THE CANADIAN INTERNATIONAL TRADE TRIBUNAL

LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

CANADA

R E P O R T

# SAFEGUARD REVIEW

## PNEUMATIC INNER TUBES

## GPT WITHDRAWAL REVIEW

# SAFEGUARD REVIEW

# SR-90-002

---

## PNEUMATIC INNER TUBES

## GPT WITHDRAWAL REVIEW

| | |
|---|---|
| Tribunal Members: | Sidney A. Fraleigh, Presiding Member<br>Robert J. Bertrand, Q.C., Member<br>Arthur B. Trudeau, Member |
| Research Director: | Mary H. Walsh |
| Research Officers: | Douglas Allen<br>John O'Neill |
| Statistical Officer: | Robert Larose |
| Registration and Distribution Clerk: | Margaret Fisher |

Address all communications to:


The Secretary
Canadian International Trade Tribunal
20th Floor
Journal Tower South
365 Laurier Avenue West
Ottawa, Ontario
K1A 0G7

THE CANADIAN INTERNATIONAL TRADE TRIBUNAL

LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

CANADA

CHAIRMAN PRÉSIDENT

March 1, 1991

The Honourable Michael H. Wilson, P.C., M.P.
Minister of Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Wilson:

In a letter dated February 16, 1989, you instructed the Canadian International Trade Tribunal, under section 19 of the *Canadian International Trade Tribunal Act*, to conduct inquiries into possible injury to the Canadian industry as a result of goods imported at the General Preferential Tariff (GPT) rates. You also requested that the Tribunal review cases where the GPT had been withdrawn and report its findings to you.

In 1985, the Governor in Council amended the GPT Order to withdraw the benefit of the GPT on inner tubes of rubber for passenger cars, buses or trucks, and construction machinery from all countries benefiting from GPT treatment for a period of three years. On April 28, 1988, the Governor in Council extended the GPT Withdrawal Order to continue the temporary withdrawal of the GPT benefit with respect to imports of inner tubes for a further period of three years. Unless continued by the Governor in Council, the amended GPT Order will expire on April 30, 1991.

Pursuant to section 7 of the *Canadian International Trade Tribunal Act*, I appointed Sidney A. Fraleigh, Presiding Member, Robert J. Bertrand, Q.C., Member, and Arthur B. Trudeau, Member, to review the safeguard action applied to imports of inner tubes from countries normally entitled to the GPT benefit. On behalf of the Tribunal, I am pleased to submit this report for your consideration.

In preparing its report, the Tribunal sought and reviewed submissions from the domestic producer and importers of inner tubes. Relevant market, production and financial data were assembled and distributed to the sole interested party. A public hearing was held on January 14, 1991. Representatives of the Canadian producer as well as the Tribunal's invited representatives of two importers/distributors of inner tubes were questioned by the members of the Tribunal.

../2

365 Laurier Avenue West
Ottawa, Ontario K1A 0G7
(613) 990-2452 Fax (613) 990-2439

365, avenue Laurier ouest
Ottawa (Ontario) K1A 0G7
(613) 990-2452 Téléc. (613) 990-2439

In its report, the Tribunal concludes that the Canadian producer faces a threat of injury from the reinstatement of the GPT benefit with respect to imports of subject inner tubes, and that the continued withdrawal of the GPT benefit with respect to these imports will provide significant relief to the Canadian producer. Therefore, the Tribunal finds that the withdrawal of the General Preferential Tariff with respect to imports of inner tubes from GPT countries, entering under tariff item No. 4013.10.00, and of inner tubes of a kind used on construction machinery entering under tariff item No. 4013.90.90 (classification No. 4013.90.90.30) should be extended until the scheduled expiry of the GPT program on June 30, 1994.

Yours sincerely,

John C. Coleman

# TABLE OF CONTENTS

| | Page |
|---|---|
| INTRODUCTION | 1 |
| The General Preferential Tariff Program | 1 |
| Previous Inquiry and Review | 1 |
| CONDUCT OF THE PRESENT REVIEW | 2 |
| THE PRODUCT AND THE CANADIAN INDUSTRY | 3 |
| The Product | 3 |
| Applicable Tariff Provisions | 3 |
| The Producers | 4 |
| Importers/Exporters | 5 |
| POSITION OF THE PETITIONER | 5 |
| KEY ECONOMIC CONSIDERATIONS | 6 |
| Market Situation for Inner Tubes | 6 |
| Production | 7 |
| Apparent Imports | 8 |
| Apparent Market | 9 |
| Pricing | 10 |
| Financial | 10 |
| Investments | 11 |
| Currency | 11 |
| Plant Capacity, Utilization and Employment | 11 |
| CONSIDERATION OF THE EVIDENCE | 12 |
| FINDING | 15 |

## INTRODUCTION

### The General Preferential Tariff Program

On July 1, 1974, Canada introduced a temporary system of tariff preferences designated as the General Preferential Tariff (GPT) as part of an international system to assist developing countries to expand their exports to developed country markets. Under the system, industrial goods originating in developing countries and territories[1] could enter Canada at preferential tariff rates established by legislation in Schedules I and II of the *Customs Tariff*. Specifically excluded from GPT coverage were certain products, such as leather footwear and most textile products.

