



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

ORDER AND REASONS

Appeal No. AP-2012-009

Volpak Inc.

v.

President of the Canada Border
Services Agency

*Order and reasons issued
Tuesday, July 8, 2014*

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IN THE MATTER OF an appeal filed by Volpak Inc. on June 6, 2012, pursuant to subsection 67(1) of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF a request made by Volpak Inc. on May 29, 2014, for the Canadian International Trade Tribunal to re-consider its order issued on May 22, 2014.

BETWEEN

VOLPAK INC.

Appellant

AND

**THE PRESIDENT OF THE CANADA BORDER SERVICES
AGENCY**

Respondent

ORDER

The request made by Volpak Inc. for the Canadian International Trade Tribunal to reconsider its order issued on May 22, 2014, is denied.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member

Randolph W. Heggart
Randolph W. Heggart
Acting Secretary

STATEMENT OF REASONS

PROCEDURAL HISTORY

1. On June 6, 2012, Volpak Inc. (Volpak) filed an appeal with the Canadian International Trade Tribunal (the Tribunal) with regard to a decision of the President of the Canada Border Services Agency (CBSA) made on March 15, 2012, pursuant to subsection 60(4) of the *Customs Act*,¹ concerning the tariff classification of chicken and chicken products (the goods in issue).
2. On February 11, 2014, the CBSA wrote to object to Volpak's filing of 43 documents, consisting of an appellant's book of authorities, and an appellant's book of documents and additional documents (the documents in issue).
3. On February 12, 2014, the Tribunal informed the parties that the hearing was rescheduled for May 22, 2014, and asked the parties to file submissions regarding the relevance of the documents in issue.
4. On February 12, 2014, Volpak wrote to the Tribunal to request a new hearing date, as counsel for Volpak was unavailable on May 22, 2014.
5. On February 17, 2014, the Tribunal informed the parties that the hearing was rescheduled for June 5, 2014.
6. On March 18 and 20, 2014, the CBSA submitted its comments regarding the relevance of the documents in issue.
7. On March 20, 2014, Volpak filed a reply to the CBSA's submissions in respect of the documents in issue and indicated that it was withdrawing four of the documents that it had filed. It also offered to submit an additional brief in order to formalize its position.
8. On March 24, 2014, the Tribunal declined Volpak's suggestion that it be allowed to submit an additional brief.
9. On May 14, 2014, the CBSA submitted an *Agreed Statement of Facts* on behalf of both parties.
10. The Tribunal issued its order on May 22, 2014, in which it indicated that 24 of the documents in issue would be accepted onto the record and that 14 others would not be accepted onto the record, as they either were not relevant or dealt with issues which had already been resolved by the *Agreed Statement of Facts* submitted by the parties (the decision in issue). The Tribunal issued the reasons for its order on June 5, 2014.
11. On May 26, 2014, Volpak wrote to the Tribunal and informed it that Volpak intended to file a request that the Tribunal re-consider the decision in issue (the request for reconsideration). Volpak asked that the hearing scheduled for June 5, 2014, be postponed pending the Tribunal's decision regarding Volpak's request for reconsideration.
12. On May 26, 2014, the Tribunal wrote to the parties to inform them that the hearing scheduled for June 5, 2014, was postponed and to set dates for the filing of submissions regarding Volpak's request for reconsideration.
13. Volpak filed its submissions regarding the request for reconsideration on May 29, 2014.
14. On June 2, 2014, the CBSA submitted its response opposing Volpak's request for reconsideration.

1. R.S.C., 1985, c. 1 (2nd Supp.).

ANALYSIS

15. As an initial observation, the Tribunal notes that Volpak did not refer to any statutory authority pursuant to which the Tribunal has authority to reconsider a previously issued decision. In any case, the Tribunal finds no sufficient reason to revisit its decision regarding the non-acceptance of the documents in issue.

16. In its request for reconsideration, Volpak stated that, while the documents in issue were served on the Tribunal one day after the deadline set out by the Tribunal, this late delivery resulted from circumstances which were beyond its control.² Volpak further stated that it had been unaware that the documents in issue were delivered after the filing deadline until this fact was noted in the decision in issue.

17. In any event, the Tribunal notes that the date on which the documents in issue were filed was not a consideration in the Tribunal's rationale for the decision in issue.

18. As to the core of Volpak's submissions, Volpak argued that the Tribunal should reconsider its decision not to accept certain documents onto the record because "[t]he documents are linked. All are relevant."³ Beyond that, however, Volpak's submissions do not provide any new facts or information establishing the relevance of the documents in issue. In particular, the Tribunal notes that Volpak did not provide any rationale as to why the Tribunal should reconsider its decision not to accept onto the record the documents at tabs 10, 15, 17, 20, 21, 23 and 24 of Exhibit AP-2012-009-41A and at tabs 1, 2, 3, 5 and 19 of Exhibit AP-2012-009-41B. With respect to the remaining documents in issue, Volpak's submissions largely consist of general descriptions of the contents of those documents.

19. In arriving at the decision in issue, the Tribunal considered each of the documents both individually and contextually in relation to the matters at issue and the arguments that have been put forward by the parties. In this regard, the Tribunal found that the documents in issue were not relevant either because they addressed matters that had already been established through the *Agreed Statement of Facts* or because they pertained to matters that fell outside the scope of the issues before the Tribunal in this appeal. Simply stating that "[t]hese documents tell a story; the story is incomplete without all of the documents"⁴ does not constitute a sufficient legal or factual basis for the Tribunal to re-consider its decision on the matter.

20. For the foregoing reasons, the Tribunal will not re-consider its decision on the matter.

CONCLUSION

21. Volpak's request that the Tribunal reconsider the decision in issue is denied.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member

2. Exhibit AP-2012-009-58 at paras. 2-3, Vol. 1E.
3. Exhibit AP-2012-009-58 at para. 19, Vol. 1E.
4. Exhibit AP-2012-009-58 at para. 5, Vol. 1E.