports from the United States grew from 72 to 89 percent of total imports in 1990 and increased further to 94 percent in 1991. This occurred as Ilco's imports from the United States grew from 11 to 18 percent of total imports in 1990 and to 41 percent in 1991.

Ilco made a loss before taxes on Canadian sales of domestic production in fiscal years 1990 (ending June 30, 1990) and 1991 and in the first six months of fiscal year 1992. Ilco's direct employment in key blank production in Canada tapered off during fiscal year 1991 and finally dropped to zero with the suspension of production. Ilco's investments in tools, dies, equipment and machinery for the production of key blanks in Canada declined in fiscal years 1990 and 1991. Finally, the company's Canadian key blank inventories began to decline in fiscal year 1990 from the peak levels reached in fiscal year 1989 and fell further in fiscal year 1991 when production was suspended and inventories for medium- and low-volume key blanks were moved from Montréal to Rocky Mount.

Import volume and value figures obtained from questionnaire responses indicate that the average landed value of brass replacement key blanks imported from the United States declined in 1990 and 1991. The declines reflect, among other things, the effects of competitive forces, the elimination of the tariff on key blanks on U.S. imports in April 1990² and the removal of the federal sales tax on January 1, 1991. Ilco's average prices for domestic sales of brass replacement keys declined in 1990 and 1991. For imports from Silca, the average landed value for key blanks increased subsequent to the imposition of the anti-dumping duty. According to both Ilco and Silca, brass replacement key blank prices are now uniform between Canada and the United States.

THE REASONS FOR DECISION

The circumstances have changed considerably in the brass replacement key blank market since the finding. The Tribunal considered all of the developments since then and was not convinced that the finding should be continued.

Circumstances have changed for Ilco. Ilco is a significantly different company today than it was at the time of the finding. Since the finding, Ilco has greatly reduced the range of brass replacement key blank profiles produced in Canada. Ilco moved the production of low- and medium-volume key blanks to the United States to increase efficiency and improve inventory control and turnover for Canadian and U.S. operations. In May 1991, Ilco suspended operations in Canada to reduce inventories and, in February 1992, it resumed production with the intention of manufacturing seven or eight high-volume key blanks for the Canadian and export markets.

The Tribunal considered the evidence and testimony regarding present and future production in Canada and was persuaded that Ilco is producing and intends to produce high-volume brass replacement key blanks in Canada for the Canadian market. The Tribunal accepted that Canadian production will be nearly as competitive as U.S. production, with Canadian operations concentrating on high-volume blanks. The Tribunal noted from evidence that Ilco is sensitive to interest rate levels and exchange

2. Following the implementation of the Canada-U.S. Free Trade Agreement, the governments of Canada and the United States eliminated tariffs covering brass replacement key blanks pursuant to the 1990 Accelerated Tariff Elimination Agreement.

rates and responds quickly to changes in economic conditions. The Tribunal, therefore, recognized that the effects of macro-economic conditions on Ilco, particularly on its costs of production, will be the determining factor on Ilco's level of production in Canada.

The Tribunal particularly noted Ilco's testimony that the suspension of domestic production, by the producer's own admission, was unrelated to any actions by Silca. The Tribunal believes that Ilco's main competitive challenge will be from U.S. imports. The tariff on the subject goods was eliminated on April 1, 1990, and both parties agreed that the prices are now uniform between Canada and the United States.

The situation has also changed for Silca. After the finding, Silca Keys, which has the mandate to manufacture and sell every profile required by a customer in the United States, Canada and Mexico, commenced production in April 1990 at its plant in Twinsburg, Ohio. Silca Keys will soon be producing 318 key blank profiles, including those high-volume blanks that Ilco is now or will be manufacturing for the Canadian market. Initially, Silca Keys has concentrated its efforts on the U.S. market, but will turn its attention to the Canadian and Mexican markets. Also, Silca's capacity in Italy is almost fully utilized in supplying markets in Europe and the Middle East. There is nothing in the evidence that led the Tribunal to conclude that the bulk of Silca's key blank sales in the Canadian market would not be supplied by production of Silca Keys. The Tribunal observed that the elimination of the tariff on key blanks pursuant to the Canada-United States Free Trade Agreement enhanced the economics of Silca serving the Canadian market from the United States rather than from Italy.

In summary, the Tribunal concludes that Ilco's key blank production in Canada, since the resumption of production in February of this year, is significantly different from its production prior to the cessation in 1991 and at the time of the finding in 1989. In addition, the dynamics of competition and source of imports in the marketplace have significantly changed since the finding. Silca is no longer dumping key blanks in Canada from Italy. Furthermore, the bulk of Silca's sales into Canada originate from its Twinsburg plant in the United States. This plant recently became operational and has the capacity to produce some 318 profiles which are in demand in both the Canadian and U.S. markets.

In light of these major developments, both in the production and import competition aspects, the Tribunal concludes that the finding is no longer required.

For the foregoing reasons, the Tribunal rescinds the finding as of the date of this order.

Arthur B. Trudeau

Arthur B. Trudeau

Presiding Member

Charles A. Gracey

Charles A. Gracey

Member

Desmond Hallissey

Desmond Hallissey

Member