Sections 36 and 38 of the *Customs Tariff* provide for the Governor in Council, on the recommendation of the Minister of Finance, to withdraw the GPT benefit on any or all goods that originate in a beneficiary country. In a letter dated February 16, 1989, the Minister of Finance directed the Canadian International Trade Tribunal (the Tribunal), under section 19 of the *Canadian International Trade Tribunal Act*, to conduct an inquiry into any written complaint it received from a domestic producer alleging that like or directly competitive goods, which are being imported into Canada under the GPT, are causing or threatening to cause injury to that producer. In so doing, the Minister of Finance asked the Tribunal to take into account the economic factors generally recognized as relevant to a determination of injury, such as those contained in the General Agreement on Tariffs and Trade (GATT) Anti-Dumping Code and the Code on Subsidies and Countervailing Duties, and to consider whether the withdrawal of the GPT benefit on the product or products concerned would provide significant relief to the Canadian industry.

In those instances where the GPT benefit had been withdrawn, the Minister of Finance directed the Tribunal to collect information related to any relief provided during the period of the withdrawal and to receive and review petitions from interested parties concerning the future of the measure. The Tribunal must report to the Minister of Finance on these matters no later than 60 days before the measure's scheduled expiry.

### Previous Inquiry and Review

In September 1982, the Tariff Board (the Board) received a safeguard petition from The Rubber Association of Canada, submitted on behalf of Firestone Canada Inc. (Firestone), Goodyear Canada Inc. (Goodyear) and Trent Rubber Services Inc. (Trent Rubber). The petition was held in abeyance pending an anti-dumping action pursuant to the *Anti-dumping Act*.[2]

On April 21, 1983, the Anti-dumping Tribunal found that the dumping of the subject goods had not caused, was not causing and was not likely to cause material injury to the production in Canada of like goods.

On March 26, 1984, the Board initiated an inquiry concerning the petition for safeguard action in the form of a withdrawal of the GPT benefit respecting imports of

1. Currently, there are some 161 countries and territories entitled to the GPT benefit.
2. The *Anti-dumping Act* was superseded by the *Special Import Measures Act* on December 1, 1984.

inner tubes from the Republic of Korea, the only GPT beneficiary country to export inner tubes to Canada at that time.

In its inquiry, the Board found that low-priced Korean inner tube imports had an adverse impact on the Canadian industry, particularly on Trent Rubber. Reduced levels of production were noted between 1981 and 1983, as well as a loss of sales. The volume of imports of Korean inner tubes was noted to be increasing. Lower employment and capital investment had occurred. As Trent Rubber's cost of production increased, its prices were being suppressed by the presence of low-priced Korean inner tubes.

The Board recommended that the General Preferential Tariff on inner tubes subject to the petition, imported under tariff item 61815-1, be withdrawn from all countries benefiting from GPT treatment for a period of three years, subject to a review on expiry should such a review be requested by interested parties. Subsequently, the Governor in Council, on the recommendation of the Minister of Finance, amended the GPT Order, C.R.C., c. 529, to withdraw the benefit of the GPT with respect to all imports of the above-mentioned inner tubes for a period of three years commencing May 1, 1985.

On August 13, 1987, the Board received a petition from Trent Rubber requesting a review of the temporary safeguard withdrawal order respecting imports of inner tubes from GPT countries. The petition requested the permanent withdrawal of the GPT benefit. Prior to the date of the request, both Firestone and Goodyear had ceased producing the subject inner tubes in Canada, leaving Trent Rubber as the sole Canadian producer.

The Board concluded that pressure on domestic prices from low-cost Korean inner tubes had continued despite the safeguard action. The Board also noted that this situation was aggravated by the incomplete implementation of the GPT withdrawal order. Lower prices, combined with lower sales, resulted in a steady erosion of Trent Rubber's market share and profits between 1985 and 1987.

In the Board's opinion, the reinstatement of the GPT benefit would have intensified the pressure on Trent Rubber's selling prices and seriously affected the firm's tube operations, possibly threatening the viability of the entire plant. Therefore, on February 10, 1988, the Board recommended that the withdrawal of the GPT with respect to imports of inner tubes from GPT countries be extended for another three-year period. The Governor in Council, on the recommendation of the Minister of Finance, subsequently amended Order in Council P.C. 1987-2734 by P.C. 1988-774, extending the withdrawal of the GPT benefit regarding inner tubes until April 30, 1991.

## CONDUCT OF THE PRESENT REVIEW

The Tribunal's Notice of Review issued on October 19, 1990, was published in Part I of the October 27, 1990, issue of the Canada Gazette.

As part of this review, the Tribunal sent detailed questionnaires to the Canadian producer of inner tubes and to 12 major importers of the subject goods requesting production, financial, import, market and other relevant information covering the period January 1, 1987, to September 30, 1990, the period of examination adopted for this review.

From the replies to the questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports covering that period.

