

Ottawa, Wednesday, October 4, 1989

Review No.: RR-89-001

IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury dated September 27, 1979, and continued on March 20, 1985;

RESPECTING 12 GAUGE SHOTSHELLS (AMMUNITION) ORIGINATING IN OR EXPORTED FROM THE UNION OF SOVIET SOCIALIST REPUBLICS, POLAND, CZECHOSLOVAKIA AND HUNGARY;

AND IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury dated March 27, 1986;

RESPECTING 12 GAUGE SHOTSHELLS ORIGINATING IN OR EXPORTED FROM ITALY, FRANCE, BELGIUM AND THE UNITED KINGDOM.

Place and Dates of Hearing: Ottawa, Ontario
July 10 and 11, 1989

Participants: John D. Richard, Q.C.
for Société d'expansion
commerciale Libec Inc.
Montréal, Quebec
H1Z 3G5

(Manufacturer)

W. Gerald Mazzei
for Royal Canadian Cartridge &
Munitions Corp.
North Vancouver, British Columbia
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Sylvie Bigras
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R.F. Gore
for Pragotrade
Division of Motokov Canada Inc.
Rexdale, Ontario
M9W 5V1

(User/Importer/Other)

Panel:

Presiding Member:	Arthur B. Trudeau
Member:	W. Roy Hines
Member:	Kathleen Macmillan

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AND IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury dated March 27, 1986, respecting 12 GAUGE SHOTSHELLS ORIGINATING IN OR EXPORTED FROM ITALY, FRANCE, BELGIUM AND THE UNITED KINGDOM.

REVIEW FINDING

The Canadian International Trade Tribunal, under the provisions of section 76 of the *Special Import Measures Act*, has conducted a review of the finding of material injury dated September 27, 1979, made by the Anti-dumping Tribunal, respecting 12 gauge shotshells (ammunition) originating in or exported from the Union of Soviet Socialist Republics, Poland, Czechoslovakia and Hungary in Inquiry No. ADT-6-79, continued in Review No. R-13-84 on March 20, 1985; and the finding of material injury dated March 27, 1986, made by the Canadian Import Tribunal, respecting 12 gauge shotshells originating in or exported from Italy, France, Belgium and the United Kingdom in Inquiry No. CIT-14-85.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds the above-mentioned finding of September 27, 1979, which was continued on March 20, 1985, and the above-mentioned finding of March 27, 1986, effective October 4, 1989.

Arthur B. Trudeau
Arthur B. Trudeau
Presiding member

W. Roy Hines
W. Roy Hines
Member

Kathleen Macmillan
Kathleen Macmillan
Member

Robert J. Martin
Robert J. Martin
Secretary



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IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury dated September 27, 1979, and continued on March 20, 1985, respecting 12 GAUGE SHOTSHELLS (AMMUNITION) ORIGINATING IN OR EXPORTED FROM THE UNION OF SOVIET SOCIALIST REPUBLICS, POLAND, CZECHOSLOVAKIA AND HUNGARY;

AND IN THE MATTER OF a review under section 76 of the *Special Import Measures Act* of the finding of material injury dated March 27, 1986, respecting 12 GAUGE SHOTSHELLS ORIGINATING IN OR EXPORTED FROM ITALY, FRANCE, BELGIUM AND THE UNITED KINGDOM.

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
 W. ROY HINES, Member
 KATHLEEN MACMILLAN, Member

STATEMENT OF REASONS

THE FACTS

This is a review under section 76 of the *Special Import Measures Act*¹ (the Act) of the finding of material injury dated September 27, 1979, made by the Anti-dumping Tribunal, respecting 12 gauge shotshells (ammunition) originating in or exported from the Union of Soviet Socialist Republics, Poland, Czechoslovakia and Hungary in Inquiry No. ADT-6-79, continued in Review No. R-13-84 on March 20, 1985; and the finding of material injury dated March 27, 1986, made by the Canadian Import Tribunal, respecting 12 gauge shotshells originating in or exported from Italy, France, Belgium and the United Kingdom in Inquiry No. CIT-14-85.

On September 27, 1979, subsequent to an inquiry conducted pursuant to section 16 of the *Anti-dumping Act*,² the Anti-dumping Tribunal made a finding of likelihood of material injury respecting 12 gauge shotshells (ammunition) originating in or exported from the Union of Soviet Socialist Republics, Poland, Czechoslovakia and Hungary.

