



Ottawa, Tuesday, February 24, 1998

Review No.: RR-97-005

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 February 25, 1993, in Review No. RR-92-003, continuing, without amendment, the finding made by the Canadian Import Tribunal on February 26, 1988, in Inquiry No. CIT-11-87, respecting:

PHOTO ALBUMS WITH POCKET, SLIP-IN OR FLIP-UP STYLE SHEETS (IMPORTED TOGETHER OR SEPARATELY), AND REFILL SHEETS THEREOF, ORIGINATING IN OR EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA, THE PEOPLE'S REPUBLIC OF CHINA, HONG KONG, TAIWAN, SINGAPORE, MALAYSIA AND THE FEDERAL REPUBLIC OF GERMANY

ORDER

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby rescinds its order made on February 25, 1993, in Review No. RR-92-003, continuing, without amendment, the finding made by the Canadian Import Tribunal on February 26, 1988, in Inquiry No. CIT-11-87.

Patricia M. Close

Patricia M. Close
Presiding Member

Raynald Guay

Raynald Guay
Member

Arthur B. Trudeau

Arthur B. Trudeau
Member

Michel P. Granger

Michel P. Granger
Secretary

Date of Order: February 24, 1998

Tribunal Members: Patricia M. Close, Presiding Member
Raynald Guay, Member
Arthur B. Trudeau, Member

Director of Research: Selik Shainfarber

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Economist: Marcie Doran

Statistical Officer: Lise Lacombe

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Registration and Distribution Officer: Claudette Friesen



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(IMPORTED TOGETHER OR SEPARATELY), AND REFILL SHEETS THEREOF,
ORIGINATING IN OR EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA,
THE PEOPLE'S REPUBLIC OF CHINA, HONG KONG, TAIWAN, SINGAPORE,
MALAYSIA AND THE FEDERAL REPUBLIC OF GERMANY**

TRIBUNAL: PATRICIA M. CLOSE, Presiding Member
 ARTHUR B. TRUDEAU, Member
 RAYNALD GUAY, Member

STATEMENT OF REASONS

On February 25, 1993, the Canadian International Trade Tribunal (the Tribunal) made an order continuing, without amendment, the finding made by the Canadian Import Tribunal on February 26, 1988, in Inquiry No. CIT-11-87, respecting photo albums with pocket, slip-in or flip-up style sheets (imported together or separately), and refill sheets thereof, originating in or exported from Japan, the Republic of Korea, the People's Republic of China, Hong Kong, Taiwan, Singapore, Malaysia and the Federal Republic of Germany.

On May 23, 1997, the Tribunal gave notice that its order of February 25, 1993, in Review No. RR-92-003, was scheduled to expire on February 24, 1998. Persons or governments requesting or opposing the initiation of a review of the order were asked to file written public submissions containing relevant information, opinions and arguments with the Secretary of the Tribunal no later than June 27, 1997. Where there were opposing views, each person or government was given an opportunity to respond in writing to the representations of other persons or governments. Once the process completed, the Tribunal decided whether a review of the order was warranted.

Written submissions requesting the initiation of a review were received from DF Albums Ltd., formerly Desmarais & Frère Ltd. (DF Albums) and Techmatic MFG Inc. (Techmatic), both Canadian manufacturers of pocket photo albums. The Trade Department of the Government of the Hong Kong Special Administrative Region, Vibrant Photo and Electronics Inc. (Vibrant), an importer and distributor of photo albums, and Candym Enterprises opposed the initiation of a review. On the basis of the information available, including representations requesting or opposing the initiation of a review and responses to these representations, the Tribunal concluded that a review of the order was warranted. Accordingly,

on September 2, 1997, the Tribunal gave notice¹ that, pursuant to subsection 76(2) of the *Special Import Measures Act*² (SIMA), it would review its order made on February 25, 1993, in Review No. RR-92-003.

The notice of review indicated that a public hearing relating to the review would be held commencing on December 16, 1997. Each interested person or government wishing to participate at the hearing as a party had to file a notice of appearance with the Secretary on or before October 2, 1997. Each counsel who intended to represent a party at the hearing had to file a notice of appearance, as well as a declaration and undertaking, with the Secretary on or before October 2, 1997.

