



Ottawa, Monday, May 1, 2000

Review No.: RR-99-003

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal 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 AND WOMEN'S LEATHER AND NON-LEATHER SHOES ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**ORDER**

The Canadian International Trade Tribunal, under the provisions of subsection 76(2) of the *Special Import Measures Act*, has conducted a review of its order made on May 2, 1995, in Review No. RR-94-003, concerning the aforementioned goods.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the order, with an amendment to rescind the portion of the order respecting women's leather and non-leather shoes originating in or exported from the People's Republic of China.

Richard Lafontaine

Richard Lafontaine  
Presiding Member

Pierre Gosselin

Pierre Gosselin  
Member

Zdenek Kvarda

Zdenek Kvarda  
Member

Michel P. Granger

Michel P. Granger  
Secretary

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

*Special Import Measures Act* — Whether to rescind or continue, with or without amendment, the order made by the Canadian International Trade Tribunal 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.

Place of Hearing: Ottawa, Ontario  
Date of Hearing: February 21, 2000  
Date of Order and Reasons: May 1, 2000

Tribunal Members: Richard Lafontaine, Presiding Member  
Pierre Gosselin, Member  
Zdenek Kvarda, Member

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**Participants:** G.P. (Patt) MacPherson  
Naila Elfar  
for The Shoe Manufacturers' Association of Canada  
**(Association of Canadian Producers)**

Donald A. Kubesh  
Susan M. Hutton  
for Reebok Canada Inc.

**(Importer)**

Glenn F. Leslie  
Gregory Kanargelidis  
for Payless ShoeSource Canada Inc.  
Payless ShoeSource, Inc.

**(Importer/Exporter)**

Darrel H. Pearson  
for Retail Council of Canada

**(Association of Retailers)**

**Witnesses:**

George P. Hanna  
President  
The Shoe Manufacturers'  
Association of Canada

Christian Bergeron  
President and Chief Executive Officer  
Régence Inc.

Yvon Maltais  
Vice-President, Finance  
Régence Inc.

Margaret Raymond  
Divisional Merchandise Manager  
Footwear  
The Bay

Kevin Meloche  
Senior Buyer Footwear  
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Ottawa, Monday, May 1, 2000

Review No.: RR-99-003

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal 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 AND WOMEN'S LEATHER AND NON-LEATHER SHOES ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

TRIBUNAL: RICHARD LAFONTAINE, Presiding Member  
PIERRE GOSSELIN, Member  
ZDENEK KVARDA, Member

**STATEMENT OF REASONS**

**BACKGROUND**

This is a review, under subsection 76(2) of the *Special Import Measures Act*,<sup>1</sup> of the order made by the Canadian International Trade Tribunal (the Tribunal) 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 and women's leather and non-leather shoes originating in or exported from the People's Republic of China (China).

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of the order and issued a notice of review<sup>2</sup> on September 15, 1999. A notice of change of date of public hearing was issued on November 15, 1999. These notices were forwarded to all known interested parties. As part of this review, the Tribunal sent questionnaires to Canadian manufacturers, importers and purchasers and to foreign manufacturers of women's leather and non-leather boots and women's leather and non-leather shoes.

On October 26, 1999, the Secretary of the Tribunal informed counsel and questionnaire recipients that the latter need not answer the questions on women's shoes in the questionnaires. The Tribunal's letters followed a letter from The Shoe Manufacturers' Association of Canada (SMAC) to the Secretary of the Tribunal indicating that it would not be making or pursuing any allegation of injury "caused or to be caused" by imports of shoes from China. Given that there was no longer a request for the continuation of the portion of the order respecting women's shoes from China, the Tribunal did not collect information on these goods.

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1. R.S.C. 1985, c. S-15 [hereinafter SIMA].  
2. C. Gaz. 1999.I.2798.

The record of this review consists of all relevant documents, including the previous order, the notice of review and public and confidential replies to the questionnaires. 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 the use, disclosure, reproduction, protection and storage of confidential information on the record of the proceedings, as well as the disposal of such confidential information at the end of the proceedings or in the event of a change of counsel.