This finding was in place at the time the Act came into force on December 1, 1984, and was continued pursuant to the transitional provisions of the Act. The Act replaced and repealed the *Anti-dumping Act* and created the Canadian Import Tribunal. On March 20, 1985, the Canadian Import Tribunal, upon completion of a review under section 76 of the Act, ordered that the said finding be continued without amendment.

The second finding of material injury under review was made on March 27, 1986, subsequent to an inquiry conducted pursuant to subsection 42(1) of the Act. The Canadian Import Tribunal found that the dumping in Canada of 12 gauge shotshells originating in or

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

2. R.S.C. 1970, c. A-15.

exported from Italy, France, Belgium and the United Kingdom had caused, was causing and was likely to cause material injury to the production in Canada of like goods.

On December 31, 1988, sections 16 to 37 and 41 to 62 of the *Canadian International Trade Tribunal Act*³ came into effect. As a result, the Canadian International Trade Tribunal (the Tribunal) was established and the Canadian Import Tribunal ceased to exist on that day. Pursuant to section 76 of the Act, the Tribunal initiated a review of the two findings and issued a Notice of Review on February 27, 1989. In the notice, the Tribunal pointed out that market circumstances had changed sufficiently to warrant a review of both findings. This notice was forwarded to all known interested parties and was published in the Canada Gazette of March 11, 1989. The two findings were joined in a review, as the same class of goods was involved.

On April 5, 1989, the Tribunal issued a Notice of Change of Date of Public Hearing. This notice was forwarded to all known interested parties and was published in the Canada Gazette of April 15, 1989.

As part of its review, the Tribunal sent detailed questionnaires to Canadian manufacturers and selected importers of the subject goods. From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports relative to the review. In addition, the record of this review consists of all relevant documents, including the original findings and review order, the Notice of Review, and public and confidential sections of the replies to questionnaires. All public exhibits were made available to interested parties, and protected exhibits to independent counsel only.

Public and *in camera* sessions were held in Ottawa, Ontario, on July 10 and 11, 1989.

Société d'expansion commerciale Libec Inc. (Libec), a manufacturer, was represented by counsel at the hearing, submitted evidence and made argument in support of continuing the findings.

The Royal Canadian Cartridge & Munitions Corp. (RCCM), a prospective manufacturer of the subject goods, also submitted evidence in support of maintaining the findings. Although counsel appeared on behalf of RCCM, no witnesses were called.

A witness for Pragotrade, Division of Motokov Canada Inc. (Pragotrade), an importer of Czechoslovakian shotshells, argued for the rescission of the 1979 finding.

A representative from the Shooting Federation of Canada appeared at the hearing to request that an exclusion be granted for 28 gram shot load 12 gauge shotshells.

At the Tribunal's request, representatives of the Canadian Tire Corp. (CTC) appeared at the hearing to answer questions regarding the policies and practices followed by CTC in the procurement of the subject goods.

3. S.C. 1988, c. 56.

Although a Notice of Appearance was filed by Eley Limited, a UK manufacturer and exporter of shotshells, and by the Trade Mission of the USSR in Canada, and a written submission filed by Eley Limited, neither party made representations at the hearing.

THE PRODUCT

The product under consideration in this review is described in the Tribunal's findings as 12 gauge shotshells. There are five gauges of shotshells manufactured in Canada: 12, 16, 20, 28 and .410. The 12 gauge shotshell accounts for approximately 85 percent of the total Canadian shotshell market. These shotshells are available in various shot sizes and loads, depending on the hunting requirements. Larger shot sizes are used for hunting small game such as rabbits, while smaller shot sizes are used for birds, as well as for trap and skeet shooting.

Previous inquiries differentiated two market segments for the subject goods: first-line and promotional. First-line shotshells differ from promotional shotshells in that they contain more lead, more propellant to expedite the lead and a higher metal head. First-line shotshells are branded products supported by extensive advertising; they are available only in 12 gauge, in a limited number of shot sizes and generally contain 1 1/8 oz. of lead.

