

C

Canada.

ANTI-DUMPING TRIBUNAL

ANNUAL REPORT

FOR THE YEAR ENDED
DECEMBER 31, 1969

TABLE OF CONTENTS

SUBJECT	PAGE
LIST OF BOARD MEMBERS AND OFFICERS	(i)
INTRODUCTION	1
INQUIRIES	2
a) Isooctanol originating from the United States	2
b) Power Transformers originating from Britain and Japan	3
c) Leather Boots and Shoes for Work and Sports Wear originating from Romania and Poland	4
d) Sheet Glass originating from Czechoslovakia, East Germany, Poland, The Union of Soviet Socialist Republics and Romania	5

(i)

ANTI-DUMPING TRIBUNAL

W.W. Buchanan	-	Chairman
B.G. Barrow	-	Member
J.P.C. Gauthier	-	Member
C.D. Arthur	-	Secretary and Director of Inquiries

ANNUAL REPORT

This report is made pursuant to Section 32 of the Anti-dumping Act which provides as follows:

"32

The Tribunal shall, within three months of the termination of each year, transmit to the Minister of Finance a statement relating to the activities of the Tribunal for that year and the Minister shall cause such statement to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting".

Introduction

In December 1968, Parliament passed new legislation, the "Anti-dumping Act", to implement Canada's commitments as one of the signatories to the international code on the application of dumping duties ("Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade") which was negotiated in the course of the Kennedy Round negotiations.

One of the most significant aspects of this legislation relates to the provisions in the Code that there must be a decision on behalf of a Government that dumping has caused, is causing or is likely to cause material injury to a domestic industry as a prerequisite to the application of dumping duties.

Accordingly, the Canadian statute provides for the establishment of an Anti-dumping Tribunal composed of not more than five members to receive representations, to hear evidence, and to determine whether or not dumped imports have injured or are likely materially to injure Canadian production of like products. The legislation contemplates that the Tribunal shall, within three months from the date of receiving a preliminary determination from the Deputy Minister of National Revenue, Customs and Excise, that there has been or is dumping of a particular product, make a decision on the question of injury. The Tribunal has the authority to make such an investigation and finding only after it receives a preliminary determination from the Deputy Minister of National Revenue that there is dumping of a particular product.

On January 1, 1969, pursuant to Section 21(1) of the Act, three members, Mr. W.W Buchanan, who was designated Chairman, Mr. B.G. Barrow and Mr. J.P.C. Gauthier, were appointed for a period of seven years.

Inquiries

The Tribunal conducted three inquiries under Section 16(1) of the Anti-dumping Act during 1969. It also received a preliminary determination in December 1969 concerning transparent sheet glass from five countries of Eastern Europe and has initiated an investigation into the effects of such dumped imports on Canadian production of sheet glass.

Isooctanol

The first inquiry was undertaken pursuant to a preliminary determination of dumping by the Deputy Minister of National Revenue, Customs and Excise, in respect of isooctanol of United States origin.

Shawinigan Chemicals Limited, the complainant, was the only producer in Canada of "like" goods, viz. 2 ethyl hexanol. Isooctanol and 2 ethyl hexanol are eight carbon alcohols and are interchangeable in most applications. It is our understanding that production by Shawinigan Chemicals Limited of 2 ethyl hexanol was equal to between 20% and 30% of the market for like alcohols in Canada and that about 55% of its output was for its own use.

Subsequent to the date of the preliminary determination two parcels of isooctanol were entered through Customs as a price which appeared to be consistent with prices available from other sellers of "like" goods in Canada. These other sellers purchased isooctanol from the United Kingdom and West German sources and there was no evidence that this carbon alcohol from these countries was being dumped. Indeed, the evidence strongly suggested that the price of isooctanol in Canada reflected the then current landed cost of "like" goods from such offshore suppliers, who supply roughly two-thirds of Canadian usage.

In the opinion of the Tribunal, the presence of isooctanol in bond at a dumped price in an amount sufficient to supply an estimated 3% of Canada's import requirements did not cause or threaten material injury to the Canadian producers of the like product. Also, there was no evidence that the goods in bond were likely to be offered or sold at prices lower than those prevailing for comparable offshore material. Therefore, in the Tribunal's judgment, the entering of the goods did not affect either the price at which the Canadian producer must sell to be competitive or the volume of such sales. Accordingly, the Tribunal's finding was that that dumping of the isooctanol which was the subject of the injury "has not caused, is not causing, nor is likely to cause material injury to the production in Canada of 'like' goods".

Power Transformers

On May 8, 1969 the Deputy Minister, Customs and Excise pursuant to subsection (1) of Section 14 of the Act issued a preliminary determination of dumping relating to "power transformers" originating in the United Kingdom and Japan.

The Deputy Minister on that date notified the Secretary of the Tribunal that the complaint was filed by the Canadian Electrical Manufacturers' Association alleging that power transformers originating from Britain, Japan, Sweden, France and West Germany are being dumped into Canada and alleged that such dumping was causing or threatening material injury. The Deputy Minister advised also that dumping investigation of power transformers originating in Sweden, France and West Germany were continuing.

In the conduct of the inquiry, pursuant to Section 16(1) of the Act, public hearings were held in the City of Ottawa where every interested party had opportunity to make representations. The Tribunal also elicited information of a confidential nature during in camera sessions with each party represented at the public hearings and with several public utilities.

Evidence before the Tribunal suggested that the phrase "power transformers" is susceptible of more than one meaning and since the "goods that are subject of the inquiry" under Section 16 are "the goods to which the preliminary determination of dumping applies" the Tribunal had to decide in what sense the Deputy Minister used the language which he did in the preliminary determination.