Public and in camera hearings were held in Ottawa, Ontario, on February 21, 2000. At the outset of the hearing, the presiding member indicated that the focus of the hearing was on women's boots from China. The presiding member referred to the above-mentioned letters of October 26, 1999, and informed the participants to the hearing that, barring any submissions to the contrary, the Tribunal would issue, on May 1, 2000, an order rescinding its order on women's shoes, without any further consideration of the matter.

At the hearing, SMAC submitted evidence and made arguments in support of a continuation of the portion of the order relating to women's boots. Reebok Canada Inc. and Payless ShoeSource Canada Inc. (Payless) also attended the hearing, but did not testify and did not make any arguments. The Tribunal invited two witnesses, one from The Bay and one from Zellers Inc. (Zellers). These witnesses appeared and testified at the hearing.

### **SUMMARY OF THE ORDER IN REVIEW NO. RR-94-003**

On May 2, 1995, the Tribunal concluded that the review involved two classes of goods, namely, women's leather and non-leather boots and women's leather and non-leather shoes, and that it must consider separately, for each class of goods, the questions of a likelihood of resumed dumping or subsidizing and a likelihood of material injury.

#### **Women's Boots**

The Tribunal continued its finding 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.<sup>3</sup>

The Tribunal found that, given the large increase in the volume and range of goods imported from China, the continued low prices at which these goods were being offered, the indication of dumping activities by China in other foreign markets and the enormous production capabilities of the Chinese footwear industry, there would exist a likelihood of resumed dumping of women's boots, if the finding were rescinded. Further, based on the testimony of witnesses concerning the anticipated negative effects of a rescission of the finding on producers' prices, production, sales volumes, profits and investment plans, the Tribunal was persuaded that resumed dumping of women's leather and non-leather boots from China was likely to cause material injury to the production in Canada of like goods. On the basis of these facts, the Tribunal determined that the finding covering Chinese women's boots should be continued.

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

## Women's Shoes

The Tribunal continued its finding 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.<sup>4</sup>

The Tribunal was convinced that, given the significant increase in the volume and range of goods imported from China, the continued low prices at which the goods were being offered, the enormous production capabilities of the Chinese footwear industry and the indication of dumping activities by China in other foreign markets, there would exist a likelihood of resumed dumping of women's shoes from China, if the finding were rescinded. The Tribunal also found that, based on the evidence respecting the anticipated negative effects of a rescission of the finding on producers' prices, production, sales volumes, profit margins and investment plans, resumed dumping of women's leather and non-leather shoes from China was likely to cause material injury to the production in Canada of like goods. On this ground, the Tribunal found that the finding covering Chinese women's shoes should be continued.

In its order, the Tribunal excluded a number of products covering women's shoes from China on the basis that imports of these goods did not compete with domestic production of women's shoes.

## PRODUCT

The product that is the focus of this review is described as women's leather and non-leather boots<sup>5</sup> (women's boots) originating in or exported from China. These boots are constructed with uppers made of leather and non-leather materials and manufactured in sizes 4 and up. This definition of boots includes winter and cowboy boots, as well as utility or work boots.

The following types of footwear do not fall within the definition of women's boots: sports footwear, waterproof rubber footwear, waterproof plastic footwear, safety footwear incorporating protective metal toe caps, orthopedic footwear, canvas footwear, unassembled footwear, overshoes worn over other footwear, and disposable footwear which is generally designed to be used only once.

Most footwear manufacturing plants are organized along similar lines, with some variation depending on the type and quality of footwear produced (leather versus non-leather footwear, waterproof footwear, etc.) and on the size of the factory. A plant is usually divided into several distinct departments.

The manufacturing process begins in the pattern department where patterns are cut for a certain style. From the different patterns, dies are made for the cutting department. The cutting department cuts components from leather skins or other materials, as well as the lining, using cutting dies and a cutting machine. The components and pieces of lining are then bundled in multiples and sent to the fitting department, where they are stitched and assembled. The fitting department is also responsible for many other tasks, such as perforating, pinking<sup>6</sup>, skiving<sup>7</sup>, splitting, doubling, seam rubbing and taping, cementing and folding, eyeletting, lacing and waterproofing the seams, if applicable. Meanwhile, the outsoles, insoles,

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4. 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.