THE DOMESTIC INDUSTRY

The composition of the domestic industry has undergone significant changes in recent years. Valcartier Industries Inc. (IVI), which accounted for more than 90 percent of domestic production at the time of the 1986 inquiry, ceased production of shotshells in early 1988. To a limited extent, the void created by the cessation of IVI's production has been filled by production from a number of new manufacturers.

IVI, wholly owned by the SNC Group of Montréal, was the only fully integrated manufacturer of shotshells in Canada. The company manufactured shotshells at its production facility located in Val Bélaire, Quebec, utilizing its own foundry, rolling mill, plastic processing operation and tool and machine shops.

Libec, along with IVI, appeared as a complainant in both the 1985 review and the 1986 inquiry. Libec, founded in 1980, began manufacturing shotshells at its production facilities in Ste-Justice de Newton, Quebec, in 1984. Unlike IVI, Libec is not a fully integrated manufacturer but, instead, a utilizer of automated loading machines which assemble the various shotshell components. The company sources its component and raw material requirements domestically and from offshore suppliers.

Four other companies have begun assembling 12 gauge shotshells in Canada since 1986. Two western Canadian companies, Bleimeister Lead Shot Ltd. (Bleimeister), Edmonton, Alberta, and Shur-Shot Mfg. Ltd. (Shur-Shot), Surrey, British Columbia, as well as two companies located in Montréal, Quebec, Tony Sport Reg'd (Tony Sport) and Amerie Rosario Pistone Enrg. (Pistone), constitute the balance of the domestic industry. Like Libec, these newer entrants are not integrated producers but rather assemblers of the various components using automated loading equipment.

HISTORICAL OVERVIEW

At the time of the 1979 inquiry, the complainant and larger of the two Canadian producers, IVI, claimed that the dumping had caused material injury in the form of price suppression, loss of sales and profits, reduced employment and decreased utilization of capacity. The other Canadian producer at that time, Winchester Western (Canada) Limited, while supporting the complaint, informed the Tribunal that it intended to cease production for reasons unrelated to dumping.

At the hearing, it was generally accepted that the Canadian market for the subject goods was divided into two sectors: the first-line and the promotional. According to the evidence, first-line shotshells contained more costly elements and, therefore, commanded a higher price than the promotional ones. The Canadian producers manufactured both first-line and promotional 12 gauge shotshells, while the products imported from the subject countries were all promotional shotshells. Although the Tribunal noted that the imported product was slightly inferior to the domestic promotional product, the Tribunal was satisfied that, overall, the imported product competed directly with the Canadian promotional shotshells.

From 1976 to 1979, although the apparent Canadian market for promotional shotshells grew, the Canadian producers' market share declined. The share held by the East European countries rapidly increased from a negligible share in 1976, to 32 percent by the end of May 1979. While the low-priced, dumped, East European imports contributed to IVI's seriously depressed financial position, other adverse factors, including the relocation of its production facility and delivery problems, significantly affected its production capability.

In view of IVI's short production history and the seriousness of the non-price factors affecting its production and sales, the Tribunal did not find past or present injury, but it did conclude that continued dumping was likely to cause material injury.

At the time of the 1985 review, the Tribunal found that, since the 1979 finding, the market had declined considerably; by 1981, it was less than half of the 1978 volume and, in 1984, the volume was somewhat less than in 1981.

Various reasons were advanced to explain this phenomenon: the trend to urbanization, the loss of interest in hunting on the part of the younger generation, tougher gun control legislation and the long period of drought in the Prairie provinces which reduced the game bird population by 40 percent. This contracting market rendered IVI's investment precarious, while exposing it to aggressive price competition for the business available. It was highly vulnerable, therefore, to unfair price competition. It was the contention of Czechoslovakian exporters that the normal values established for them, based on Italian domestic prices, were much higher than their perception of Italian export prices, and, on this basis, they considered any attempt to enter the Canadian market as hopeless; hence, the absence of exports of 12 gauge shotshells from Czechoslovakia. It was not unreasonable to assume that the USSR, Poland and Hungary had experienced a similar predicament. On March 20, 1985, the Tribunal continued the 1979 finding without amendment.

At the 1986 inquiry respecting imports from the four Western European countries, the two domestic producers, IVI and Libec, argued that the dumping of the subject goods had caused material injury.

