



OTTAWA, August 10, 2012

RR-2011-002
4366-47

STATEMENT OF REASONS

Concerning a determination under paragraph 76.03(7)(a) of the
Special Import Measures Act regarding

CERTAIN BICYCLES ORIGINATING IN OR EXPORTED FROM CHINESE TAIPEI AND THE PEOPLE'S REPUBLIC OF CHINA

DECISION

On July 26, 2012, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the President of the Canada Border Services Agency determined that the expiry of the order made by the Canadian International Trade Tribunal on December 10, 2007, in Expiry Review No. RR-2006-001, concerning the dumping of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and the People's Republic of China (China), excluding bicycles with an FOB Chinese Taipei or China selling price exceeding CAN\$225 and excluding bicycles with foldable frames and stems was likely to result in the continuation or resumption of dumping of these goods into Canada.

Cet Énoncé des motifs est également disponible en français.
This *Statement of Reasons* is also available in French.

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SUMMARY

[1] On March 28, 2012, the Canadian International Trade Tribunal (Tribunal), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its order made on December 10, 2007, in Expiry Review No. RR-2006-001, continuing, with amendment, its order made on December 9, 2002, in Expiry Review No. RR-2002-001, continuing, with amendment, its order made on December 10, 1997, in Review No. RR-97-003, continuing, with amendment, its finding made on December 11, 1992, in Inquiry No. NQ-92-002, concerning the dumping of bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and the People's Republic of China (China), excluding bicycles with an FOB Chinese Taipei or China selling price exceeding CAN\$225 and excluding bicycles with foldable frames and stems (the subject goods).

[2] As a result of the Tribunal's notice, on March 29, 2012, the Canada Border Services Agency (CBSA) commenced an investigation to determine whether the expiry of the order in respect of the subject goods is likely to result in the continuation or resumption of dumping of the goods.

[3] The Canadian producer of bicycles, namely Raleigh Canada Ltd. (Raleigh), provided a response to the Expiry Review Questionnaire (ERQ). Counsel for Raleigh also provided case arguments and a reply submission.

[4] Raleigh also provided information in support of their position that continued or resumed dumping of bicycles from Chinese Taipei and China is likely if the Tribunal's order is rescinded.

[5] The CBSA also received responses to the ERQ from fourteen exporters and ten importers. Ten of the exporters are located in China and the remaining four are located in Chinese Taipei.

[6] Several exporters from Chinese Taipei and China made representations through their ERQ response that specifically addressed their position that, in absence of the Tribunal's order, they are unlikely to continue or resume dumping of the subject goods into Canada.

[7] Four exporters from China provided case arguments and one exporter from China provided a reply submission.

[8] Analysis of information on the record indicates that there is excess bicycle production capacity in Chinese Taipei and China. Analysis of information on the record also indicated that some exporters in both countries proposed selling prices to Canada that were lower than current normal values which indicated that the goods would have been dumped.

[9] Analysis of information on the record indicates that importers are putting downward pressure on prices if the order is rescinded. The expectation is that the prices for subject bicycles will be lower if the order is rescinded. Considering that the normal value is usually the floor price for sales to Canada these new lower prices would most likely result in dumping.

[10] Analysis of information on the record indicates that there was dumping of the subject goods while the order was in place and that there is an association among producers in both countries which allows them to easily divert production from one country to the other. Analysis of information on the record indicates that if the order is rescinded, Chinese exporters who currently have normal values may need to sell at reduced prices in order to deal with the anticipated competition from Chinese exporters that currently do not have normal values. Further, information on the record shows that there are anti-dumping measures against Chinese Taipei and China in several countries other than Canada, therefore, indicating a propensity to dump and a risk of diverting export volumes to Canada.

[11] For the foregoing reasons, the President of the CBSA (the President), having considered the relevant information on the record, made a determination under paragraph 76.03(7)(a) of SIMA that the expiry of the order made by the Tribunal on December 10, 2007, concerning certain bicycles, originating in or exported from Chinese Taipei and China is likely to result in the continuation or resumption of dumping.

BACKGROUND

[12] The original anti-dumping investigation into certain bicycles and frames originating in or exported from Chinese Taipei and China was initiated on May 15, 1992, following a complaint made by three Canadian bicycle manufacturers – Groupe Procycle Inc., Raleigh Industries of Canada Ltd. and Victoria Precision Inc. At the time of initiation, these three complainants accounted for approximately 90% of bicycles produced and sold in Canada.

[13] On August 13, 1992, the Deputy Minister of National Revenue - Customs and Excise (now the President of the CBSA) made a preliminary determination of dumping concerning certain bicycles and frames from Taiwan (now Chinese Taipei) and China. A final determination of dumping was made on November 10, 1992. The Tribunal issued a finding of injury with respect to bicycles with a freight-on-board (FOB) selling price not exceeding CAN\$325, and a finding of future injury with respect to bicycle frames, on December 11, 1992. Imports of subject goods have been monitored since the Tribunal's finding.

[14] The Tribunal continued the finding, with amendment, on December 10, 1997. The amendment excluded bicycle frames with an FOB Chinese Taipei or China selling price exceeding CAN\$100. On December 9, 2002, the Tribunal continued its order, made on December 10, 1997 with amendment. The amendment excluded bicycles with an FOB selling price exceeding CAN\$225 and excluded bicycles with foldable frames and stems and bicycle frames with an FOB selling price exceeding CAN\$50. The Tribunal continued its order on December 10, 2007, with amendment. The amendment excluded bicycle frames entirely.

[15] The CBSA completed its last reinvestigation to update the normal values and export prices of certain bicycles on July 7, 2011.

[16] On February 7, 2012, pursuant to subsection 76.03(2) of SIMA, the Tribunal issued a notice concerning the upcoming expiry of its order. Based on the available information and the information submitted by the interested parties, the Tribunal decided that a review of the order was warranted.

PRODUCT DESCRIPTION

PRODUCT DEFINITION

[17] The goods subject to the order under review are defined as:

Bicycles, assembled or unassembled, with wheel diameters of 16 inches (40.64 cm) and greater, originating in or exported from Chinese Taipei and the People's Republic of China, excluding bicycles with an FOB Chinese Taipei or People's Republic of China selling price exceeding CAN\$225, and excluding bicycles with foldable frames and stems.