5. Footwear covering the ankle is considered a boot.

6. Pinking is piercing, normally for decorative purposes.

7. 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.

counters, box toes and other bottom stock items are assembled and tied into bundles in the stock fitting department. 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 lasted upper is then roughed and cemented with a nitrocellulose cement, to which the sole is pressed. In the finishing department, the boot is cleaned, touched up, sprayed and, if applicable, waterproofed. After final inspection, the finished footwear is packed for shipping.

There are several other methods of constructing a boot, including welted, stitchdown and vulcanization, but the cemented method described above is the most widely used, as it is a relatively inexpensive process.

## DOMESTIC PRODUCERS

During the review period, from January 1, 1997, to September 30, 1999, there were 26 firms producing women's boots in Canada. Of these, 11 were SMAC members. SMAC members accounted for approximately 71 percent of the total volume of domestic production of women's boots in 1998.<sup>8</sup>

## POSITION OF PARTIES

SMAC submitted that the dumping of women's boots from China would resume, if the order were rescinded. To support its position, SMAC submitted that the retail chains, including mass merchandisers, department stores and footwear speciality chains, search the world relentlessly for footwear at the lowest possible cost consistent with acceptable delivery. It added that China, which produces approximately half of all the world's footwear, is the most formidable supplier of women's footwear and has been gaining ground in this business environment. SMAC also pointed out that, since the mid-1990s, findings have been made in the European Union, New Zealand and Mexico regarding the dumping of footwear from China and that the margins of dumping were significant in all cases.

With respect to likelihood of injury, SMAC submitted that, if the order were rescinded, the landed price of Chinese boots would fall immediately by approximately 19 percent. The penetration of the Canadian market by Chinese imports would accelerate markedly. SMAC stressed that the Chinese imports would also be favoured, given the increasing importance of price resulting from the presence of new entrants in the Canadian retail market, such as Wal-Mart Stores, Inc. (Wal-Mart) and Payless. It added that the retailer-importers would have time to increase orders of Chinese boots for delivery next fall, thereby affecting the domestic industry's sales during that important season. For these reasons, SMAC submitted that Canadian producers of women's boots, which have experienced a decade of intense pressure from imports and two demand-depressing mild winters, would be materially injured, if the order were rescinded.

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8. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 15; and Tribunal Exhibit RR-99-003-31A (protected), Administrative Record, Vol. 2 at 233-39.

## ANALYSIS

Section 76 of SIMA provides that, on completion of a review, the Tribunal shall rescind or continue, with or without amendment, the order or finding. In making its decision, the Tribunal considers two fundamental issues. It first determines whether there is a likelihood of resumed or continued dumping. If the Tribunal finds that there is a likelihood of resumed or continued dumping, it then determines whether such dumping is likely to cause material injury to the domestic industry.

### Women's Boots

#### Likelihood of Resumed or Continued Dumping

A broad range of factors can be considered by the Tribunal in examining whether there is a likelihood of resumed or continued dumping. The factors that the Tribunal has considered include the volume of imports into Canada of women's boots from China and their share of total imports and of the Canadian market, the size of the Chinese footwear industry and its export orientation, the marketing behaviour of Chinese exporters in other export markets, the existence of anti-dumping actions against imports of Chinese footwear in other jurisdictions, the prices of Chinese women's boots in the Canadian market and the likely prices for Chinese exports if the order is rescinded. As outlined below, all of these factors lead to the conclusion that the dumping of women's boots from China is likely to continue.

