



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Safeguards

DECISION ON COMMENCEMENT OF INQUIRY AND REASONS

Safeguard Inquiry
No. GS-2004-001

Bicycles and Finished Painted
Bicycle Frames

*Decision and reasons issued
Thursday, February 10, 2005*

Canada

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IN THE MATTER OF a global safeguard inquiry, under subsection 26(1) of the *Canadian International Trade Tribunal Act*, respecting:

BICYCLES AND FINISHED PAINTED BICYCLE FRAMES

DECISION TO COMMENCE A GLOBAL SAFEGUARD INQUIRY

On November 22, 2004, pursuant to subsection 23(1) of the *Canadian International Trade Tribunal Act*, the Canadian Bicycle Manufacturers Association submitted a complaint requesting that the Canadian International Trade Tribunal initiate a global safeguard inquiry into the importation of bicycles, assembled or unassembled, with a wheel diameter greater than 38.1 centimetres or 15 inches, and finished painted bicycle frames, assembled or unassembled.

On January 11, 2005, the Canadian International Trade Tribunal determined, pursuant to subsection 25(1) of the *Canadian International Trade Tribunal Act*, that the complaint was properly documented.

The Canadian International Trade Tribunal is satisfied that the conditions listed in subsection 26(1) of the *Canadian International Trade Tribunal Act* are present. Therefore, the Canadian International Trade Tribunal hereby commences an inquiry into the complaint.

Ellen Fry
Ellen Fry
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Zdenek Kvarda
Zdenek Kvarda
Member

Hélène Nadeau
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STATEMENT OF REASONS

BACKGROUND

1. On November 22, 2004, pursuant to subsection 23(1) of the *Canadian International Trade Tribunal Act*,¹ the Canadian Bicycle Manufacturers Association (CBMA) submitted a complaint to the Canadian International Trade Tribunal (the Tribunal) requesting that the Tribunal initiate a global safeguard inquiry into the importation of bicycles, assembled or unassembled, with a wheel diameter greater than 38.1 centimetres or 15 inches, and finished painted bicycle frames, assembled or unassembled. The members of the CBMA are: Groupe Procycle Inc. (Procycle), including its division, Rocky Mountain Bicycles, and Raleigh Industries of Canada Limited (Raleigh).
2. As part of its examination of the complaint to determine whether it was properly documented, the Tribunal requested, on December 3, 2004, pursuant to subsection 24(1) of the *CITT Act*, that the CBMA provide additional information. On December 20, 2004, the CBMA provided further information in response to the Tribunal's request.
3. Based on its examination of the complaint, the Tribunal determined, pursuant to subsection 25(1) of the *CITT Act*, that the complaint was properly documented. A notice of receipt of a properly documented global safeguard complaint was issued on January 11, 2005, and was published in the January 22, 2005, edition of the *Canada Gazette*, Part I.
4. Pursuant to subsection 26(1) of the *CITT Act*, the Tribunal has decided to commence an inquiry into the complaint to determine whether the goods subject to the inquiry are being imported into Canada from all sources in such increased quantities and under such conditions as to be a principal cause of serious injury or threat thereof to domestic producers of like or directly competitive goods. Pursuant to subsection 26(2), the Tribunal will notify the CBMA and other interested parties of its decision to commence this inquiry. In addition, the Tribunal will send a copy of this decision and a copy of the public complaint and other relevant public information examined by the Tribunal to the Minister of Finance (the Minister).

PRODUCT

Product Definition and Description

5. The products that are the subject of the complaint are bicycles, assembled or unassembled, with a wheel diameter greater than 38.1 centimetres or 15 inches (bicycles), and finished painted bicycle frames, whether assembled or unassembled (frames).

Production Process

6. The CBMA submitted that the manufacturing process is virtually the same in Canada as it is elsewhere. The manufacturing process begins with the construction and finishing of the major components. The frames are constructed by welding together the three main tubes and fitting the fork that connects the front wheel to the frame, as well as attaching the rear triangle. The frame and fork are separately painted and polished and decals are applied before the parts are joined.
7. The construction of the wheel begins with the hubs and rims to which nipples and spokes are attached, ensuring that the torque on each spoke is the same. This process is often automated. Before being attached to the frame, the assembled wheels are individually tested to ensure balance.

1. R.S.C. 1985 (4th Supp.), c. 47 [*CITT Act*].

8. Component parts, such as the handlebars, the seat, the drive train and the brake system, each assembled from several component parts, are then attached. The component parts are generally purchased from specialized part suppliers that provide complete sets of selected parts.

9. The members of the CBMA construct frames, as well as some handlebars, backstays and rims, and assemble the wheels from Canadian and imported parts. Certain bicycle components are imported from the United States, Europe and the Far East. Many of the assembly operations, such as wheel assembly and the welding and painting of frames, are highly automated.