The record of this inquiry consists of all Tribunal exhibits, including the public and protected replies to questionnaires, all exhibits filed by parties at the hearing, the Board's reports concerning its initial inquiry into this matter and its review in 1988, documentation from parties in response to the Tribunal's Notice of Expiry of the extant order regarding inner tubes dated August 16, 1990, which was published in Part I of the August 25, 1990, issue of the Canada Gazette, as well as the transcript of all proceedings. The public exhibits were made available to all parties.

Public and in camera hearings were held in Ottawa, Ontario, on January 14, 1991. Trent Rubber, the sole Canadian producer of inner tubes, was represented by Mr. G.P. MacPherson and Ms. Naila Elfar of Corporation House Ltd. at the hearings. Two company representatives, Mr. Chris Mumford and Mr. Claus W. Ott, as well as Mr. Brian E. James of The Rubber Association of Canada, appeared as witnesses in support of Trent Rubber's request that the withdrawal of the GPT benefit be maintained.

The Tribunal invited representatives of two importers/distributors of subject inner tubes to appear as witnesses and answer questions regarding the market for the subject inner tubes: Mr. David C. Lamb, Manager of Management Information for Goodyear Canada Inc., an importer of inner tubes from the United States and a distributor of Trent Rubber tubes; and Mr. J. Granatstein, President of La Compagnie Canada Tire Inc., an importer, distributor and retailer of Korean made inner tubes.

## THE PRODUCT AND THE CANADIAN INDUSTRY

### The Product

The goods of concern are pneumatic inner tubes, manufactured of rubber, designed to be fitted into the tires of motor cars (including station wagons and racing cars), buses or trucks, and of a kind fitted into the tires of construction machinery. Bicycle tubes, tubes for aircraft, motorcycles, farm implements, agricultural machinery and tractors used for farm purposes are not included in this definition. Inner tubes are primarily made of a synthetic petroleum based material called butyl rubber and carbon black. Butyl rubber is employed because of its non-porous properties.

### Applicable Tariff Provisions

Originally, the safeguard withdrawal order dealt with tariff item 61815-1. With the introduction of the Harmonized Commodity Description and Coding System of customs tariffs, on January 1, 1988, the subject goods were re-identified under tariff item Nos. 4013.10.00 and 4013.90.90.

Table 1 reflects the historical pattern of tariff rates applicable since the Board's original inquiry.

TABLE 1

| Date | Tariff Item | Tariff Rates GP | MFN | US | Pertinent Order in Council |
|---|---|---|---|---|---|
| 1/1/1984 | 61815-1 | 8.5% | 12.9% | N/A | |
| 1/1/1985 | 61815-1 | 8.0%* | 12.0% | N/A | P.C. 1985-1239 |
| 1/1/1986 | 61815-1 | 7.0% | 11.1% | N/A | |
| 1/1/1987 | 61815-1 | 6.5% | 10.2% | N/A | P.C. 1987-2734 |
| 1/1/1988 | 4013.10.00 | 6.5% | 10.2% | N/A | P.C. 1988-774 |
| | 4013.90.90** | 6.5% | 10.2% | N/A | |
| 1/1/1989 | 4013.10.00 | 6.5% | 10.2% | 9.1*** | |
| | 4013.90.90 | 6.5% | 10.2% | 9.1*** | |
| 1/1/1990 | 4013.10.00 | 6.5% | 10.2% | 8.1 | |
| | 4013.90.90 | 6.5% | 10.2% | 8.1 | |

* GPT rate withdrawn from May 1, 1985, to April 30, 1988; subsequently extended to April 30, 1991.

** Code 1805 is a Statutory Concessionary Provision that provides duty-free entry for pneumatic inner tubes destined for use in specific machinery products.

*** Under the Canada-US Free Trade Agreement, this rate will be reduced by one percentage point per year and will be duty-free on January 1, 1998. Prior to 1989, the Most-Favoured-Nation (MFN) rate applied to US imports.

The table shows that the duty rate differential between the GP and MFN tariffs remains at 3.7 percentage points, as it was at the time of the last extension of the safeguard withdrawal order in 1988.

## The Producers

At the time of the initial petition to the Board, the Canadian industry consisted of three companies: Firestone, Goodyear and Trent Rubber. Firestone ceased its tube production in Canada at the end of 1982, and Goodyear ceased producing inner tubes in May 1985. In 1985, Trent Rubber acquired the Goodyear tube manufacturing equipment.

Currently, Trent Rubber is the sole Canadian producer of the subject inner tubes. Trent Rubber Services Ltd. was founded in 1969. It became known as Trent Rubber Services (1978) Ltd. when its employees purchased the business from Polysar Ltd. In 1986, the assets of Trent Rubber Services (1978) Ltd. were purchased by Trent Rubber Services (1986) Ltd., a private, Canadian-owned company. On November 26, 1987, Trent Diversified was incorporated under the *Ontario Business Corporations Act* and, effective January 1, 1988, the company changed its name to Trent Diversified Ltd. and transferred its operating assets and liabilities to a wholly owned subsidiary, Trent Rubber Services Inc., which had been incorporated on December 24, 1987. In 1990, the Trent Rubber companies were merged into VTR Holdings Ltd. with Viceroy Rubber and Plastics Ltd. becoming the controlling shareholder as of June 1990.