Since the 1995 review, the apparent Canadian market for women's boots has shown a decline. It declined by approximately 1 million pairs in 1997 over its 1992-93 level, remained relatively stable in 1998, but declined again by almost 360,000 pairs in the first nine months of 1999, as compared to the first nine months of 1998.<sup>9</sup> According to the evidence,<sup>10</sup> the mild winters experienced in Canada since 1996 have contributed to reducing the demand for women's boots.<sup>11</sup>

In this declining Canadian market, Chinese imports of women's boots have continued to increase, not only in terms of volume but also in terms of share of total imports and share of the market. Despite the imposition of an anti-dumping advance factor of 29 percent on the export price,<sup>12</sup> the volume of Chinese imports increased by almost 400,000 pairs from 1997 to 1998, with a further increase of some 90,000 pairs reported in the first nine months of 1999.<sup>13</sup> China's share of total imports of women's boots increased from

9. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 64 and 65; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.
10. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 52-53.
11. Official data support the observation that the weather has been warmer than average. The Department of the Environment reported that, up to the fall of 1999, Canada had 10 consecutive seasons (winters, springs, summers and autumns) of above-average temperatures. Department of the Environment, News Release, "Two and a half years of above normal temperatures in Canada" (13 December 1999), online: <[http://www.ec.gc.ca/press/temp99\\_m\\_e.htm](http://www.ec.gc.ca/press/temp99_m_e.htm)> (last modified: 13 December 1999).
12. The Canada Customs and Revenue Agency (formerly the Department of National Revenue) considers China to have a non-market economy. For all imports of Chinese women's boots, a country advance factor is applied against the FOB value of the goods originating in that country.
13. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 23; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.



26 percent in 1997 to 38 percent in the first nine months of 1999.<sup>14</sup> During this same period, China's share of the apparent Canadian market increased from 17 percent to 28 percent.<sup>15</sup> Chinese imports have made inroads not only against suppliers of imports from many non-subject countries, including Italy, Brazil and Romania,<sup>16</sup> but also against domestically produced goods. Indeed, the domestic producers' share of the market, based on sales from domestic production, declined from 34 percent to 27 percent over the period of review.<sup>17</sup>

China's export orientation is revealed by the production and export data contained in the record of this review. The data on world footwear production show that China's production grew significantly over the 1993-97 period, increasing from 3.5 billion pairs in 1993 to 5.2 billion pairs in 1997.<sup>18</sup> China's share of total world footwear production increased steadily between 1993 and 1997, rising from 37 percent in 1993 to almost 50 percent in 1997.<sup>19</sup> The data also show that China was, by far, the largest exporter of footwear, with 46 percent of all world exports in 1997.<sup>20</sup> These exports represented some 57 percent of its total production in that year.<sup>21</sup>

The strong export orientation of Chinese footwear exporters is also shown in the export data filed by SMAC with regard to the US and European markets.<sup>22</sup> SMAC's data, which include trade statistics on women's boots very similar to those currently being reviewed, show that, in value terms, China increased its import share in the European Union from 13 percent in 1996 to 23 percent in 1998. Over the 1996 to 1998 period, China's share of total imports into the US market increased from 57 percent to 65 percent.

The marketing behaviour of Chinese exporters in markets other than Canada is another strong indicator, in this case, of the likelihood of continued dumping. Exports of Chinese women's boots and shoes or other footwear are currently the subject of anti-dumping measures in the European Union, New Zealand and Mexico.<sup>23</sup> The Tribunal notes that the margins of dumping, as found by the investigating authorities,

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14. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 23; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.
  15. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 26; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.
  16. *Protected Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-6 (protected), Administrative Record, Vol. 2 at 31 and 34; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.
  17. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 26; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.
  18. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 59.
  19. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 59.
  20. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 62.
  21. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 59 and 62.
  22. Manufacturer's Exhibit A-1, appendices B and C, Administrative Record, Vol. 11.
  23. Tribunal Exhibits RR-99-003-32, -33, -34, -35, -36 and -37, Administrative Record, Vol. 1A at 1-187.

were significant in all these cases.<sup>24</sup> Although some of these findings cover goods other than women's boots, such as women's shoes, these goods are typically produced by the same manufacturers and often in the same plants as women's boots, using the same production equipment.<sup>25</sup> They are often sold through the same channels of trade and to the same customers.