Classification of Imports and Tariff Treatment

10. Bicycles are classified under classification Nos. 8712.00.00.12, 8712.00.00.20, 8712.00.00.30, 8712.00.00.40, 8712.00.00.50 and 8712.00.00.90 of the schedule to the *Customs Tariff*.² The Most-Favoured-Nation (MFN) Tariff rate of customs duty applicable to imports of bicycles in 2004 was 13.0 percent, whereas the General Preferential Tariff (GPT) rate was 8.5 percent. Imports of bicycles from the United States and Mexico are duty free under the *North American Free Trade Agreement*.³

11. Frames are classified under classification No. 8714.91.90.00. The MFN Tariff rate of customs duty applicable to imports of frames in 2004 was 5 percent. Frames enter duty free under all other tariffs.

DOMESTIC INDUSTRY

12. According to the complaint, the Canadian producers of bicycles are Procycle, Raleigh, Norco Products Ltd. and Cycles Devinci Inc. Victoria Precision Inc. (Victoria Precision) is believed to have had very limited production in 2003 and did not produce any bicycles in 2004.

Position of the CBMA⁴

13. The CBMA alleged that its current members accounted for the majority of the volume and value of domestic production of bicycles every year since 1999 and that they produce goods that are like or directly competitive with the subject goods.

14. The CBMA alleged that the subject goods are being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive goods. It alleged that the increase has been sudden and significant.

15. The CBMA alleged that the high degree of substitutability between domestic and imported products, and the fact that price is the single most important determining factor in purchase decisions of mass merchandisers, buying groups and independent bicycle dealers, demonstrate a direct causal relationship between the increasing presence of low-priced imports in Canada and the declining volume of sales from Canadian production.

16. It is the CBMA's contention that the domestic industry is suffering serious injury in the form of lost employment, reduced revenues, reduced margins and net income (lost profits), lost sales, price suppression, price erosion, reduced ability to raise capital and innovate, unsatisfactory capacity utilization, and increased fixed costs.

17. In response to the Tribunal's request, dated December 3, 2004, to provide additional information pursuant to subsection 24(1) of the *CITT Act*, the CBMA alleged threat of serious injury to domestic

2. S.C. 1997, c. 36.

3. 32 I.L.M. 289 (entered into force 1 January 1994) [*NAFTA*].

4. This section outlines a number of key submissions made by the CBMA. It is not intended to be exhaustive.

producers of bicycles by imports of frames. It argued that, should safeguard protection regarding bicycles be implemented without the inclusion of frames in the scope of such protection, effective protection against increased imports of bicycles would be greatly jeopardized.

ANALYSIS

18. Pursuant to subsection 26(1) of the *CITT Act*, the Tribunal shall commence an inquiry into the complaint if it is satisfied that the following conditions are met:

- that the information provided by the complainant and any other information examined by the Tribunal disclose a reasonable indication that the goods that are the subject of the complaint are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods;
- that the complaint is made by or on behalf of domestic producers who produce a major proportion of domestic production of the like or directly competitive goods; and
- where an inquiry, in relation to like or directly competitive goods has been completed or terminated by the Tribunal under the *CITT Act* during the 24-month period preceding the date of receipt of the complaint, that the circumstances are sufficiently different to warrant a new inquiry.

Like or Directly Competitive Goods

19. Before addressing each of the three conditions in turn, the Tribunal will make some observations with respect to the issue of like goods.

20. The Tribunal's jurisdiction under subsection 26(1) of the *CITT Act* is to inquire into complaints concerning injury or threat of injury by imported goods to "domestic producers of like or directly competitive goods".

21. The complaint alleges threat of injury to the domestic producers of bicycles by imported frames. It does not allege injury or threat of injury to the domestic producers of frames by imported frames. Accordingly, the Tribunal only has jurisdiction to inquire into the threat of injury to the production of bicycles by imported frames if bicycles are "like or directly competitive goods" in relation to frames.

22. Because the information on the record at this time does not allow the Tribunal to come to a conclusion on the question of "like or directly competitive goods", the Tribunal has decided that, solely for the purposes of its decision on the commencement of this inquiry, the goods that are the subject of the inquiry consist of both bicycles and frames. The Tribunal will be seeking submissions from parties on this issue before making its decision on whether bicycles and frames are "like or directly competitive goods".

Reasonable Indication of Increased Imports

23. Data obtained by the Tribunal from Statistics Canada show that imports of bicycles increased from approximately 650,000 units in 1999 to close to 1 million units in 2003, a 54.0 percent increase. The imports of bicycles continued to increase in 2004. During the first nine months of 2004, imports of bicycles increased by over 40,000 units, or 4.5 percent, over the same period in 2003.