The company operates a production facility located in Lindsay, Ontario, where it produces the subject inner tubes, as well as agricultural inner tubes, curing bladders, rim flaps and rubber roofing materials. It also offers a custom rubber mixing service. To varying degrees, these products all utilize common production equipment and manufacturing expertise.

Trent Rubber markets its products nation-wide through independent dealers, retailers, wholesalers and private brand tire companies. The company does not export the subject goods; however, it does export certain other products, such as inner tubes for agricultural equipment, to the United States and Europe.

Importers/Exporters

Virtually all Canadian imports of subject inner tubes from countries eligible for the GPT benefit originate in South Korea. Three Korean manufacturers, HanKook Tire Manufacturing Co. Ltd. of Seoul, Dong-Ah Tire Industry Co. Ltd. of Kyungnam and Heung-Ah Tire and Rubber Co. Ltd. also of Kyungnam, have been identified. None of these firms have made representations to the Tribunal or otherwise contacted the Tribunal regarding this matter.

There are a large number of companies, located across Canada, which import subject inner tubes from Korea. The larger companies, in terms of volume of imports, are: Triwest Trading (Canada) Ltd., located in Calgary, Alberta; and Global Rubber and Chemical Inc., of Sarnia, Ontario. Three other companies importing smaller volumes of imports are: Tire Specialists Ltd., Waterloo, Ontario; Remington Tire Distributors (1977) Ltd., Edmonton, Alberta; and La Compagnie Canada Tire Inc., Montréal, Quebec. These importers operate at a similar level of trade as Trent Rubber and its distributors, competing head on with Trent Rubber's products.

POSITION OF THE PETITIONER

Counsel for Trent Rubber submitted that the withdrawal of the GPT benefit respecting the subject goods should continue on a permanent basis. The differential between the MFN and GPT rates of duty of 3.7 percent is, in this case, a vital percentage upon which hangs the survival of the Canadian production of subject inner tubes, and indeed the survival of the Canadian producer.

Trent Rubber is requesting a permanent withdrawal as this is the fourth time the company has appeared before trade remedy organizations during the last ten years concerning these products.[3] During that time, the Canadian industry has been reduced to a sole producer, and that producer is in a fragile condition.

---

3. Trent Rubber appeared before the Anti-dumping Tribunal in 1983, the Tariff Board in 1984 and 1987, and the Canadian International Trade Tribunal for the current review.

Counsel stated that, in passing the General Preferential Tariff legislation, the original intent of the Canadian government was to help less developed countries get a fair chance to compete for market share in Canada. Counsel argued that South Korea has been able to compete in Canada with, or without, the benefit of the GPT, and, further, that Korea is not a less developed country. No other GPT beneficiary country has been able to get any market share for inner tubes in Canada.

It was argued that Trent Rubber is in a fragile condition, but is striving to survive in a market that is experiencing a long-term decline in volume. Its employees have taken a 10-percent pay cut, and Trent Rubber is in the process of diversifying its product offerings into other rubber based products to reduce its dependence on sales of subject inner tubes.

Counsel stated that the increasing value of the Canadian dollar vis-à-vis the US dollar, while somewhat offsetting Trent Rubber's raw material price increases of butyl rubber, which is priced in US dollars, has benefited importers of subject goods, whose purchases are also denominated in US dollars, to a much greater extent. Counsel compared Trent Rubber's situation with that of one importer, which reported that its landed cost of Korean inner tubes, in US dollars, has remained constant during the last three years, while its Canadian dollar landed cost has actually declined during that period due to exchange rate changes. Counsel also noted that Trent Rubber is about to be forced to increase its prices to cover escalating raw material costs. While one would expect the Korean competition to make similar price changes for the same reasons, this is not a certainty. Counsel submitted that customers are never more ready to switch suppliers than when the traditional supplier is obliged to increase its prices.

Trent Rubber submitted that, in the declining Canadian market for subject inner tubes, price competition with imports from Korea is fierce, that these imports continue to have a price suppressive effect in the market despite the GPT withdrawal and that reinstatement of the GPT benefit would have a further price suppressive effect at a time when the domestic producer is facing cost increases.

Counsel argued that Trent Rubber's financial results during the past few years have been disappointing, that the 3.7-percent tariff differential is an indispensable link to the continued production of inner tubes in Canada and that inner tube production is an essential element of Trent Rubber's diversification plans. Counsel concluded by stating that the continuation of the withdrawal order would not have any negative effect on the public interest as it would not have a great impact on the retail price of inner tubes.

## KEY ECONOMIC CONSIDERATIONS

Most of the data contained in this section were generated through protected/confidential responses to the Tribunal's questionnaires containing information that is not publicly available.