The Tribunal notes that the last normal value revision conducted for women's boots was concluded in 1996 and that the Department of National Revenue found, at that time, that the Chinese women's boots had been dumped.<sup>26</sup> In the Canadian market, the Chinese suppliers continue to price women's boots aggressively. Indeed, the Tribunal notes that Chinese landed prices, even though they include anti-dumping duties, were, on average, well below prices for domestically produced women's boots and were, for the most part, the lowest in the marketplace.<sup>27</sup> Imports of Chinese boots were even lower-priced than goods imported from Vietnam, the second largest source of imported women's boots. According to the witness for SMAC, Chinese imports of women's boots are priced so low that they appear to be sold below the cost of the materials.<sup>28</sup>

The Tribunal notes that average landed prices of Chinese boots have risen since the last review. However, according to the witness for SMAC, Chinese boots are normally purchased in US dollars, and some of this increase may have been due to the appreciation of the US dollar against the Canadian dollar.<sup>29</sup> The increase in average prices may also be attributable to a different mix of products, consistent with moving up market, i.e. into the higher-priced women's boots segment, rather than increasing prices on the same products.<sup>30</sup> The Tribunal believes that the increase in the average landed prices of Chinese boots is not an indication that the Chinese exporters are not likely to continue dumping women's boots in Canada.

In the event of a rescission of the order, the Canadian market for women's boots would continue to be very competitive. The Tribunal finds persuasive the testimony by the witness from Zellers that mass merchandisers relentlessly pursue low prices and that the new entrants in the Canadian retail market, Wal-Mart and Payless, have increased the need to concentrate on price.<sup>31</sup> This business environment, in the Tribunal's view, is likely to intensify competition between domestic producers and suppliers of imported women's boots. Moreover, it is clear to the Tribunal that China's selling strategy is to expand aggressively its participation in all world markets for footwear and that dumping is one element of that strategy.

According to the testimony of the retailer witnesses, if the order is rescinded, selling prices charged by Chinese exporters to Canadian importers (i.e. before anti-dumping duties) will remain the same.<sup>32</sup> Chinese landed prices for the importers, in the event of a rescission of the order, would therefore be reduced

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24. Tribunal Exhibits RR-99-003-32, -33, -34, -35, -36 and -37, Administrative Record, Vol. 1A at 11, 42, 94, 146 and 183.

25. Manufacturer's Exhibit A-1 at 3, Administrative Record, Vol. 11.

26. A corresponding advance factor on the export price was established at 29 percent. Tribunal Exhibit RR-99-003-1, Administrative Record, Vol. 1 at 188.

27. *Protected Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-6 (protected), Administrative Record, Vol. 2 at 33 and 50; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.

28. *Transcript of Public Hearing*, 21 February 2000, at 23.

29. *Transcript of Public Hearing*, 21 February 2000, at 35.

30. *Transcript of Public Hearing*, 21 February 2000, at 27, 75-76 and 120.

31. *Transcript of Public Hearing*, 21 February 2000, at 138-39 and 141-42.

32. *Transcript of Public Hearing*, 21 February 2000, at 125 and 127.

by the amount of the anti-dumping duties currently paid. In this regard, the witness for SMAC estimates that an elimination of the advance factor on the export price would equate to a drop of 19 percent in the landed price of imports from China.<sup>33</sup> Retailers testified that most, if not all, of the price decrease brought on by the elimination of the anti-dumping duties would be passed on to consumers, resulting in lower prices available in the marketplace.<sup>34</sup> The Tribunal has no doubt that the elimination of the advance factor will automatically lead to a significant decrease of Chinese prices in Canada

Having regard to all these factors, including the increasing volume of Chinese women's boots into Canada over the recent years, the enormous and increasing production capacity of the Chinese footwear industry, the aggressive export behaviour of Chinese exporters, including their dumping activities in markets other than Canada, the continued low prices at which Chinese women's boots are being offered in Canada and the likely lower pricing of Chinese imports if the order is rescinded, the Tribunal is convinced that there is a likelihood of continued dumping of women's boots from China.

#### Likelihood of Material Injury

In considering whether the continued dumping of women's boots from China is likely to cause material injury to the domestic industry, the Tribunal examined a number of factors, including the recent performance of the Canadian industry and the likely prices and volumes of dumped imports and their likely impact on the Canadian industry.