In arriving at its decision the Tribunal took into account the scope of the complaint and the investigation carried out by the Deputy Minister of National Revenue, Customs and Excise, pursuant to Section 13 of the Act. Although the complaint and the investigation covered a relatively narrow range of goods, the industry in submitting its case to the Tribunal argued that the term "power transformers" for purposes of the inquiry should include a variety of transformers variously described as power transformers, series regulators and shunt reactors; all when rated in excess of 500 KVA and that "this segment of the electrical manufacturing industry is the smallest identifiable aggregation of the production facilities for which a quantitative assessment of performance and injury can be made".

The Tribunal inclined to the view that there was merit in this proposition and that it would be manifestly undesirable to make a finding of injury or non-injury if a wider investigation and a preliminary determination based

thereon could be undertaken within a reasonable time. Accordingly, the Tribunal made available to the Deputy Minister of National Revenue a complete list of the transactions relating to transformers of which it became aware during the course of its inquiry. The Tribunal recommended that, if, on investigation, the Deputy Minister is satisfied that all or a reasonable percentage of the transactions referred to above, together with such other transactions as he may become aware of, involve goods that "have been or are being dumped and the margin of dumping is not negligible ...", a preliminary determination based upon such an investigation would afford a suitable basis for an inquiry under Section 16(1) and for an appropriate declaration under Section 16(3) of the Anti-dumping Act.

Leather Boots and Shoes for Work and Sports Wear

On May 21, 1969 The Deputy Minister of National Revenue advised the Tribunal that a complaint had been filed by The Shoe Manufacturers' Association of Canada alleging that leather boots and shoes for work and sports wear originating from Romania and Poland have been and are being dumped into Canada. The Deputy Minister, after investigation, advised the Tribunal that he was satisfied that "such boots and shoes have been and are being dumped and that the margin of dumping of the dumped goods and the actual or potential volume thereof is not negligible". Therefore, on May 21, 1969 a preliminary determination to this effect was made pursuant to subsection (1) of Section 14 of the said Act.

The inquiry conducted by the Tribunal included public hearings at which interested parties made representations. In camera discussions with the parties were also held.

Evidence before the Tribunal indicated that the dumped imported work boots and shoes from Romania and Poland are generally less acceptable to the consuming public in Canada than are work boots and shoes of Canadian manufacture because they are available in a limited variety of styles and are less attractive in design, appearance and workmanship. Thus, Romanian and Polish boots and shoes could only be sold in Canada if they enjoyed a substantial price advantage over comparable Canadian shoes. Their presence in the Canadian market had principally affected Canadian manufacture of stitchdown boots, which constituted 10% of Canadian output of work boots in 1968 in terms of pairs, and somewhat less in terms of total value of production. In short, the principal effect of imported work boots and shoes from Romania and Poland on Canadian production has been to accelerate an already existing decline in the production of stitdown work boots and shoes, which decline predates the appearance in the Canadian market of Romanian and Polish work boots and shoes and reflects a variety of factors including a shift in demand to vulcanized, Goodyear welt and other types of footwear.

There was also little evidence to indicate that Romanian and Polish leather work boots have had any significant effect on the prices of Canadian-made work boots generally or that production and profits in the industry had declined as a consequence of these imports or that the share of the market supplied by imported leather work boots will be appreciably different than has been the case in the past three years. On the basis of evidence presented to the Tribunal, it appeared that the imported boots could account for approximately 7 or 8 per cent of sales during 1969 of leather work boots and shoes.

Evidence before the Tribunal suggested that domestic production and sales of steel toed safety boots has been increasing appreciably. Representatives of Romania and Poland testified that these countries have at present neither the intention nor the ability to produce steel toed work boots for export markets in North America.

The Tribunal noted that while it is difficult to be precise about the spread in prices between the imported footwear and comparable domestic footwear, it would appear that the new values for duty, based on British prices, would reduce the margin by about 50 per cent.

While the Tribunal felt that there was insufficient evidence to support the proposition that the footwear industry in Canada has sustained material injury from dumped imports from Romania and Poland, it was left with the impression that the industry's real concern related to what it sees as a growing threat should exporters in these countries improve their quality and extend their lines, particularly to include footwear with steel toes.

In conclusion, the Tribunal stated that it was prepared to verify the continuing validity of the importers' and exporters' evidence respecting the level and nature of their sales in Canada: should future performance belie the evidence, the Tribunal would review its finding, pursuant to Section 31 of the Anti-dumping Act.

Sheet Glass

On December 15, 1969, the Deputy Minister of National Revenue informed the Tribunal that a complaint had been filed by the Canadian Pittsburgh industries Limited and Pilkington Brothers (Canada) Limited alleging that transparent sheet glass from Czechoslovakia, East Germany, Poland, the Union of Soviet Socialist Republics and Romania, has been injuriously dumped into Canada.

After investigating, the Deputy Minister advised the Tribunal that transparent sheet glass from the above named

countries has been or is being dumped and that the margin of dumping and the actual or potential volume of imports is not negligible. Therefore, pursuant to paragraph (c) of subsection (2) of Section 14 of the Anti-dumping Act, a preliminary determination of dumping has been made.

Because the glass under consideration originates in countries where, in the opinion of the Minister of National Revenue, the governments have a monopoly or substantial monopoly of their export trade, or domestic prices are substantially determined by the governments of those countries, the Minister of National Revenue, pursuant to subsection (7) of Section 9 of the Anti-dumping Act, has prescribed that the normal values of transparent sheet glass originating in these countries shall be determined on the basis of the normal values of comparable glass of Belgian origin.

The Tribunal has initiated an investigation under Section 16 of the Anti-dumping Act and has given public notice that a hearing to receive representations from interested parties will begin on February 2, 1970, in Ottawa.