The Tribunal considered the CTC account to be of central importance, given the considerable volume of business handled by this mass merchandiser. It was noted that, from 1971 to 1982, IVI had supplied CTC with a private-brand promotional shotshell. In 1983, IVI responded to CTC's request for a quotation by lowering its price. CTC advised that this price was still too high in relation to the imported products. The order was given to Olin of Italy, which was competing with Eley of the United Kingdom. IVI submitted an even lower price in 1984. However, the order for 1984 was awarded to Eley at a price which was significantly lower than IVI's.

In an attempt to regain the private-brand promotional shotshell business for 1985 from CTC, IVI presented its lowest possible quotation. The resulting price, which covered only direct labour and material, was slightly higher than that submitted by the United Kingdom. IVI received the order for several million rounds. The size of the CTC order alone accounted for the improvement in IVI's production and market share in 1985. Without this sale, both factors would have exhibited definite drops in 1985 over the previous year. However, the improvement in the volume of sales came at a price. The losses incurred on the sale to CTC caused, in large measure, IVI's financial performance to worsen considerably in 1985.

The price suppression and loss of sales suffered on the CTC account alone, in the Tribunal's view, were of considerable importance. Moreover, the pricing information received confirmed that the widespread availability of low-priced imports forced domestic producers to match prices at both the distributor/mass merchandiser and the dealer levels, or risk losing volume. The injury caused by the dumping also took the form of reduced sales volume to accounts other than CTC. The volume lost to these accounts over the period was considerable.

The Tribunal concluded that the dumping from the subject countries had caused, was causing and was likely to cause material injury to the domestic producers of like goods. In 1985, a significant volume from each of the four subject countries entered at dumped prices. Both domestic producers suffered price suppression and erosion which caused serious loss of profit. While the injury suffered was felt mostly on sales of the promotional product, the volume of first-line sales was also affected.

POSITION OF PARTIES

Turning to the current review, counsel on behalf of Libec argued that if the findings were rescinded, a very real threat existed that the dumping would resume, which would cause harm to domestic production and prevent future expansion by both his client and RCCM. Libec, which began manufacturing shotshells in 1984, has been expanding its production capacity and plans to make further significant investments. It was submitted, however, that additional investments would be jeopardized if the findings were rescinded.

Much of Libec's evidence and argument centered around its inability to sell 12 gauge shotshells to CTC, which is by far the largest customer in Canada for the subject goods. It was argued that CTC tested Libec's shells and agreed that they met all of CTC's quality and standards requirements and were not inferior to US manufactured shells, the major source of its purchases. Further, it was submitted that Libec manufactured a full range of shotshells and had the capacity to supply CTC's requirements in both first-line and promotional products. Counsel argued that Libec had never been given an opportunity to supply CTC even though

they could meet the quality, delivery and price needs of the company. Moreover, it was suggested that the fact that Libec was not a fully integrated manufacturer would not limit its ability to supply CTC's requirements.

With respect to a propensity to dump, counsel noted the evidence of Pragotrade and claimed that the company could not compete on price unless the finding were rescinded against Czechoslovakian imports, thereby leading to a resumption of dumping. Counsel also noted that imports from the United States had increased substantially, which he alleged to be dumped, but noted that the industry could approach Revenue Canada for relief as it saw fit. However, if the findings were rescinded, it was argued that Libec would have a difficult time surviving, not only US competition, but also the inevitable resumption of dumping from the eight European countries which are covered by the two findings.

Counsel on behalf of RCCM argued that the domestic industry was in its infancy stage and that any resumption of dumping, which he submitted would occur if the findings were rescinded, would lead to injury of such a fledgling industry. Counsel noted the sizeable investment made by RCCM to date and the planned investments of both his client and of Libec, which could lead to the fully integrated manufacturing of domestic shotshells in the future. It was argued that, under such circumstances, the industry had a right to be protected against dumped competition.

The representative of Pragotrade noted the importance of the CTC purchases in the domestic market, but suggested that they were not the only Canadian customer for shotshells. He claimed that the evidence showed that there was a large number of small volume customers and that many of these dealers and users had indicated a desire to purchase Czechoslovakian manufactured shotshells.

It was argued that Pragotrade's access to Czechoslovakian shells had always been limited by its supplier and the most recent allotment, some 10 years ago, amounted to only two million rounds annually. Accordingly, it was argued that the Czechoslovakian shells would never be available in quantities which would flood the Canadian market and, therefore, could not threaten domestic production of like goods.