### Market Situation for Inner Tubes

The world market for inner tubes has been declining for the past 30 years due to the increasing predominance of tubeless tires for all rubber tire equipment. The market for passenger car tubes has suffered the most serious decline, and sales of these tubes are now made almost exclusively for the replacement of old tubes or the repair of a tubeless tire that, for some reason, will not maintain air pressure. The volume of this market segment is estimated to be approximately 7 percent of the new tire production. The truck and bus tube market has also significantly declined, although less dramatically than the car tube market. Tubeless tires are becoming more and more popular in truck and bus applications and, therefore, it is anticipated that this market segment will continue its long-term decline. The market for inner tubes for construction equipment is the smallest segment of the total market and, it too, is threatened by the growing predominance of tubeless tires, although the decline in this segment will likely be a slower, less dramatic decline, as many rough service tire applications will continue to require inner tubes.

The decline in the overall world market has resulted in excess production capacity being available in many countries around the world.

## Production

The following table presents indices of the relative changes in Trent Rubber's production of subject inner tubes by product type since 1987, broken down into the three subcategories of inner tubes. As Trent Rubber does not export the subject inner tubes, its total production of these goods is sold domestically, although certain subject inner tubes may be subsequently exported by their Canadian purchasers.

### TABLE 2

### INDEX OF PRODUCTION

1987 = 100(1)

| | | | | Jan. 1 - Sept. 30 | |
|---|---|---|---|---|---|
| **Tube Type** | 1987 | 1988 | 1989 | 1989 | 1990 |
| Motor Cars | 100 | 84 | 79 | 58 | 37 |
| Trucks and Buses | 100 | 49 | 52 | 38 | 37 |
| Construction Machinery | 100 | 100 | 100 | 80 | 80 |
| Total | 100 | 69 | 67 | 49 | 38 |

Note: (1) All full year and partial year figures are shown expressed as a percentage of the production figures for the full year of 1987.

Source: Reply to manufacturer's questionnaire.

Trent Rubber's total production volume of subject inner tubes declined by 33 percent between 1987 and 1989. During the first nine months of 1990, production declined a further 11 percentage points compared to the corresponding period in 1989.

Production of inner tubes for passenger cars experienced a relatively constant decline during the period, while the production of truck and bus inner tubes fell dramatically in 1988, recovered marginally in 1989 and remained constant during the first nine months of 1990 and the corresponding period in 1989. The sudden drop in truck and bus tube production during 1988 is a reflection of the firm's loss of sales to a major account. Prior to 1988, Trent Rubber supplied certain tubes to this account, which, in turn, exported a portion of these tubes. The production level of construction machinery inner tubes remained constant during the period.

## Apparent Imports

The apparent imports, by volume, are shown in the following table.

TABLE 3

APPARENT IMPORTS OF SUBJECT GOODS (ALL TYPES) BY VOLUMES

PERCENTAGE SHARE OF TOTAL IMPORTS

| | | | | | | | Jan. 1 to Sept. 30 | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 1987 | % | 1988 | % | 1989 | % | 1989 | % | 1990 | % |
| GPT SOURCE | | | | | | | | | | |
| SOUTH KOREA | 410,959 | 54 | 621,780 | 58 | 593,019 | 56 | 452,272 | 56 | 309,320 | 48 |
| NON-GPT SOURCE | | | | | | | | | | |
| UNITED STATES | 108,992 | 14 | 219,297 | 20 | 289,034 | 27 | 227,979 | 28 | 232,076 | 36 |
| OTHER COUNTRIES | 245,356 | 32 | 233,519 | 22 | 183,052 | 17 | 129,523 | 16 | 96,530 | 15 |
| TOTAL NON-GPT | 354,348 | 46 | 452,816 | 42 | 472,086 | 44 | 357,502 | 44 | 328,606 | 52 |
| TOTAL IMPORTS | 765,307 | 100 | 1,074,596 | 100 | 1,065,105 | 100 | 807,774 | 100 | 637,926 | 100 |
| PERCENT CHANGE | | | | 40 | | (1) | | | | (21) |

Sources : Replies from questionnaires and Statistics Canada C.I.T.C. 625-29-20, 30 and 70, HS 4013.10.00.10 and 90, and HS 4013.90.90.30 for 1988, 1989 and 1990.

Total imports of subject inner tubes increased significantly during 1988 over 1987, then remained relatively stable during 1989. During the first nine months of 1990, imports fell by 21 percent compared to those reported for the corresponding period in 1989.

Subject inner tubes from Korea represented, on average, 56 percent of the total imports during 1987 through 1989. Imports from the non-GPT countries accounted for the remaining 44 percent. The positions of these two groups reversed during the first nine months of 1990, with imports from non-GPT countries representing 52 percent of the total.

The increased imports from non-GPT sources are primarily attributable to imports from the United States, which increased from 14 percent of the total imports in 1987 to 36 percent of the total for the first nine months of 1990, mainly at the expense of other non-GPT sources.

## Apparent Market

As previously mentioned, the worldwide market for inner tubes has been seriously affected by the growing predominance of tubeless tires being used both as original equipment on new cars, trucks, buses and construction machinery, as well as in the replacement tire market.