PRODUCT INFORMATION

[18] A subject bicycle is a two-wheeled vehicle, consisting of a frame, drive train, wheels, a seat, handlebars and brakes, each of which in turn consists of several parts. Bicycle frames are the major component of any bicycle and are normally composed of two triangular structures, made of steel, alloy steel or aluminum, which are either welded together to form a rigid frame or held together by a bolt in the case of suspension frames.

[19] The design, appearance and construction of bicycles continue to evolve. In addition to steel and its various alloys, aluminium and carbon fibre frames are becoming increasingly common, as well as front and rear shock absorbers, and disc brakes. The industry has also introduced new types of bicycles in recent years and variations of traditional types. The following seven types are currently generally accepted and marketed by the industry: BMX, cruiser, mountain, hybrid, junior, racer and touring bicycles, and there is a large variety of models within each type. Types are not rigidly defined, which results in a certain overlap between types.

CLASSIFICATION OF IMPORTS

[20] The product definition is the authoritative determinant of subject goods. The subject goods are normally, but not exclusively, imported into Canada under the following Harmonized System (HS) classification numbers:

8712.00.00.12	8712.00.00.20	8712.00.00.30
8712.00.00.40	8712.00.00.50	8712.00.00.90

PERIOD OF REVIEW

[21] The period of review (POR) for the expiry review investigation is January 1, 2009 to March 31, 2012.

CANADIAN INDUSTRY

[22] Groupe Procycle Inc., Raleigh Canada Ltd. and Victoria Precision Inc. were the three major domestic producers of bicycles in Canada and were the three complainants in the original dumping complaint against Taiwan (now Chinese Taipei) and China.¹ However, Victoria Precision Inc. ceased operations in 2004.² In the following year, Groupe Procycle, ceased to be a Canadian producer of bicycles in any meaningful volumes.³ There are several other smaller producers such as Norco Products Ltd., Rocky Mountain Bicycle and Cycle Devinci. These smaller firms are generally more specialized assemblers serving either a regional market or a specific market niche. For example, both Rocky Mountain Bicycle and Cycle Devinci specialize in the production of high-end bicycles. Norco Products Ltd. is also a bicycle assembler.⁴ Consequently, Raleigh Canada Ltd. has become the major producer of like goods in Canada.

[23] Raleigh Canada Ltd. (formerly Raleigh Industries of Canada Ltd.) was federally incorporated in 1947 and until 1973 traded under the name Lines Bros. (Canada) Ltd. The company was acquired by the Raleigh organization in 1973, at which time the name of the company was changed to Raleigh Industries of Canada Ltd./Les Industries Raleigh du Canada Ltée. In January 2002, the company name was changed to Raleigh Canada Ltd.⁵

[24] Raleigh began the production of bicycles at its manufacturing facility in Waterloo, Quebec in 1973. A Canadian corporation with its head office located in Oakville, Ontario, Raleigh Canada is part of the international Raleigh organization which began in Nottingham, England in 1887.⁶

[25] The company manufactures and markets bicycles under the brand names Raleigh, Diamondback and Triumph and also produces private label bicycles for mass merchants under different brands. Raleigh and Diamondback brand products are distributed coast to coast through an independent dealer network. Private label bicycles are sold to a variety of customers. Mass merchant accounts are the major source of private label business.⁷

[26] Raleigh produces a wide range of quality bicycles. Due to the standardized nature of the manufacturing process, Raleigh has the capacity to manufacture most types of bicycles.⁸

¹ Exhibit 1 (NC) – CITT Finding and Statement of Reasons on December 11, 1992.

² Exhibit 3 (NC) – CITT Order and Reasons on December 10, 2007.

³ Exhibit 8 (NC) – CBSA Statement of Reasons 2007 Expiry Review.

⁴ Ibid.

⁵ Exhibit 59 (NC) – Raleigh's Response to Producer ERQ.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

CANADIAN MARKET

[27] The apparent Canadian market for bicycles fitting the Tribunal's description (i.e. wheel diameter of 16" and over) during the POR cannot be divulged because it would reveal information that is confidential to the parties. For purposes of estimating the apparent Canadian market, the CBSA aggregated sales from domestic production with the estimated imports of subject goods.⁹ Estimated imports were compiled from information available through the CBSA's internal database. The estimated market for imported bicycles over the POR is indicated in Table 1 below.

TABLE 1
Estimated Imports of Bicycles (000 Units)¹⁰

Source	2009	%	2010	%	2011	%	Jan. – Mar. 2011	%	Jan. – Mar. 2012	%
China	879.2	86.1%	804.7	83.2%	863.1	89.3%	474.5	91.1%	477.3	94.5%
Chinese Taipei	10.4	1.0%	10.2	1.1%	14.9	1.5%	6.1	1.2%	3.9	0.8%
All Others	131.5	12.9%	152.5	15.7%	88.0	9.2%	40.1	7.7%	24.0	4.7%
Total	1,021.1	100.0%	967.4	100.0%	966.0	100.0%	520.7	100.0%	505.2	100.0%

ENFORCEMENT DATA

SIMA DUTIES

[28] In the enforcement of the Tribunal's order during the POR, as detailed in Table 2 below, the amount of anti-dumping duty collected on subject imports was CAN\$1,329,627.¹¹ In comparison, the value for duty of all subject imports over this period was about CAN\$292.6 million.¹²

⁹ Exhibit 102 (PRO) – Estimated Canadian Market for Bicycles.

¹⁰ Exhibit 103 (NC) – Estimated Canadian Market for Bicycles

¹¹ Exhibit 66 (NC) – Enforcement Statistics for Period of Review.

¹² Ibid.

TABLE 2
SIMA Duties Collected on Subject Bicycles
(Value in CANS)

Source	2009	2010	2011	Jan. - Mar. 2012	Total
China	523,392	203,690	403,429	91,590	1,222,101
Chinese Taipei	20,309	31,175	55,812	230	107,526
Total	543,701	234,865	459,241	91,820	1,329,627

[29] During this period, the CBSA collected CAN\$1,222,101 in anti-dumping duty with respect to imports of subject goods from China and CAN\$107,526 in anti-dumping duty with respect to imports of subject goods from Chinese Taipei.