REASONS FOR DECISION

Evidence adduced during the course of this review clearly indicates that the domestic industry and market have undergone significant changes since the last inquiry respecting 12 gauge shotshells. Domestic production of 12 gauge shotshells has declined dramatically over the past decade or so. In 1976, approximately 62 million units were manufactured in Canada. By 1988, the volume had dropped to a low of roughly 10 million rounds. Similarly, for reasons outlined in the last review in 1985 and which remain relevant today, the domestic market for shotshells also fell sharply, from a high of 85 million rounds in 1978 to 46 million rounds in 1988.

Of major significance in the post-1986 period has been the cessation of production by IVI in early 1988, a situation which ultimately led the Tribunal to review the findings under consideration. As previously noted, IVI was the only fully integrated domestic manufacturer of shotshells and its production alone represented over 90 percent of the subject goods production.

The void left by IVI in the domestic market has not been filled by the remaining domestic producers. Indeed, in 1988, sales of the five manufacturers accounted for less than 15 percent of total market demand. However, the eight European countries, which are the subject of this review, have not stepped in either to fill the gap left by IVI. The Eastern European countries, namely, the Union of Soviet Socialist Republics, Poland, Czechoslovakia and Hungary, against which a finding of injury was made in 1979, have shipped little, if any, of the subject goods to Canada since the finding was issued. Similarly, the Western European countries, namely, Italy, France, Belgium and the United Kingdom, against which a finding of injury was made in 1986, have played a diminishing role in the domestic market. In 1988, the combined sales from the four countries represented only two points of the market share.

The evidence clearly reveals that it is US-manufactured shotshells which have replaced the former sales of IVI. Although US shotshells have always maintained a significant presence in the domestic market - in 1986 and 1987, US sales amounted to 10 million rounds annually - in 1988 total sales increased to some 36 million rounds and the market share held by US sales increased by almost 50 points.

This dramatic switch to US-sourced shotshells is explained by several factors which have been favourable to US manufacturers such as Remington, Winchester and Federal. Such factors include the constraints in place against the European suppliers, as a result of the Tribunal's injury findings, and a more favourable exchange rate vis-à-vis the Canadian dollar.

As with previous inquiries, much of the evidence in this review focused upon the CTC account, by far the largest purchaser of shotshells. Until 1988, CTC sourced the bulk of its requirements with IVI. However, with the cessation of production by IVI in early 1988, CTC looked to US companies to fulfill its needs. Evidence adduced from the CTC witnesses, however, indicates to the Tribunal that price was only one of the factors which led CTC to look south of the border. Indeed, it appears that Libec is extremely price competitive with US producers.

The reasons for CTC's purchasing decisions appear to the Tribunal to be based on several factors, of which price is but one consideration. Certainly, quality is an important consideration, although the CTC witnesses agreed that Libec produced a quality product. As well, CTC relies on certainty of supply and delivery and, perhaps, most importantly, on an ability to offer its customers a brand name product. In the Tribunal's view, this last factor has limited the domestic manufacturers from obtaining the large orders which may otherwise be available from CTC.

In viewing the domestic market, it is clear to the Tribunal that the European suppliers have had a diminishing role over the past several years; in fact, no imports have been made from the four Eastern European countries named in the 1979 finding. Although imports have continued from the four Western European countries, the volume of imports has declined and, in no way, could be considered a threat to the domestic industry.

Evidence respecting a propensity to dump by the eight European countries has been, in the Tribunal's view, less than convincing. As noted, no dumping has occurred from the Eastern European exporters and less than one million rounds in total have been dumped from the combined exports of the four Western European exporters since the finding has been in place.

Any difficulties which may be encountered by the domestic producers in obtaining additional sales in the future are likely to be related to their ability to compete with US-manufactured shotshells, which now have the lion's share of the market, and not the European product.

CONCLUSION

Accordingly, the Tribunal hereby rescinds the said findings, effective October 4, 1989.

Presiding Member: Arthur B. Trudeau
Arthur B. Trudeau

Member: W. Roy Hines
W. Roy Hines

Member: Kathleen Macmillan
Kathleen Macmillan