The total apparent Canadian market for subject inner tubes was relatively stable during 1987 through 1989. However, during the first nine months of 1990, the total market declined by 21 percent as compared to the corresponding period in 1989.

During 1988, Trent Rubber's share of the domestic market, by volume, lost 16 percentage points. This market share was lost to imports from Korea, which gained 10 points, and to imports from the United States, which gained 7 points of market share. Imports from other non-GPT countries lost 1 point of market share.

Although Trent Rubber's sales of subject inner tubes, by volume, declined by 2 percent in 1989, it lost only 1 point of market share. Imports from Korea declined slightly, but did not lose any market share, while imports from the United States increased by 32 percent and gained 4 points of market share.

Trent Rubber's sales declined by 23 percent and it lost 1 point of market share during the first nine months of 1990, as compared with the first three quarters of 1989. Imports from Korea also declined during this period, dropping by 26 percent and losing 2 points of market share over the corresponding period a year earlier. Imports from the United States decreased by 7 percent, but gained 4 points of market share despite the overall declining market.

Thus, it appears that, during the review period, Trent Rubber, the only Canadian producer, lost market share, firstly to sales of Korean inner tubes and, more recently, to sales of inner tubes from the United States. Sales of imports from Korea, which gained a large portion of market share in 1988, declined slightly during 1989 and continued to decline during the first nine months of 1990. The share of the market held by imports from the United States increased during every period reported.

Following the trend of the apparent market as measured by sales volume, the value of the apparent market for the subject inner tubes remained relatively constant between 1987 and 1989. The value of the market declined by approximately 22 percent during the first nine months of 1990, as compared to the corresponding period in 1989.

The Canadian market for subject inner tubes can be segregated into two sectors. One sector is supplied by large tire manufacturers that, themselves, manufacture or centrally source and distribute tubes to their company-controlled distributors in Canada. This sector, for the most part, is available neither to Trent Rubber nor to importers of Korean inner tubes. Evidence adduced during the inquiry shows that this "tied" sector of the market is gaining market share, relative to the "independent" sector of the market. Nevertheless, the total market for subject inner tubes is declining. The "tied" sector is growing as the worldwide tire manufacturing industry becomes more concentrated into fewer, much larger companies. These large vertically integrated companies are also expanding through their acquisitions of downstream tire and tube wholesalers and retailers. As a result of this change in the structure of the market, the "independent" sector of the market, in which Trent Rubber and the importers of Korean tubes compete, is shrinking more rapidly than the overall market is declining. A further result of the integration taking place is an increase in the purchasing power of the combined entities, as well as a reduction in the number of purchasers making the inner tube sourcing decisions.

## Pricing

Within the "independent" sector of the market, Trent Rubber distributes its products through distributors, such as Pilote Marketing Inc., brand-name tire companies, such as Goodyear, and through mass merchandisers. Importers/distributors of Korean inner tubes market their products through smaller distributors, associated retail and wholesale operations and through independent retailers.

There has been intense price pressure on Trent Rubber from imports of low-priced inner tubes from Korea. As a result, Trent Rubber has reduced prices to a number of important accounts. While Trent Rubber has been able to obtain somewhat higher prices for its inner tubes than those of comparable Korean tubes, this premium is limited.

Increasing raw material costs, particularly butyl rubber, are expected to result in price increases during 1991 for inner tubes from all sources. However, similar cost increases during recent years have not always resulted in increases in the price of Korean inner tubes.

## Financial

Trent Rubber's sales of subject inner tubes declined during the review period, as did the relative significance of these sales to the company's overall sales. The gross margin earned on these sales increased in 1989 compared to 1988, then declined during the first nine months of 1990. The gross margin earned on these sales was less than the average gross margin earned on sales of the company's other products, such as inner tubes for agricultural equipment. Sales of subject goods were made at a net loss during each period reported to the Tribunal. The total net profit earned by Trent Rubber during the period decreased substantially between 1987 and 1989, and continued to decline during the first nine months of 1990, as compared to the corresponding period in 1989.

The Trent Rubber/Viceroy Group has developed a business plan that envisages subject inner tube sales continuing to decrease in relative importance to total sales, as the company endeavors to diversify its product line and increase its overall profitability.

## Investments

Evidence provided to the Tribunal shows that Trent Rubber has a consistent history of investing in tube production equipment. The company purchased Metzler Ltd.'s tube manufacturing equipment in 1980, B.F. Goodrich's equipment in 1981 and Goodyear's equipment in 1985, as these companies discontinued production of inner tubes in Canada. During the review period, Trent Rubber continued to make significant investments in capital equipment and plant improvements, a portion of which was directly related to the production of inner tubes.

## Currency

Purchases of Korean inner tubes by Canadian importers are transacted in US dollars. Therefore, changes in the exchange rate between the Canadian and US dollars, and between the US dollar and the Korean won, have affected the real cost to importers of these tubes. Since 1986, the Canadian dollar has strengthened vis-à-vis the US dollar. Although the Korean won has appreciated vis-à-vis the US dollar during the same period, the Korean export price of inner tubes, expressed in US dollars, has remained constant, as one Canadian importer testified. Consequently, Korean exporters received less won for their export sales, and Canadian importers, paying less in Canadian dollars for Korean products, also benefited from a decline in their net landed prices.