ENFORCEMENT OF THE ORDER

[30] The bicycle business in Canada is seasonal and has regular annual model changes similar to those occurring in the automobile industry. Typically, production is from late fall to spring while the bulk of the shipments are made in the spring and early summer. The changeover of models occurs in September, and the CBSA normally conducts annual reinvestigations to coincide with the bicycle trade's shopping season and trade shows pertaining to the model year change.

[31] The CBSA currently allows cooperative exporters to apply for interim normal values for bicycles they intend to ship to Canada in the upcoming selling season. These interim normal values are valid for one model year (from September 1st of the current year to August 31st of the next year).

[32] For each bicycle model, an interim normal value is calculated based on each exporter's projected manufacturing costs for that model, advanced by a mark-up resulting from the previous CBSA re-investigation and adjusted for conditions of trade where warranted. The mark-ups are established on the basis of profitable domestic sales of like goods in Chinese Taipei and China.

[33] Whenever exporters make a request for interim normal values to the CBSA, they are also requested to provide a proposed selling price for each model of bicycle they intend to ship to Canada in the upcoming season. This enables the CBSA to compare the proposed selling price with the interim normal value already determined for each model. Whenever the proposed selling price for a particular model is found to be lower than its interim normal value, a hypothetical margin of dumping is calculated by the CBSA and the exporter is advised of this hypothetical margin of dumping. Exporters normally price up to the interim normal value to avoid having the importers pay anti-dumping duties. In instances where the CBSA's interim normal values result in prices that are higher than importers are willing to pay, those models are not exported to Canada.

PARTIES TO THE PROCEEDINGS

[34] On March 28, 2012, the Tribunal's notice of the expiry review of its order and the ERQs were sent to the known Canadian producers, exporters, importers and other interested parties.

[35] The ERQ requested information relevant to the consideration of the expiry review factors by the President, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR). Any persons or governments having an interest in this investigation were also invited to provide a submission regarding the likelihood of continued or resumed dumping of these goods should the order be allowed to expire.

[36] Raleigh, the major Canadian producer of like goods, participated in the expiry review investigation and answered the ERQ. Counsel for Raleigh also provided two case arguments and a reply submission stating that the dumping of subject goods would continue or resume should the Tribunal's order be allowed to expire.

[37] Fourteen exporters to whom ERQs were sent participated in the expiry review investigation and provided responses. The ten participating exporters from China were:

- Alliance Cycle Industry Co. Ltd.¹³
- Chitech Industries II Ltd.¹⁴
- Giant China¹⁵
- Joysun Bicycle Manufacturing Co. Ltd.¹⁶
- Overlord Industries (Shenzhen) Co. Ltd.¹⁷
- Oyama Bicycles (Taicang) Co. Ltd.¹⁸
- Shenzhen Taifeng Yongda Bicycles Co. Ltd.¹⁹
- Tianjin Golden Wheel X-D Bicycle Co. Ltd.²⁰
- Taioku Manufacturing (Jiangsu) Co. Ltd.²¹
- Yong Qi (Changzhou) Bicycle Co.²²

¹³ Exhibit 68 (NC) – Alliance Cycle's response to exporter ERQ.

¹⁴ Exhibit 65 (NC) – Chitech Industries response to exporter ERQ.

¹⁵ Exhibit 36 (NC) – Giant China response to exporter ERQ.

¹⁶ Exhibit 111 (NC) – Joysun Bicycle Manufacturing's response to exporter ERQ.

¹⁷ Exhibit 89 (NC) – Overlord Industries' response to exporter ERQ.

¹⁸ Exhibit 50 (NC) – Oyama Bicycle's response to exporter ERQ.

¹⁹ Exhibit 107 (NC) – Shenzhen Taifeng Yongda's response to exporter ERQ.

²⁰ Exhibit 109 (NC) – Tianjin Golden Wheel's response to exporter ERQ.

²¹ Exhibit 77 (NC) – Taioku Manufacturing (Jiangsu) response to exporter ERQ.

²² Exhibit 97 (NC) – Yong Qi's response to exporter ERQ.

[38] The four participating exporters from Chinese Taipei were:

- Giant Manufacturing Co. Ltd.²³
- Kenstone Metal Co. Ltd.²⁴
- Taioku Manufacturing Co. Ltd.²⁵
- United Engineering Corporation²⁶

[39] Most of the exporters made representations through their ERQ response that specifically addressed their positions with regard to the impact in the marketplace in absence of the Tribunal's order. A few exporters stated that they are unlikely to continue or resume dumping subject bicycles into Canada, while others stated that they were unsure of what would happen if the Tribunal's order is rescinded.

[40] Ten importers to whom ERQs were sent participated in the expiry review investigation and provided responses. The participating importers were:

- Action Traders Ltd.²⁷
- Canadian Tire Corporation Ltd.²⁸
- Dorel Distribution Canada²⁹
- Genesis Cycle Inc.³⁰
- Joying Canada Inc.³¹
- Specialized Bicycle Components Canada Inc.³²
- Stoneridge Cycle Ltd.³³
- Trek Bicycles Corporation³⁴
- Wal-Mart Canada Corporation³⁵
- World Bicycle Sports Inc.³⁶

²³ Exhibit 38 (NC) – Giant Taiwan response to exporter ERQ.

²⁴ Exhibit 91 (NC) – Kenstone Metal's response to exporter ERQ.

²⁵ Exhibit 57 (NC) – Taioku Taiwan's response to exporter ERQ.

²⁶ Exhibit 83 (NC) – United Engineering's response to exporter ERQ.

²⁷ Exhibit 99 (NC) – Action Traders Ltd.'s response to importer ERQ.

²⁸ Exhibit 113 (NC) – Canadian Tire Corporation's response to importer ERQ.

²⁹ Exhibit 55 (NC) – Dorel Distribution Canada's response to importer ERQ.

³⁰ Exhibit 69 (NC) – Genesis Cycle's response to importer ERQ.

³¹ Exhibit 101 (NC) – Joying Canada's response to importer ERQ.

³² Exhibit 84 (NC) – Specialized's response to importer ERQ.

³³ Exhibit 62 (NC) – Stoneridge Cycle's response to importer ERQ.

³⁴ Exhibit 39 (NC) – Trek Bicycles' response to importer ERQ.

³⁵ Exhibit 46 (NC) – Walmart Canada Corp.'s response to importer ERQ.