According to the evidence presented by SMAC, the anti-dumping measures have had beneficial effects on the production, sales, viability and employment of the domestic industry.<sup>35</sup> For his part, a witness from Régence Inc. (Régence), one of the largest Canadian producers of women's boots, noted that the measures have permitted a slight increase in prices and a narrowing of the price spread between domestic and Chinese products, which have allowed Régence to maintain certain product niches.<sup>36</sup>

The order has also slowed down the contraction of the domestic boot industry and enabled Régence to invest in new production processes, explore new avenues for its products and maintain company employment.<sup>37</sup> The witness for SMAC noted that, while some firms have gone out of business, this was partially offset by new entrants in the boot-making business. Further, the firms that did go out of business had not been keeping up with the latest in production technology.<sup>38</sup>

Notwithstanding the benefits of the order, the performance of the domestic industry has weakened over the last few years. Domestic production of women's boots has been on a steady decline since the Tribunal's review in 1995. Between 1997 and 1998, production dropped by more than 500,000 pairs, and a further decline of almost 350,000 pairs was experienced in the first nine months of 1999 as compared to the equivalent 1998 period. In addition to the loss of market share to imports from China,<sup>39</sup> part of the decline in

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33. Manufacturer's Exhibit A-1 at 7, Administrative Record, Vol. 11.

34. *Transcript of Public Hearing*, 21 February 2000, at 125-27.

35. Manufacturer's Exhibit A-1 at 2, Administrative Record, Vol. 11.

36. *Transcript of Public Hearing*, 21 February 2000, at 81.

37. Manufacturer's Exhibit A-2 at 3, Administrative Record, Vol. 11.

38. *Transcript of Public Hearing*, 21 February 2000, at 29-30.

39. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 65; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.

domestic production is due to the fall in domestic market demand caused by the unusually mild winters over the last few years and a related drop in export sales of women's boots.<sup>40</sup> Gross revenues and gross margins have been falling since 1997.<sup>41</sup>

Since the Tribunal's last review, the Canadian women's boot industry has continued to experience strong competitive price pressure from Chinese imports, while, according to the witness for SMAC, the prices of imports from other countries have not been a problem.<sup>42</sup>

Against this background, the Tribunal examined the likely effects of rescinding the order. If the order is rescinded, the Tribunal is convinced that dumped Chinese imports will cause an immediate and significant drop in the average price of the Chinese imports, thus intensifying their market penetration in Canada and/or resulting in reduced prices for Canadian products.

Chinese exporters, as noted previously, are aggressively selling all their footwear worldwide. Chinese footwear, including women's boots in some instances, has been dumped by significant margins in several jurisdictions, and there is no reason to believe that Chinese exporters would seize the opportunity of a rescission of the order on women's boots to increase prices to Canadian importers. Rather, the Tribunal is convinced from the testimony of the witnesses that selling prices charged by Chinese exporters to Canadian importers will remain the same<sup>43</sup> and that landed Chinese prices will therefore be reduced by the amount of the anti-dumping duties currently paid. This will automatically result in an immediate and significant drop in landed prices for Chinese women's boots. Further, the retailers that testified stated that all or almost all the entire drop in prices would be passed on to Canadian consumers.<sup>44</sup>

As noted already, there is a very strong emphasis on price in the marketplace today. Under the circumstances, it is likely that, if the order is rescinded, there will be, in the near term, a significant decline in prices. While Chinese imports of women's boots have been concentrated in the lower- and medium-priced segments of the market over the period of review,<sup>45</sup> the testimony suggests that suppliers of these boots are not only competing head-to-head with domestic producers in these price segments of the market but also moving up market, i.e. into the higher-priced segment of women's boots.<sup>46</sup> Further, according to the testimony of the witness for The Bay, Chinese suppliers of women's boots have the potential to move up market and compete head-to-head with the domestic producers in respect of higher-priced traditional cold-winter boots, if they choose to do so, noting that technology, fashion and workforce training are

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40. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 65; Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27; and *Transcript of Public Hearing*, 21 February 2000, at 46.

41. *Public Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-5, Administrative Record, Vol. 1B at 65.

42. *Transcript of Public Hearing*, 21 February 2000, at 19-20.

43. *Transcript of Public Hearing*, 21 February 2000, at 125-27.

44. *Transcript of Public Hearing*, 21 February 2000, at 125-27.