As part of the review, the Tribunal sent questionnaires to known manufacturers, purchasers and importers of pocket photo albums. A foreign manufacturer's questionnaire was sent to the official representatives of the subject countries in Canada. The record of this review, therefore, consists of all relevant documents, including the original finding, the notice of review, and public and confidential sections of replies to questionnaires.

The Tribunal received notices of appearance from DF Albums, Techmatic and Vibrant. On October 20, 1997, the Tribunal received a letter from Mr. Jean-Marc Therrien, Vice-President Corporate Affairs, DF Albums, indicating that the company was withdrawing from the Tribunal's review. On October 31, 1997, the Tribunal received a letter from counsel for Techmatic indicating that the company was also withdrawing from the Tribunal's review.

On November 4, 1997, the Tribunal sent a letter to counsel advising them that it had decided not to issue a staff report or distribute any of the exhibits that had been received. The Tribunal indicated that the responses filed by DF Albums, the major domestic producer of pocket photo albums, to the Tribunal's manufacturer's questionnaire did not provide the Tribunal with sufficient information to prepare a staff report.

In its November 4, 1997, letter, the Tribunal indicated that, as part of the present review, its staff had identified three domestic producers of pocket photo albums, namely, DF Albums of Longueuil, Quebec, Belt Stationery MFG of Montréal, Quebec, and Techmatic of Brampton, Ontario. The Tribunal noted that, in 1993, in Review No. RR-92-003, DF Albums alone was considered to constitute the domestic industry, as it represented 80 percent of the domestic production of pocket photo albums and sheets. The next largest producer, Belt Stationery MFG, was not a party to the proceedings in 1993, did not file a notice of appearance in the present review and did not respond to the Tribunal's questionnaire. Thus, of the three domestic producers identified in this case, only Techmatic provided an adequate response to the Tribunal's manufacturer's questionnaire.

The Tribunal indicated that, under these circumstances, it was of the view that it was not in a position to continue its review. Accordingly, it indicated that, barring any unforeseen circumstances, on February 24, 1998, it would issue an order rescinding its order of February 25, 1993, in Review No. RR-92-003, without further consideration of the matter. No additional submissions were filed with the Tribunal following the November 4, 1997, letter sent to counsel.

In a review conducted under subsection 76(2) of SIMA, the Tribunal will not continue an order or finding unless it finds that there is a likelihood of resumption of dumping if the finding or the order is

1. *Canada Gazette* Part I, Vol. 131, No. 37, September 13, 1997, at 2721.

2. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47.

rescinded and that the resumption of dumping is likely to cause material injury to the domestic industry.³ The term “domestic industry” is defined, subject to certain exceptions, as “the domestic producers as a whole of the like goods or those ... whose collective production of the like goods constitutes a major proportion of the total domestic production of the like goods.”⁴ Without adequate production, sales, pricing, financial and general market information from the major producers of pocket photo albums in Canada, the Tribunal is of the view that it cannot make a finding on likelihood of material injury to a major proportion of the total domestic production of pocket photo albums.

Accordingly, the Tribunal, pursuant to subsection 76(4) of SIMA, hereby rescinds its order made on February 25, 1993, in Review No. RR-92-003, continuing, without amendment, the finding made by the Canadian Import Tribunal on February 26, 1988, in Inquiry No. CIT-11-87.

Patricia M. Close

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Presiding Member

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3. See, for example, *Fresh, Whole, Yellow Onions, Originating in or Exported from the United States of America, For Use or Consumption in the Province of British Columbia*, Canadian International Trade Tribunal, Review No. RR-91-004, *Order and Statement of Reasons*, May 22, 1992; and *Aluminum Coil Stock and Steel Head and Bottom Rails, for Use in the Production of Horizontal Venetian Blinds, Originating in or Exported from Sweden*, Canadian International Trade Tribunal, Review No. RR-96-002, *Order and Statement of Reasons*, February 6, 1997.

4. *Supra* note 2, subsection 2(1).