³⁶ Exhibit 53 (NC) – World Bicycle Sports Inc.'s response to importer ERQ.

INFORMATION CONSIDERED BY THE PRESIDENT

ADMINISTRATIVE RECORD

[41] The information considered by the President for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's Exhibit Listing, which is comprised of the Tribunal's administrative record at initiation of the expiry review, CBSA exhibits and information submitted by interested persons, including information which they feel is relevant to the decision as to whether dumping is likely to continue or resume absent the order. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of any country other than Canada, documents from international trade organizations such as the World Trade Organization (WTO) and responses to the ERQs submitted by Canadian producers, exporters and importers.

[42] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties will be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the "closing of the record date". This allows participants time to prepare their case arguments and reply submissions based on the information that is on the administrative record as of the closing of the record date. For this investigation, the administrative record closed on May 17, 2012.

PROCEDURAL ISSUES

[43] The President will normally not consider any new information submitted by participants subsequent to the closing of the record date. However, in certain exceptional circumstances, it may be necessary to permit new information to be submitted. The President will consider the following factors in deciding whether to accept new information submitted after the closing of the record date:

- (a) the availability of the information prior to the closing of the record date;
- (b) the emergence of new or unforeseen issues;
- (c) the relevance and materiality of the information;
- (d) the opportunity for other participants to respond to the new information; and
- (e) whether the new information can reasonably be taken into consideration by the President in making the determination.

[44] Participants wishing to file new information after the closing of the record date, either separately or in case arguments or reply submissions, must identify this information so that the President can decide whether it will be included in the record for purposes of the determination.

[45] With respect to this expiry review investigation, there was one submission that was received three business days after the close of record on May 23, 2012, from Canadian Tire Corporation.

[46] After due consideration, the CBSA determined that the information provided in the Canadian Tire submission met some of the factors outlined above. Canadian Tire Corporation is a major importer of subject bicycles and the material contained in their submission was relevant for this expiry review investigation. As a result, the CBSA allowed counsel five extra working days to provide a case argument on only the Canadian Tire Corporation submission. All reply submissions were to take into account case arguments submitted on May 29, 2012 (the due date), and June 4, 2012 (the due date for cases arguments on the Canadian Tire submission). This provided participants the opportunity to respond to the Canadian Tire Corporation submission as well as allow the CBSA to take the new information into account for the purposes of this expiry review investigation.

LIKELIHOOD OF CONTINUED OR RESUMED DUMPING

POSITION OF THE PARTIES

PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS LIKELY

Canadian Producer – Raleigh Canada Ltd.

[47] Raleigh made representations through its ERQ response as well as in their case arguments in support of their position that the continued or resumed dumping from Chinese Taipei and China is likely should the order be rescinded. Accordingly, Raleigh contends that the order should remain in place.

[48] In its case argument, Raleigh mentioned that the CBSA concluded in its 2007 expiry review investigation that:

- i) There was excess capacity of bicycles and frames available in Chinese Taipei and China.
- ii) Anti-dumping measures imposed by other countries increased the risk that export volumes of bicycles and frames could be diverted to Canada.
- iii) A Chinese bicycle exporter to Canada had stated that it “would negotiate prices as occurs currently but would not be bound by the floor price of the normal value.” This suggested that it would be willing to dump in order to remain competitive.
- iv) A Chinese Taipei producer was producing low cost bicycles for sale to a mass merchandiser of subject goods. This was a counter example to the assertions of the Canadian Association of Specialty Bicycle Importers and the Retail Council of Canada that Chinese Taipei producers were concentrating on high-end bicycles for sale to independent bicycle dealers.
- v) Total SIMA duties collected from January 1, 2004 to April 30, 2007, were CAN\$1,062,873, which represented 0.4% of the value for duty of estimated subject goods imported during this period. The fact that some of the subject goods were dumped while the order was in effect leads the CBSA to believe that the subject countries would likely dump at a much larger scale if the order was rescinded.

- vi) Some Chinese exporters had been selling subject goods above established normal values and had still captured a large percentage of the Canadian market. However, the amount by which their export prices exceeded normal values indicated that such prices were constrained by the order. If the order were rescinded, established Chinese exporters would need to sell at reduced prices in order to deal with the anticipated competition from Chinese exporters that currently did not have interim normal values. There was a likelihood that Chinese exporters would need to resume dumping in order to meet this competition from all Chinese exporters that were looking for an additional market for their bicycles and current competitors in the Canadian market.³⁷

[49] Raleigh contended that similar circumstances exist for this expiry review in that there is still significant excess capacity available, there are still anti-dumping measures in place in other countries and there is intense competition between Chinese producers that would drive prices down in the event the anti-dumping order is rescinded.³⁸

[50] Raleigh summarized, in their case arguments, the following factors that are indicative of a likelihood of a continuation or resumption of dumping:³⁹

- i) CBSA enforcement data showed significant continued dumping.
- ii) There continued to be significant excess capacity in both Chinese Taipei and China, and only a small portion of this capacity would be required to eliminate the Canadian industry.
- iii) There was still a significant association between exporters in Chinese Taipei and China and production could easily shift from one country to the other.
- iv) Other country's anti-dumping administrations had either initiated or had in place, findings on bicycles from Chinese Taipei and China.
- v) Potential selling prices of subject bicycles demonstrated that exporters would dump if the Tribunal's order were rescinded.
- vi) Exporter responses to the ERQ confirmed a likelihood of resumed dumping.

[51] Raleigh's position is that if the Tribunal's order is rescinded, dumping of the subject goods would likely continue or resume. This was based predominantly on a number of global and country specific factors identified below.

Position of Raleigh regarding China

[52] Raleigh stated that since the beginning of 2009, the amount of anti-dumping duty assessed against subject bicycles was slightly more than cited for a comparable period in the 2007 expiry review investigation.⁴⁰ This would suggest that Chinese exporters would continue to dump if the current order is rescinded.

³⁷ Exhibit 115 (NC) – Raleigh Case Brief.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Exhibit 115 (NC) – Raleigh Case Brief.

