



Ottawa, Thursday, January 20, 1994

**Appeal No. AP-93-010**

IN THE MATTER OF an appeal heard on September 14, 1993, under section 61 of the *Special Import Measures Act*, R.S.C. 1985, c. S-15;

AND IN THE MATTER OF decisions of the Deputy Minister of National Revenue for Customs and Excise dated February 11 and March 9, 1993, with respect to requests for re-determination under section 58 of the *Special Import Measures Act*.

**BETWEEN**

**ALDO SHOES INC.**

**Appellant**

**AND**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is allowed.

Robert C. Coates, Q.C.  
Robert C. Coates, Q.C.  
Presiding Member

Desmond Hallissey  
Desmond Hallissey  
Member

Lise Bergeron  
Lise Bergeron  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

**UNOFFICIAL SUMMARY**

**Appeal No. AP-93-010**

**ALDO SHOES INC.**

**Appellant**

**and**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

*This is an appeal under section 61 of the Special Import Measures Act of two decisions of the Deputy Minister of National Revenue for Customs and Excise dated February 11 and March 9, 1993. The issue in this appeal is whether the respondent correctly imposed anti-dumping and countervailing duties on footwear imported from Brazil by the appellant. The duties were imposed on the basis of the Tribunal's injury finding in Inquiry No. NQ-89-003, dated May 3, 1990, which stated that the dumping and subsidizing of certain boots and shoes from Brazil had caused, were causing and were likely to cause material injury to the production in Canada of like goods. Sandals were among the goods specifically excluded from the said finding. In considering whether the respondent correctly imposed the duties, it must be determined whether the imported goods are sandals, as submitted by the appellant, and are, thereby, exempt from the imposition of anti-dumping and countervailing duties resulting from the Tribunal's finding or whether they are shoes, as determined by the respondent, and therefore subject to duties.*

**HELD:** *The appeal is allowed. Having considered the written submissions of the parties and the concession of the respondent, the appeal is allowed. The respondent incorrectly imposed anti-dumping and countervailing duties on footwear imported from Brazil by the appellant.*

*Place of Hearing: Ottawa, Ontario  
Date of Hearing: September 14, 1993  
Date of Decision: January 20, 1994*

*Tribunal Members: Robert C. Coates, Q.C., Presiding Member  
Desmond Hallissey, Member  
Lise Bergeron, Member*

*Counsel for the Tribunal: Joël J. Robichaud*

*Clerk of the Tribunal: Janet Rumball*

*Appearances: Donald Petersen, for the appellant  
Stéphane Lilkoff, for the respondent*

**Appeal No. AP-93-010**

**ALDO SHOES INC.**

**Appellant**

**and**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

TRIBUNAL: ROBERT C. COATES, Q.C., Presiding Member  
DESMOND HALLISSEY, Member  
LISE BERGERON, Member

**REASONS FOR DECISION**

This is an appeal under section 61 of the *Special Import Measures Act*<sup>1</sup> (SIMA) of two decisions of the Deputy Minister of National Revenue for Customs and Excise dated February 11 and March 9, 1993. The issue in this appeal is whether the respondent correctly imposed anti-dumping and countervailing duties on footwear imported from Brazil by the appellant. The duties were imposed on the basis of the Tribunal's injury finding<sup>2</sup> dated May 3, 1990, which stated that the dumping and subsidizing of certain boots and shoes from Brazil had caused, were causing and were likely to cause material injury to the production in Canada of like goods. Sandals were among the goods specifically excluded from the said finding. In considering whether the respondent correctly imposed the duties, it must be determined whether the imported goods are sandals, as submitted by the appellant, and are, thereby, exempt from the imposition of anti-dumping and countervailing duties resulting from the Tribunal's finding or whether they are shoes, as determined by the respondent, and therefore subject to duties.

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

2. *Women's Leather Boots and Shoes Originating in or Exported from Brazil, the People's Republic of China and Taiwan; Women's Leather Boots Originating in or Exported from Poland, Romania and Yugoslavia; and Women's Non-Leather Boots and Shoes Originating in or Exported from the People's Republic of China and Taiwan*, Inquiry No. NQ-89-003, May 3, 1990; Statement of Reasons dated May 18, 1990.

Having considered the written submissions of the parties and the concession of the respondent, the appeal is allowed. The respondent incorrectly imposed anti-dumping and countervailing duties on footwear imported from Brazil by the appellant.

Robert C. Coates, Q.C.  
Robert C. Coates, Q.C.  
Presiding Member

Desmond Hallissey  
Desmond Hallissey  
Member

Lise Bergeron  
Lise Bergeron  
Member