45. *Protected Pre-hearing Staff Report*, 11 January 2000, Tribunal Exhibit RR-99-003-6 (protected), Administrative Record, Vol. 2 at 52-53; and Tribunal Exhibits RR-99-003-18.20A and -18.20B (protected), Administrative Record, Vol. 6A at 97.6 to 97.27.

46. *Transcript of Public Hearing*, 21 February 2000, at 27, 75, 76 and 120.

transportable anywhere.<sup>47</sup> Moreover, according to the testimony of a witness from Régence, lower prices in the lower segments would also have a definite negative effect on higher-priced women's boots.<sup>48</sup>

Given the already strong market presence of Chinese women's boots in the Canadian market, the Tribunal believes that, if the order is rescinded, the effect will be felt in the near term, in that prices for the fall 2000 collection will likely decline significantly. Set-ups on a retailer's floor occur in the August-September-October time frame.<sup>49</sup> The Tribunal understands that overseas and domestic production may well be underway. However, delivery dates are still several months away, and landed prices will significantly drop, if the order is no longer in place. The injury to Canadian production would be immediate, as the fall season represents a very high proportion of the annual demand for women's boots.<sup>50</sup>

The drop in Chinese prices would force all suppliers to drop their own prices or risk a loss of market share. The Tribunal notes that it is accepted industry practice to use import prices as leverage to negotiate prices with domestic suppliers.<sup>51</sup> The witness from Zellers clearly indicated that the company would go to the lowest-priced source.<sup>52</sup> Consequently, domestic producers will be forced to significantly lower prices to maintain sales volumes.

If the domestic suppliers resist such a request, a major displacement of domestic production will most likely take place. In this regard, the Tribunal is convinced that China, which has increased its market share in Canada since 1997, is able to accelerate its market penetration with the elimination of the anti-dumping advance factor. As noted earlier, China already has a strong market presence in Canada and is selling through large mass merchants. It is, by far, the world's largest footwear supplier and has huge and increasing production capacity. Given its significant export potential, China could substantially increase its presence in the small Canadian market with large quantities of women's boots.

In these circumstances, the Tribunal is persuaded that, if the order were rescinded, the domestic women's boot industry would suffer material injury from continued dumping by China. In the Tribunal's view, the domestic producers' prices would be eroded significantly and/or their sales and market share would decline significantly. In any of these cases, profitability would drop sharply. Further, given the present weakness of the domestic women's boot industry,<sup>53</sup> the Tribunal is convinced that, in the near term, the very survival of the industry would be put at risk.

## Women's Shoes

As mentioned at the outset of this statement of reasons, the Tribunal did not collect information on women's shoes from China, given that it had received a letter from SMAC informing the Tribunal that it would not be making or pursuing any allegation of injury "caused or to be caused" by such imports. At the hearing, parties submitted no evidence or allegations with respect to either the likelihood of resumed or continued dumping of women's shoes from China or the likelihood of material injury, if such dumping were

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47. *Transcript of Public Hearing*, 21 February 2000, at 110-11, 119-20 and 136-37.

48. *Transcript of Public Hearing*, 21 February 2000, at 74.

49. *Transcript of Public Hearing*, 21 February 2000, at 158.

50. Manufacturer's Exhibit A-1 at 8, Administrative Record, Vol. 11; and *Transcript of Public Hearing*, 21 February 2000, at 40.

51. *Transcript of Public Hearing*, 21 February 2000, at 125.

52. *Transcript of Public Hearing*, 21 February 2000, at 127-28 and 138-39.

53. Manufacturer's Exhibit A-2 at 3-4, Administrative Record, Vol. 11.

to occur. Consequently, the Tribunal is of the view that there is no reason to continue the portion of its order of May 2, 1995, with respect to women's leather and non-leather shoes from China.

## CONCLUSION

For all of these reasons, the Tribunal hereby continues its order, with an amendment to rescind the portion of the order respecting women's leather and non-leather shoes originating in or exported from the People's Republic of China.

Richard Lafontaine

Richard Lafontaine  
Presiding Member

Pierre Gosselin

Pierre Gosselin  
Member

Zdenek Kvarda

Zdenek Kvarda  
Member