[53] Raleigh claimed that there was an over-capacity in China caused by the anti-dumping measures issued by the European Union (EU). The EU recently extended its anti-dumping finding in respect of bicycles from China for a further five year period.⁴¹ In the reasons for its decision, the EU noted that China has a production capacity of 100 to 110 million bicycles, with annual production in 2011 of about 80 million bicycles. Of this 80 million in production, only 25 million was for the Chinese domestic market, with the balance of 55 million, or 69% of the total production, dedicated to the export market.⁴²

[54] Raleigh contended that the decision of the EU provided evidence of a likelihood of a renewal of dumping into Canada in three ways contemplated by SIMA:

- i) The continued finding in Europe raised the likelihood of diversion of dumped goods to Canada, particularly with EU anti-dumping duties of 48.5% on Chinese bicycles.
- ii) The export orientation of Chinese producers indicated a reliance on export markets that promotes dumping.
- iii) There was massive under-utilized capacity in China.⁴³

[55] In addition to the EU finding, Raleigh submitted that there were other anti-dumping orders in Malaysia and Mexico against Chinese bicycles and in Argentina against Chinese bicycles and bicycle parts. Raleigh argued that these country findings provide evidence of an ongoing propensity to dump from the subject countries.⁴⁴

[56] Raleigh indicated that in 2011, Brazil initiated anti-dumping proceedings against Chinese bicycles. Raleigh stated that reports indicate that dumped Chinese imports in Brazil escalated from 40,000 units in 2009 to an estimated 450,000 bicycles in 2011. Raleigh contended that this anti-dumping action had two implications for this expiry review. First, it appeared that another large market will be closed to Chinese imports, freeing up to an additional 450,000 Chinese bicycles looking for a new market. Secondly, Raleigh stated that the Brazilian case also underlines the attractiveness of the Canadian market to Chinese producers, with almost twice as many Chinese bicycles being sold in Canada compared to the much larger Brazilian market.⁴⁵

[57] Raleigh stated that in 2012, the EU initiated an anti-subsidy proceeding in respect of the imports of bicycles originating in China. Raleigh contended that if countervailing measures were imposed in addition to the anti-dumping duties already in effect for Europe, it would likely push even more Chinese bicycles into markets not protected by trade remedy measures.⁴⁶

⁴¹ Exhibit 95 (NC) – Supporting Documents to Raleigh’s response to producer ERQ.

⁴² Ibid.

⁴³ Exhibit 115 (NC) – Raleigh Case Brief.

⁴⁴ Ibid.

⁴⁵ Exhibit 95 (NC) – Supporting Documents to Raleigh’s response to producer ERQ (Appendix 4).

⁴⁶ Exhibit 95 (NC) – Supporting Documents to Raleigh’s response to producer ERQ (Appendix 9).

[58] Raleigh provided evidence of a likelihood of dumping if the Tribunal's order is rescinded. The CBSA sends ruling letters to Chinese exporters when issuing interim normal values and will state to Chinese exporters whether or not their proposed selling prices to Canada are dumped based on their current interim normal values. Raleigh provided sample letters sent by CBSA to potential Chinese exporters indicating that proposed pricing to Canada would be dumped. In the absence of ongoing enforcement, these goods would have entered Canada at dumped prices.⁴⁷

[59] Raleigh provided confidential evidence to show that Chinese exporters would likely revert to dumping if the Tribunal's order is rescinded. Raleigh provided several detailed confidential selling price quotations and specifications from Chinese suppliers showing selling prices that would most likely be dumped.⁴⁸

[60] Raleigh commented on several Chinese responses to the exporter ERQ relating to the likelihood of resumed dumping should the order be allowed to expire. Raleigh commented that a number of Chinese producers assert that they are interested in only "high-end bicycles" but a review of the pricing of these bicycles indicates otherwise.⁴⁹

[61] Raleigh asserted that exporter responses also generally reflect the view that the normal value system was beneficial to Canadian export sales, since it prevented lower price competition from other Chinese producers without normal values.⁵⁰

Position of Raleigh regarding Chinese Taipei

[62] Raleigh stated that since the beginning of 2009, the amount of anti-dumping duty assessed against subject bicycles was slightly more than cited for a comparable period in the 2007 expiry review investigation.⁵¹ This suggested that exporters, from both Chinese Taipei and China, would continue to dump if the current order is rescinded.

[63] Raleigh noted that the decision of the EU also provided evidence of the ongoing importance of export markets to producers in Chinese Taipei which has had a 14% - 15% share of the European import market dating back to 2007. Imports from Chinese Taipei into the EU declined from 2008 levels by almost a half million units⁵² in the review investigation period (April 2009 to March 2010); suggesting further available capacity of bicycle producers in Chinese Taipei.⁵³

⁴⁷ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ (Appendix 5).

⁴⁸ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ (Appendix 6).

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Figure should be 470,000 units. Imports in 2008 were 3,428,000 units. Imports in the review investigation period were 2,958,000 units.

⁵³ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ (Appendix 1).

[64] The Taiwan Bicycle Exporters' Association reported that for the first ten months of 2011, export sales from Taiwan declined by 14%, or just over 600,000 units from 4.2 million in January to October 2010, to 3.6 million for the same period in 2011.⁵⁴

[65] Raleigh noted that in the event that the order is terminated only in respect of Chinese Taipei, there was a significant likelihood of production being shifted from China to Chinese Taipei. In support of this position Raleigh cited the Tribunal's decision in the RR-2002-001 which stated:

*"It is clear from the evidence that the bicycle industries both in Chinese Taipei and China have significant available capacity to produce bicycles and frames for export and can easily switch production between Chinese Taipei and China to maximize use of capacity".*⁵⁵

[66] Raleigh contended that the same situation exists today, with significant excess capacity in Chinese Taipei and China, and significant relationships between producers in both countries. The relationship between producers in Chinese Taipei and plants in China could also be seen in the results of the latest CBSA normal value reinvestigation of 2011. The majority of Chinese companies seeking normal values in the most recent normal value reinvestigation were associated with producers in Chinese Taipei.⁵⁶

[67] Raleigh noted that Chinese producers have expressed concern about the possibility of production moving from China to Chinese Taipei should the order be allowed to expire for Chinese Taipei.⁵⁷

[68] Raleigh contended that the termination of the order with respect to Chinese Taipei alone would simply allow companies to repatriate production from China to the operations of associated companies in Chinese Taipei. The willingness of exporters to shift production back to Chinese Taipei had been reported in bicycle industry publications such as Cycles Press⁵⁸ and Cyclingiq.⁵⁹

[69] Raleigh noted that there have been findings against Chinese Taipei from the EU and Argentina. The recent findings provided evidence of an ongoing propensity to dump from Chinese Taipei.⁶⁰

⁵⁴ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ (Appendix 2).