24. Imports of bicycles increased by essentially the same amount as domestic production declined. Imports as a percentage of domestic production increased from 66.6 percent in 1999 to over 146.0 percent in 2003.

25. Based on Statistics Canada data, the value⁵ of goods imported under tariff item No. 8714.91.90 more than doubled over the period, increasing from \$5.5 million in 1999 to over \$13.0 million in 2003. However, the description for this tariff item includes both painted and unpainted frames, as well as forks, parts and other accessories. It is therefore not clear at this time to what extent the large increase in imports is attributable to frames.

Reasonable Indication of Serious Injury or Threat of Serious Injury

26. The Tribunal reviewed data contained in the complaint concerning domestic production, loss of market share, employment, reduced prices, price suppression, lost sales, and reduced revenues, margins and net income. The CBMA noted that domestic producers do not sell frames into the market.

27. Between 1999 and 2003, domestic production of bicycles, as estimated by the CBMA, declined by close to 30 percent. Based on the evidence, this estimate would appear to be conservative, given the uncertainties regarding Victoria Precision's production volume in 2003.

28. Data in the complaint and those obtained by the Tribunal from Statistics Canada indicate that, in a relatively stable market, the domestic producers' share of the market fell by 20 percent between 1999 and 2003.

29. In the complaint, both Procycle and Raleigh provided data that demonstrate that they have suffered employment losses since 1999 and 2000 respectively.

30. The average unit price of imported bicycles fluctuated considerably from 1999 to 2003. Average import prices in 2003 were almost 9 percent lower than in 1999.

31. In the complaint, the CBMA provided injury allegations concerning lost sales volumes, and price suppression and erosion suffered by domestic producers at a number of major accounts due to imports.

32. The evidence in the complaint also shows that the domestic industry has suffered reduced revenues, margins and net income. Between 1999 and 2003, Procycle and Raleigh experienced declines in revenues. Income before taxes has declined considerably since 2001, notwithstanding some slight improvements reported in 2004. In this regard, the Tribunal also notes that Victoria Precision (a long-time member of the CBMA) ceased manufacture in Canada and made an assignment in bankruptcy in the fall of 2003.

33. The capacity utilization data provided in the *Bicycles and Frames*⁶ expiry review was 43 percent for the 2001 calendar year. In its complaint, the CBMA indicates that the capacity utilization for the 2003 calendar year remained the same.

34. The information available to the Tribunal demonstrates that there is evidence of increased imports at decreasing prices. The evidence also shows that the domestic industry experienced decreased production and market share, reduced revenues, and price suppression and erosion over the period from 1999 to 2003.

35. With respect to threat of serious injury caused by imports of frames, the Tribunal notes that the values of imports reported under tariff item No. 8714.91.90 has more than doubled since 1999. Therefore, the evidence shows a reasonable indication that there has been a significant increase in imports of frames. Further, the CBMA submitted that painting the bicycle frames is one of the largest cost components in the production of bicycles. Based on the evidence and information available at this time regarding the increased imports of frames, the Tribunal is of the view that there is a reasonable indication of a threat of serious injury by imported frames to the production of bicycles.

5. There is no data available from Statistics Canada regarding the volume of imported frames.

6. (9 December 2002), RR-2002-001 (CITT).

36. Accordingly, the Tribunal is satisfied that there is a reasonable indication that the goods that are the subject of the complaint are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods.

Standing

37. Pursuant to paragraph 26(1)(b) of the *CITT Act*, the Tribunal must be satisfied that the complainants, Procycle and Raleigh, account for a major proportion of domestic production of the like or directly competitive goods. The *CITT Act* does not define what is meant by “major proportion”. Information in the complaint indicates that the volume of domestic bicycle production accounted for by Procycle and Raleigh ranged between 58 and 69 percent over the period from 1999 to 2003.

38. On the basis of this information, the Tribunal is satisfied that the complaint is made by or on behalf of producers that produce a major proportion of domestic production of the like or directly competitive goods.

No Recent Similar Cases

39. Finally, paragraph 26(1)(c) of the *CITT Act* provides that, if the Tribunal has completed or terminated an inquiry under this act in relation to the like or directly competitive goods, during the 24-month period preceding the date of receipt of the complaint, it has to be satisfied that the circumstances are sufficiently different to warrant a new inquiry. The Tribunal has never conducted a global safeguard inquiry relating to bicycles or frames.

CONCLUSION

40. Based on the foregoing, pursuant to subsection 26(1) of the *CITT Act*, the Tribunal has decided to commence a global safeguard inquiry into the complaint on bicycles and frames.

Ellen Fry
Ellen Fry
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Zdenek Kvarda
Zdenek Kvarda
Member