



**BY FACSIMILE**

March 15, 2006

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Dear Mr. Routhier:

Subject: Safeguard Inquiry - Market Disruption  
Residential Furniture Originating in China (Safeguard Inquiry No. CS-2005-003)

This is in response to the above-referenced complaint that you submitted to the Canadian International Trade Tribunal (the Tribunal) on October 28, 2005, on behalf of the Canadian Council of Furniture Manufacturers and its constituent members and the additional information you submitted in response to the Tribunal's request for information dated December 5, 2005.

The Tribunal (Meriel V. M. Bradford, presiding member, Pierre Gosselin, member and Ellen Fry, member) finds that the contents of the complaint do not meet the requirements of subsection 30.22(2) of the *Canadian International Trade Tribunal Act* (the *CITT Act*). Accordingly, the Tribunal will not examine the complaint with regard to subsection 30.22(3) of the *CITT Act* and, therefore, will not make a decision with respect to the commencement of an inquiry.

Subsection 30.22(1) of the *CITT Act* allows the filing of "a written complaint with the Tribunal alleging that the imported goods are being imported in such increased quantities or under such conditions as to cause or threaten to cause market disruption to domestic producers of like or directly competitive goods."

Subsection 30.22(2) of the *CITT Act* requires that a complaint:

- (a) state in reasonable detail the facts on which the allegations are based;
- (b) state an estimate of the total percentage of Canadian production of the like or directly competitive goods that is produced by the domestic producers by whom or on whose behalf the complaint is filed;
- (c) be accompanied by any information that is available to the complainant to support the facts referred to in paragraph (a) and to substantiate the estimate referred to in paragraph (b);
- (d) be accompanied by any other information that may be required by the rules; and
- (e) make any other representations that the complainant deems relevant to the matter.

It is important to note that subsection 30.22(1) of the *CITT Act* allows the filing of a complaint by or on behalf of producers “of goods that are **like or directly competitive** with goods originating in the People’s Republic of China” [emphasis added] and paragraph 30.22(2)(b) requires that the complaint “state an estimate of the total percentage of Canadian production of the **like or directly competitive** goods that is produced by the domestic producers by whom or on whose behalf the complaint is filed”. [emphasis added].

Under section 3 of the *Canadian International Trade Tribunal Regulations*, “like or directly competitive goods” are defined as:

- (a) goods that are identical in all respects to the goods that are the subject of a complaint, or
- (b) in the absence of any identical goods referred to in paragraph (a), goods the uses and other characteristics of which closely resemble those goods that are the subject of a complaint.

In considering the scope of your complaint, which covers a very broad range of products, there appears to be more than one class of like or directly competitive goods. The Tribunal has taken a similar position in a number of other cases, for example Reference No. GC-2001-001 (Steel) and Inquiry No. NQ-2004-001 (Fasteners), in determining whether there is more than one class of goods and whether they are like goods or directly competitive with each other. In the event that the Tribunal finds there is more than one class of goods, a separate injury analysis will be conducted for each class.

Accordingly, in order for the complaint to comply with subsection 30.22(2) of the *CITT Act*, the Tribunal requires information for each of the classes of like or directly competitive goods for which the complaint alleges market disruption or threat of market disruption to the domestic producers of like or directly competitive goods.

As an initial view, the Tribunal considered that “residential furniture” appeared to be divisible into eight different groups according to whether they were like or directly competitive goods. The Tribunal’s letter of December 5, 2005, requested information on this basis. The different groups were:

- Group 1        Seats and Chairs—Upholstered
- Group 2        Seats and Chairs—Not Upholstered
- Group 3        Bedroom Furniture
- Group 4        Children’s Furniture
- Group 5        Living Room Furniture
- Group 6        Dining Room, Kitchen/Dinette Furniture
- Group 7        Cabinets/Shelving and Other, of Metal, Not Elsewhere Specified
- Group 8        Cabinets/Shelving and Other, of Wood, Not Elsewhere Specified

In that regard, the Tribunal finds that the complaint which covers “residential furniture” does not provide the necessary information to comply with paragraphs 30.22(2)(a) and (c) of the *CITT Act*. Specifically, the complaint fails to provide sufficient support for or detail of the facts with regard to the allegations of market disruption or the threat of market disruption to domestic producers for each of the classes of like or directly competitive goods included within the range of goods identified in the complaint. Allegations with respect to market disruption or the threat of market disruption to domestic producers of like or directly competitive goods must be made for each class of like or directly competitive goods and evidence to support these allegations must also be provided for each of these classes.

In addition, paragraph 30.22(2)(b) requires that the complaint “state an estimate of the total percentage of Canadian production of the like or directly competitive goods that is produced by the domestic producers by whom or on whose behalf the complaint is filed”. Paragraph 30.22(2)(c) requires that the complaint include “any information that is available to the complainant . . . to substantiate the estimate referred to in paragraph (b)”. The Tribunal finds that the complaint fails to provide an estimate that is substantiated for the total percentage of Canadian production for each of the relevant classes of like or directly competitive goods produced by the domestic producers who are filing the complaint. In that context, the Tribunal notes that one approach may be to provide some form of estimate or substantiation by referring, for instance, to volume or value percentages for each of the classes of goods that would be identified.

In addition, no estimates were made of the volume of imports from China with respect to any of the product groupings. With the exception of Group 1, Seats and Chairs—Upholstered, no estimates were made of the total domestic market of the individual product groupings. Your letter of February 10, 2006, indicated that, other than for Group 1, you were unable to provide an estimate of the total percentage of Canadian production of the like or directly competitive goods produced by the domestic producers on whose behalf the complaint is filed for the product groupings suggested by the Tribunal. The letter did provide an estimate based on three broad divisions of the industry: upholstered furniture, case goods and metal furniture. However, the Tribunal is of the opinion that these categories appear to be too broad to meet the requirements of like or directly competitive goods. The Tribunal must look at all of the eight potential classes of like or directly competitive goods (or whatever other classes of goods the complainant may propose) in determining whether your complaint fulfills the requirements of subsection 30.22(2) of the *CITT Act*. In a future complaint, you may wish to select only a certain number of groups or classes on which to base the complaint and for which the required information would need to be submitted.

It is worth mentioning that the above discussion is also very relevant to the conclusion that the Tribunal must reach before commencing an inquiry under subsection 30.22(3). The Tribunal must be satisfied that the information provided by the complainant and any other information examined by the Tribunal disclose a reasonable indication that the goods originating in the People’s Republic of China that are the subject of the complaint are being imported in such increased quantities and under such conditions as to cause or threaten to cause market disruption to domestic producers of like or directly competitive goods. It is an inherent requirement of the legislative scheme that a separate market disruption injury analysis must be conducted in respect of each class of like or directly competitive goods.

The Tribunal notes that its decision that the contents of the complaint do not comply with subsection 30.22(2) of the *CITT Act*, does not preclude the filing of a future complaint on behalf of domestic furniture producers. However, given the passage of time since the complaint was initially filed, the Tribunal would require that any future complaint include the most recent data that is reasonably available.

If you have any questions regarding the above, please contact the Secretary of the Tribunal at (613) 993-3595.

Yours sincerely,

Susanne Grimes  
Acting Secretary