⁵⁵ Exhibit 4 (NC) – CITT Order and Reasons issued December 9, 2002 Review.

⁵⁶ Exhibit 115 (NC) – Raleigh Case Brief.

⁵⁷ Ibid.

⁵⁸ Exhibit 59 (NC) – Raleigh's response to producer ERQ.

⁵⁹ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ (Appendix 8).

⁶⁰ Exhibit 115 (NC) – Raleigh Case Brief.

PARTIES CONTENDING THAT CONTINUED OR RESUMED DUMPING IS UNLIKELY

Exporters

[70] Fourteen exporters – ten from China and four from Chinese Taipei – made representations through their ERQ response that addressed their position that, in the absence of the Tribunal's order, they are unlikely to continue or resume dumping of subject bicycles into Canada. Four exporters provided case arguments and one exporter provided a reply submission to support their position.

China

[71] Alliance Cycle Industry Co. Ltd. (ACI) is a trading/sales company that sells bicycles and related products worldwide. During the POR, ACI had two related manufacturers producing subject bicycles for it. Tianjin Cheng Hui Bicycle Company produced bicycles for ACI until August 2011 when it was replaced by Tianjin Xufeng Sports Equipment Manufacture Co. Ltd. (Xufeng). Xufeng provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping, ACI had no specific comments other than saying that the Tribunal's order protects not only the Canadian domestic market but also has been beneficial to ACI.⁶¹

[72] Chitech Industries II Ltd. (Chitech) is a Bermuda based trading company which began operations in 2003. Shunlu Bicycle Company Ltd., Hangzhou Wanlun Bicycle Assembly Co. Ltd. and Tianjin Tandem Industries Co. Ltd. all produce subject bicycles for Chitech. Chitech provided confidential data on annual production and operating capacity; however, none of their suppliers provided a response to the exporter ERQ. Furthermore, Chitech had no specific comments regarding either the likelihood or non-likelihood of continued or resumed dumping and whether or not Chitech would modify its selling prices to Canada if the order is rescinded.⁶²

[73] Giant China was established in 1992 by their parent company, Giant Taiwan. Giant China provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping, Giant China asserted that they would not shift production to Chinese Taipei if the order remains in place for China and expires for Chinese Taipei. The reason for this is that Giant China's major focus is China's domestic market and bicycle production differs between Giant China and Giant Taiwan.⁶³

[74] Giant China also stated that they would not shift production to China if the order remained in place for Chinese Taipei and expired for China. They state that there is no need to shift production because all exports from Giant Taiwan to Canada are higher than FOB CAN\$225 and, therefore, are not subject to the Tribunal's order.⁶⁴

⁶¹ Exhibit 68 (NC) – ACI's response to exporter ERQ.

⁶² Exhibit 65 (NC) – Chitech's response to exporter ERQ.

⁶³ Exhibit 34 (NC) – Giant China's response to exporter ERQ.

⁶⁴ Ibid.

[75] Joyson Bicycle Manufacturing Co. Ltd. (Joyson) was established in 2003 and specializes in producing all types of bicycles. Joyson is part of the Joykie Group. Joyson provided confidential data on annual production and operating capacity.⁶⁵

[76] Joyson provided confidential arguments regarding the likelihood or non-likelihood that exporters would continue or resume dumping the subject goods. Joyson also provided confidential arguments regarding the state of the global bicycle market.⁶⁶

[77] Overlord Industries (Shenzhen) Co. Ltd. (Overlord) is an original equipment manufacturer that was established in the early 1990's. Overlord provided data on annual production and operating capacity. As well, Overlord provided confidential arguments about modifying their selling prices and price competition from other Chinese suppliers if the order is rescinded.⁶⁷

[78] Oyama Bicycles (Taicang) Co. Ltd. (Oyama) was established in 2001 and sells in both the domestic and export market. Oyama provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping, Oyama stated:

*"We will not lower our selling prices below the normal values for our bicycles even if the current dumping order is expired. Because factory cost in China is getting higher and factory need to keep reasonable profit in order to keep in good conduction as well as to survives. Instead of compete only with price, we prefer to focus on good quality, new products developments and improved our customer service in order to show our advantage than others."*⁶⁸

[79] Oyama provided confidential statements regarding the trends and market for subject bicycles and comments regarding the CBSA's normal value procedure and their ability to compete with exporters that do not price under the normal value system.⁶⁹

[80] Shenzhen Taifeng Yongda Bicycles Co. Ltd. (STY) was established in 2007 and is a manufacturer and exporter of bicycles. STY provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping, STY stated that they would not continue or resume dumping if the order is rescinded but they cannot answer for other Chinese producers.⁷⁰

⁶⁵ Exhibit 111 (NC) – Joyson's response to exporter ERQ.

⁶⁶ Ibid.

⁶⁷ Exhibit 89 (NC) – Overlord's response to exporter ERQ.

⁶⁸ Exhibit 50 (NC) – Oyama's response to exporter ERQ.

⁶⁹ Ibid.

⁷⁰ Exhibit 107 (NC) – STY's response to exporter ERQ.