The cost of the main raw material used in the production of inner tubes, butyl rubber, which represents the largest single component of total production costs, has also been influenced by exchange rate fluctuations. Purchases of butyl rubber are denominated in US dollars. Therefore, price increases for purchases of this material by Trent Rubber have been, to some extent, offset by the appreciation of the Canadian dollar, until recently when the dollar stabilized and the price of all petroleum based products increased due to the Persian Gulf crisis. The Korean manufacturers of inner tubes are not exposed to the fluctuations of exchange rates to the same extent as Trent Rubber because they purchase the major cost component, butyl rubber, in US dollars and their export sales are also denominated in US dollars.

## Plant Capacity, Utilization and Employment

Plant capacity has remained constant during the review period, while the utilization of this capacity for the manufacture of subject inner tubes has declined in line with Trent Rubber's decreased production volume.

During the review period, employment, as measured both by person-hours worked and the number of employees, has decreased as production volume declined. In June of 1990, Trent Rubber's employees agreed to take a 10-percent wage reduction in an effort to help the company compete effectively in the market. The employees recently agreed to participate in a job-sharing program in an effort to preserve jobs at the manufacturing plant.

CONSIDERATION OF THE EVIDENCE

In reviewing the withdrawal of the GPT benefit, the Tribunal must consider two basic questions. First, is the domestic industry likely to be injured by the reinstatement of the preferential tariff. Second, if the threat of injury to the domestic industry exists, will the continued withdrawal of the GPT benefit provide significant relief to the Canadian producer. In conducting its review, the Tribunal is also guided by the directive contained in the Minister of Finance's letter of February 16, 1989, that the temporary safeguard action should be continued only for such time as is necessary to prevent or remedy the injury caused to the domestic producer by the GPT benefit.

In this case, the Tribunal must decide if Trent Rubber, the sole domestic producer of subject inner tubes, would be injured by the reinstatement of the GPT rate of 6.5 percent, a rate 3.7 percentage points below the current MFN tariff rate of 10.2 percent. The Tribunal must also determine, if a threat of injury exists, whether the additional 3.7 percentage points of tariff protection will provide significant relief to Trent Rubber's production of subject inner tubes. In its examination of these questions, the Tribunal focussed on evidence concerning production and sales of the domestic producer, imports, price levels and market conditions during the three years since this withdrawal order was last reviewed.

In its initial inquiry in 1984, the Board based its recommendation for the withdrawal, on the injury that the Canadian industry, in particular Trent Rubber, was experiencing due to price suppression caused by low-priced imports from Korea. In its subsequent review in 1988, the Board stated that the price pressures from low-priced Korean inner tubes had continued and that reinstatement of the GPT benefit would intensify these pressures on Trent Rubber. It, therefore, recommended that the withdrawal order be continued for another three-year period.

The Tribunal notes that Trent Rubber is supported, in its position regarding the continuation of the withdrawal order, by The Rubber Association of Canada, representing manufacturers of rubber products and major suppliers of goods and services used in the rubber industry. The Association submitted a written statement and its President, Mr. Brian E. James, appeared as a witness before the Tribunal. In his statement, Mr. James asserted that Trent Rubber was experiencing difficulties primarily as a result of pressure from low-priced imports from Korea and, further, stated that the rubber industry at large is very concerned with this whole matter.

In this review, the Tribunal finds that the circumstances and market conditions that were present at the time of the Board's inquiries are still present and continue to affect Trent Rubber's performance.

The global market for inner tubes is experiencing long-term decline, which, all witnesses agreed, will likely continue in the foreseeable future. The Canadian market is also experiencing this overall decline in demand, particularly in the still declining truck and bus inner tube segment. The passenger car inner tube segment has already declined and stabilized at a residual level that will, in all likelihood, remain relatively constant.

Trent Rubber's available market has been seriously affected by two factors. First, the overall decline in the Canadian market has intensified competition as excess capacity becomes available and, it would appear, manufacturers in Canada and abroad seek to maintain their production volumes. Second, the "independent" sector of the market, which is most important to Trent Rubber and to the importers of Korean inner tubes, has also decreased due to a trend toward horizontal and vertical integration in the tire and tube industry.

As the large multinational tire companies purchase more tire distributors and retail outlets, they exert two major pressures on independent suppliers of inner tubes, such as Trent Rubber. First, some of the independent distributors purchased by tire companies are subsequently directed to purchase products such as inner tubes from affiliated plants, thus reducing the number of customers that were available to both Trent Rubber and the importers/distributors of Korean tubes. Second, the number of decision making centres is shrinking (i.e., two or three individual customers may be reduced to one purchaser). As a consequence, the vast majority of Trent Rubber's sales of subject inner tubes are made to a few large accounts, which have the advantage of much greater buying power with which to negotiate lower prices.

