



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

ORDER AND REASONS

Interim Review No. RD-2004-008

Certain Waterproof Rubber
Footwear

*Order issued
Thursday, August 18, 2005*

*Reasons issued
Friday, September 2, 2005*

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IN THE MATTER OF an interim review, under subsection 76.01(1) of the *Special Import Measures Act*, of the order made by the Canadian International Trade Tribunal on October 18, 2002, in Expiry Review No. RR-2001-005, continuing, without amendment, its order made on October 20, 1997, in Review No. RR-97-001, continuing, with amendment, its order made on October 21, 1992, in Review No. RR-92-001, continuing, without amendment, the finding made by the Canadian Import Tribunal on October 22, 1987, in Review No. R-7-87, continuing, without amendment, the finding made by the Anti-dumping Tribunal on May 25, 1979, in Inquiry No. ADT-4-79, and the finding made by the Anti-dumping Tribunal on April 23, 1982, in Inquiry No. ADT-2-82 concerning:

**CERTAIN WATERPROOF RUBBER FOOTWEAR ORIGINATING IN OR
EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

ORDER

The Canadian International Trade Tribunal, under the provisions of subsection 76.01(1) of the *Special Import Measures Act*, has conducted an interim review of its order made on October 18, 2002, in Expiry Review No. RR-2001-005 concerning certain waterproof rubber footwear originating in or exported from the People's Republic of China.

Pursuant to subsection 76.01(5) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby amends its order made on October 18, 2002, to exclude steel-studded over-the-shoe rubbers.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Patricia M. Close
Patricia M. Close
Member

Zdenek Kvarda
Zdenek Kvarda
Member

Susanne Grimes
Susanne Grimes
Acting Secretary

The statement of reasons will be issued within 15 days.

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STATEMENT OF REASONS

BACKGROUND

1. On February 8, 2005, the Canadian International Trade Tribunal (Tribunal) received a request from Tracktion Canada Inc. (Tracktion) for an interim review of the order made on October 18, 2002, to exclude its studded product.¹ On February 10, 2005, the Tribunal requested that Tracktion complete a Product Exclusion Request form.² Furthermore, on March 24, 2005, the Tribunal requested that Tracktion provide additional information such as a precise and complete description of the product and the customs classification number under the *Customs Tariff*³ or the *Harmonized Commodity Description and Coding System*.⁴ The Tribunal also requested samples of the product for which the exclusion was requested. After having received the additional information, the Tribunal decided on April 27, 2005, that the request was properly documented and invited comments from interested parties on Tracktion's request. One submission was received from the Shoe Manufacturers' Association of Canada (SMAC) stating that it opposed the request given that members of the SMAC are producers of waterproof over-the-shoe rubbers in Canada. Tracktion replied on May 12, 2005.

2. Section 76.01 of the *Special Import Measures Act*⁵ gives the Tribunal jurisdiction to conduct an interim review if it is satisfied that a review is warranted. Based on Tracktion's request and the submission received, the Tribunal decided, on June 27, 2005, that an interim review was warranted and issued a notice of commencement of interim review.⁶ The purpose of the interim review was to determine if the order should be amended to exclude steel studded over-the-shoe rubbers⁷ for which the exclusion had been requested. The submissions already filed by the parties prior to the initiation of the interim review were placed on the record of the interim review. In accordance with paragraph 25(c) of the *Canadian International Trade Tribunal Rules*,⁸ the Tribunal decided to proceed with a hearing by way of written submissions. Any further submissions by interested parties and any subsequent reply submissions were requested by July 15 and July 21, 2005, respectively. The Tribunal received no further submissions within the specified time period.

REASONS FOR DECISION

3. The evidence indicates that the domestic producers do not currently manufacture the product for which the exclusion is requested. To this effect, the Tribunal acknowledges that Tracktion contacted three of the five domestic producers that participated in the expiry review,⁹ i.e. Acton International Inc., Rallye Footwear Inc. and Régence Inc., with the following results: either they no longer produce overshoes or they have no interest in being licensed to produce this particular product. In parallel, the Tribunal notes that the SMAC did not provide any information (e.g. production schedules, sale invoices) to rebut the product exclusion requested by Tracktion. Moreover, there is no evidence that the domestic industry intends to produce the product.

1. Canadian Patent No. CA 2193437—Resilient, all-surface sole.

2. http://www.citt-tcce.gc.ca/forms/index_e.asp.

3. S.C. 1997, c. 36.

4. Customs Co-operation Council, 2d ed., Brussels, 1996.

5. R.S.C. 1985, c. S-15 [*SIMA*].

6. C. Gaz. 2005.I.2411.

7. Product for non-slip walking on slippery surfaces.

8. S.O.R./91-499.

9. *Waterproof Rubber Footwear* (18 October 2002), RR-2001-005 (CITT).

4. In light of the uncontradicted evidence, the Tribunal is persuaded that imports of the product are not likely to cause or threaten to cause injury to the domestic industry and, therefore, finds it appropriate to exclude the product from the order.

5. For the foregoing reasons, the Tribunal determines that, pursuant to subsection 76.01(5) of *SIMA*, the order made on October 18, 2002, should be amended to exclude steel studded over-the-shoe rubbers.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Patricia M. Close
Patricia M. Close
Member

Zdenek Kvarda
Zdenek Kvarda
Member