[81] Taioku Manufacturing (Jiangsu) Co. Ltd. (Taioku Jiangsu) was established in 2001 and started production in 2003. Taioku Jiangsu provided confidential data on annual production and operating capacity. In the event that the order is rescinded, they stated that:

*"We will not modify our prices according to the pricing from any other factories, no matter [if it was] located in PRC or Chinese Taipei."*⁷¹

[82] Tianjin Golden Wheel X-D Bicycle Co. Ltd. (GWXD) was established in 1997 and has a plant capacity of over one million bicycles per year, all of which are for export. GWXD provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping, GWXD stated that the international markets are very competitive. GWXD provided confidential statements on what they have to do in order to compete in the international markets.⁷²

[83] Yong Qi (Changzhou) Bicycle Co. was established in 2000 and currently has two plants in China; one for the production of bicycles and the other for the production of frames. Yong Qi provided confidential data on annual production and operating capacity.⁷³

[84] In their case arguments, Yong Qi noted that the WTO Agreement states:

*"An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury."*⁷⁴

[85] Yong Qi stated that this order has been in place since December 11, 1992, and that there are very few Canadian anti-dumping findings which have been in force longer than bicycles. Yong Qi stated that there has never been any anti-dumping duty collected as a result of Yong Qi's shipments to Canada.⁷⁵

[86] In their reply submission, Yong Qi stated that WTO Anti-dumping Agreement does not envisage the type of permanent protection envisaged by Raleigh. Yong Qi further submitted that over the last 20 years, Raleigh Canada should have been able to do something to improve its competitive position to build on its well-established, globally recognized brand.⁷⁶

[87] Yong Qi stated that the EU finding against China has been in place for 19 years so how can the renewal of this finding increase the likelihood of diversion to Canada. Yong Qi also questioned how the Brazilian action would increase Chinese exports to an already saturated Canadian market.⁷⁷

⁷¹ Exhibit 75 (NC) – Taioku Jiangsu's response to exporter ERQ.

⁷² Exhibit 109 (NC) – GWXD's response to exporter ERQ.

⁷³ Exhibit 97 (NC) – Yong Qi's response to exporter ERQ.

⁷⁴ Exhibit 117 (NC) – Yong Qi Case Brief.

⁷⁵ Ibid.

⁷⁶ Exhibit 124 (NC) – Yong Qi Reply Submission.

⁷⁷ Ibid.

Chinese Taipei

[88] Giant Manufacturing Co. Ltd. (Giant Taiwan) was established in 1972 and produced bicycles and frames for original equipment manufacturer (OEM) customers. In 1986, Giant Taiwan started to promote its own “Giant” brand worldwide and is now the largest bicycle producer and exporter in Chinese Taipei. Giant Taiwan provided confidential data on annual production and operating capacity.⁷⁸

[89] With respect to the likelihood of resumed dumping, Giant Taiwan provided statistics from the Taiwan International Trade Bureau relating to bicycles exported to Canada, as presented in Table 3.

TABLE 3
Bicycle Exports from Chinese Taipei
During POR⁷⁹

	2009	% Change 2009 - 2010	2010	% Change 2010 - 2011	2011
Quantity (Units)	110,434	-33.8%	73,111	21.3%	88,699
Value (USDS 000)	\$47,545	-20.2%	\$37,930	42.3%	\$54,086
Average Unit Price (USDS)	\$430.53	20.5%	\$518.80	17.5%	\$609.77

[90] Giant Taiwan stated that the FOB price to Canada is increasing which indicates that Chinese Taipei producers are concentrating on higher value-added products. Giant Taiwan stated that the average unit FOB export price to Canada in the past three years is much higher than CAD\$225 so there is not a likelihood that Chinese Taipei exporters will continue or resume dumping the subject goods.⁸⁰

[91] Giant Taiwan provided confidential information indicating why they would not shift production from one country to another if the order was allowed to expire for one country and not the other.⁸¹

[92] Kenstone Metal Co. Ltd. (Kenstone) was established in 1982. Kenstone provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping should the order be allowed to expire, Kenstone stated that no bicycle producer in Chinese Taipei would sell below cost since they are all privately owned. With regards to modifying their selling prices to Canada if the order were to expire, Kenstone stated that their goal was to move away from entry level bicycles because they

⁷⁸ Exhibit 38 (NC) – Giant Taiwan’s response to exporter ERQ.

⁷⁹ The period of review (POR) for the expiry review investigation is January 1, 2009 to March 31, 2012.

⁸⁰ Exhibit 38 (NC) – Giant Taiwan’s response to exporter ERQ.

⁸¹ Ibid.

are not competitive at that level. Furthermore, Kenstone mentioned that, for low end bicycles, more and more customers are moving their orders to South East Asia, especially Cambodia.⁸²

[93] Taioku Manufacturing Co. Ltd. (Taioku) was established in 1988. Taioku provided confidential data on annual production and operating capacity. With regard to the likelihood or non-likelihood of continued or resumed dumping should the order be allowed to expire, Taioku stated that it is unlikely exporters would continue dumping if the order expired; however, they offered no reason why this would be so. With regards to modifying their selling prices to Canada if the order were to expire, Taioku stated that they would modify their selling price to Canada but they would not sell below normal values.⁸³

[94] United Engineering Corporation (United) was established in 1988 and is a manufacturer and trading company of bicycles. United provided confidential data on annual production and operating capacity. United had no comments regarding either the likelihood or non-likelihood of continued or resumed dumping and whether or not United would modify its selling prices to Canada if the order is rescinded.⁸⁴

Importers

[95] Ten importers provided a response to the importer ERQ and two importers submitted case arguments. No importer provided a reply submission. The participating importers provided the following information.

[96] Action Traders Ltd. (ATL) is an importer of subject bicycles produced in China. ATL provided confidential information regarding the volume and value of imports during the POR.

[97] ATL stated that the Canadian bicycle market is a mature one. The import sourcing is predominantly Chinese, and major retailers are the principal customer for bicycles selling for under CAN\$400. ATL further stated that price sensitivity is a major determinant of success in making a sale and that the state of the consumers' willingness to spend is fickle.⁸⁵

[98] With regard to market trends, ATL stated that the current Canada-U.S. dollar exchange rates, the lower price levels in the United States, and a significant increase in tourist exemptions will lead to increased cross border shopping which further compounds an already dismal market. ATL did not foresee any near to medium term improvements.⁸⁶

[99] In their case arguments, ATL provided confidential information regarding the prices of Chinese bicycles in the world market.⁸⁷

⁸² Exhibit 91 (NC) – Kenstone's response to exporter ERQ.

⁸³ Exhibit 57 (NC) – Taioku's response to exporter ERQ.

⁸⁴ Exhibit 83 (NC) – United's response to exporter ERQ.

⁸⁵ Exhibit 99 (NC) – ATL's response to importer ERQ.

⁸⁶ Ibid.

⁸⁷ Exhibit 119 (NC) – ATL's Case Brief.