Against this increasingly competitive set of marketing conditions, Trent Rubber claimed that imports from Korea continued to exert intense pricing pressures on it. The company gave examples of some of its accounts, including one of its largest accounts, where buyers had suggested that Trent Rubber was not price competitive against Korean inner tubes and might wish to lower its prices in view of low price offers for Korean tubes. An examination of information on the record, as well as the testimony of the Tribunal's witness from Goodyear, corroborated the claims that the selling prices of Trent Rubber's inner tubes are higher than those of imports from Korea. Price, it was determined, is the predominant criterion in a purchaser's sourcing decision. Trent Rubber can only command a certain premium over the price of imports from Korea and, therefore, is a "price taker" rather than a "price leader."

The Tribunal's witness from La Compagnie Canada Tire Inc. testified that the price his company is charged for Korean inner tubes, in US dollars, has not changed in the last three years. The landed cost of those tubes, expressed in Canadian dollars, has declined due to the strengthening of the Canadian dollar vis-à-vis the US dollar.

Testimony and evidence confirm that price is the overwhelmingly most important factor in the purchase decision. Quality differences, if they exist at all, are minimal, and service, delivery and other non-price factors do not appear to be significant.

While the witness from Goodyear testified that, in relation to low-priced Korean inner tubes, it was willing to pay a "limited" premium for the advantages of having a domestic source of supply, he could not quantify the premium the company would be willing to accept. A witness from La Compagnie Canada Tire Inc., an importer of Korean inner tubes, testified that domestically produced tubes cannot command a price premium in the market. Pricing information collected and analysed by the Tribunal indicated that Trent Rubber can and does obtain a limited price premium over imports of Korean inner tubes.

Trent Rubber's witnesses testified that the company has not been able to raise its inner tube prices to fully reflect its increasing raw material costs. Although the Korean manufacturers must also be faced with rising costs, particularly the cost of butyl rubber, evidence discloses that the prices of Korean tubes have not increased significantly during the review period. Furthermore, in the immediate future, Korean prices are not expected to rise by the same factor that Trent Rubber has calculated is necessary to recover recent increases in petroleum based raw material costs.

That Trent Rubber is experiencing difficulties and is in a precarious position is undisputed, despite its efforts during the GPT withdrawal period to improve the efficiency of its production of subject inner tubes. The decline in production volume and ensuing higher unit costs, along with relatively stable selling prices as a consequence of price pressure from Korean imports, have resulted in much reduced gross margins being earned on the sales of these goods. Trent Rubber's overall financial performance in recent years has, accordingly, been disappointing, and Trent Rubber recently avoided bankruptcy only through its merger with Viceroy Rubber and Plastics Ltd., forming VTR Holdings Ltd. Its employees have made efforts to preserve jobs in this industry by taking a 10-percent pay cut last summer and by their recent decision to participate in a job-sharing program.

The Tribunal is of the opinion that the reinstatement of the GPT benefit with respect to imports would only exacerbate the problems being experienced by Trent Rubber and sees a clear threat of injury to the company if the lower GPT rate were to be reinstated for the subject inner tubes.

There remains the question of whether the continued withdrawal of the GPT benefit will provide significant relief to Trent Rubber. The Tribunal finds that the 3.7 percentage point differential between the MFN rate and the GPT rate is significant in the circumstances present in this case. The reinstatement of the lower rate would allow the importers of Korean inner tubes to lower their prices, or would at least partially offset any price increases imposed by the Korean manufacturers as a result of increasing raw material costs. This is a very price sensitive product, and the sole Canadian producer is in a precarious financial situation. Trent Rubber has testified that it is now forced to pass on certain raw material price increases to its customers. If, at the same time, the cost of Korean inner tubes were to drop as a result of a lower tariff rate, it would have an adverse impact on Trent Rubber's sales. As counsel for Trent Rubber argued, customers are never readier to switch suppliers as they are when faced with a price increase. Thus, the continuation of the withdrawal order will provide significant relief to the Canadian industry.

Trent Rubber, supported by The Rubber Association of Canada, submitted that South Korea is not an underdeveloped country needing the benefit of preferential tariff treatment in order to have its chance to participate in the Canadian market. South Korea has a fully developed economy and is the most aggressive of all offshore producers competing for rubber product business in Canada and the United States. However, both Trent Rubber and the Association recognized that it is not within this Tribunal's jurisdiction to recommend what countries or territories should be eligible for GPT treatment.

FINDING

The Tribunal concludes that the Canadian producer faces a threat of injury from the reinstatement of the GPT benefit with respect to imports of subject inner tubes. Further, the Tribunal finds that the continued application of the MFN tariff rate to these imports will provide significant relief to the Canadian producer. Therefore, the Tribunal concludes that the withdrawal of the General Preferential Tariff with respect to imports of inner tubes from GPT countries, entering under tariff item No. 4013.10.00 and of inner tubes of a kind used on construction machinery entering under tariff item No. 4013.90.90 (classification No. 4013.90.90.30) should be extended until the scheduled expiry of the GPT program on June 30, 1994.

Sidney A. Fraleigh
Presiding Member

Robert J. Bertrand, Q.C.
Member

Arthur B. Trudeau
Member

Ottawa, Canada
March 1, 1991