[100] Canadian Tire Corporation Ltd. (CTC) has been in the retail business for over 85 years and began importing bicycles from Asia in the late 1970s. CTC is a national retailer of bicycles in Canada. CTC provided confidential information regarding the volume and value of imports during the POR. As well, CTC provided confidential information regarding Canadian market trends, store strategies and future pressures facing suppliers of bicycles.⁸⁸

[101] Dorel Distribution Canada (Dorel) provided confidential information regarding the volume and value of imports during the POR. Dorel had no comments regarding the continuation or resumption of dumping if the current order is rescinded.⁸⁹

[102] Genesis Cycle Inc. (Genesis) was incorporated in 1996 and imports subject bicycles from a number of exporters located in Chinese Taipei and China. Genesis provided confidential information regarding the volume and value of imports during the POR. Genesis had no comments regarding the continuation or resumption of dumping if the current order is rescinded.⁹⁰

[103] Joying Canada Inc. (Joying) was founded in 2010. Joying provided confidential information regarding the volume and value of imports during the POR.⁹¹

[104] Joying stated that there are two distinct market segments in Canada, mass market retailers and independent retailers. Joying believed that the trend for independent retailers is positive and will continue growing, but the mass market segment is more based on price, which makes it difficult for companies based on brands. Companies that are able to supply customer service, reasonable price, quality and that understand the market will be able to continue growing or at least keep the same numbers at this competitive time.⁹²

[105] Joying stated that the market for bicycles in North America and in Canada is not robust. Rent-a-Bike operations, which are spreading in the USA and Canada, do offer some growth but it is too early to estimate how much. Joying provided confidential information on how to grow in the current environment.⁹³

[106] Joying foresees expanded production in Vietnam and Malaysia – which is more likely to replace Taiwanese exports of subject bicycles than Chinese exports. The bicycle industry in India is badly in need of modernization and mechanization. India had recently introduced protective measures and higher tariffs to discourage imports.⁹⁴

[107] Specialized Bicycle Components Canada, Inc. (Specialized Canada) is an affiliate of Specialized Bicycle Components, Inc. (Specialized US). Specialized Canada began its Canadian

⁸⁸ Exhibit 113 (NC) – CTC's response to importer ERQ.

⁸⁹ Exhibit 55 (NC) – Dorel's response to importer ERQ.

⁹⁰ Exhibit 69 (NC) – Genesis' response to importer ERQ.

⁹¹ Exhibit 101 (NC) – Joying's response to importer ERQ.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

operations in 1990 and is the exclusive importer and Canadian distributor for bicycles and bicycle-related accessories bearing the mark “Specialized”.⁹⁵ Specialized provided confidential information regarding the volume and value of imports during the POR. Specialized Canada had no comments regarding the continuation or resumption of dumping if the current order is rescinded.

[108] Stoneridge Cycle Ltd. (Stoneridge) was incorporated in 1999 and sells mainly to mass merchants such as Toys’R’Us and Wal-Mart. Stoneridge provided confidential information regarding the volume and value of imports during the POR. All imports were from China. Stoneridge had no comments regarding the continuation or resumption of dumping if the current order is rescinded.⁹⁶

[109] Trek Bicycle Corporation (Trek) was incorporated in 1976 and began exporting bicycles to Canada in 1986. In 1993, Trek became a non-resident importer. Trek sells only to independent bicycle dealers. All bicycles are imported into the United States and then subsequently exported to Canada. Trek provided confidential information regarding the volume and value of imports during the POR.⁹⁷

[110] With regard to trends in the market place, Trek stated that they could only comment on the speciality retailer segment of the market. This market is controlled by Trek, Specialized and Giant which make up more than 60% of the market. Brand has become increasingly important where it is now more important than price. Trek mentioned that there is a trend to fewer, larger and more professional speciality retailers away from the “mom and pop” stores. There is also a trend to increase the starting bike retail price point from CAN\$350 to over CAN\$400.⁹⁸

[111] Wal-Mart Canada Corporation (Wal-Mart) is a Nova Scotia Corporation formed in February 1, 2001, by the amalgamation of Wal-Mart Canada Inc. and 3052364 Nova Scotia Company. Wal-Mart Canada Inc. was founded in March 1994, with the acquisition of the Woolco Division of Woolworth Canada Inc. Today, Wal-Mart has over 300 retail stores offering a full range of products, and has been selling bicycles since 1994. Bicycles were first imported by Wal-Mart in 1999.⁹⁹

[112] Wal-Mart provided confidential information regarding the volume and value of imports during the POR. Wal-Mart also provided confidential information relating to its current and planned activities in the Canadian market for goods subject to the order.¹⁰⁰

[113] With regards to the continuation or resumption of dumping, if the current order was allowed to expire, Wal-Mart indicated that given the WTO mandated CBSA normal value methodology for determining normal values for subject goods from China, there is no prospect

⁹⁵ Exhibit 84 (NC) – Specialized Canada’s response to importer ERQ.

⁹⁶ Exhibit 62 (NC) – Stoneridge’s response to importer ERQ.

⁹⁷ Exhibit 39 (NC) – Trek’s response to importer ERQ.

⁹⁸ Ibid.

⁹⁹ Exhibit 46 (NC) – Wal-Mart’s response to importer ERQ.

¹⁰⁰ Ibid.

that a continuation of the present order would serve Raleigh or the Canadian marketplace, other than to continue unjustified price distortions and to punish Canadian bicycle consumers. The factors that favor imported bicycles such as designs, features, appearance, trademark/license availability, product range, and product support, have not been and cannot be addressed by the present Tribunal order.¹⁰¹

[114] World Bicycle Sports Inc. DBA Ten Pack Distribution (WBS) was incorporated in 1998 and imports higher end BMX style bicycles. WBS provided confidential information regarding the volume and value of imports during the POR. WBS had no comments regarding the continuation or resumption of dumping if the current order is rescinded.¹⁰²

CONSIDERATION AND ANALYSIS

[115] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the order is likely to result in the continuation or resumption of dumping of the goods, the President may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[116] Guided by the factors in subsection 37.2(1) of the SIMR and having considered the information in the administrative record, the following list summarizes the most relevant aspects of the CBSA's analysis in this review with respect to the likelihood of continued or resumed dumping of certain bicycles originating in or exported from Chinese Taipei and China:

- There is excess production capacity for bicycles available in Chinese Taipei and China.
- Exporters in both countries have indicated that they would potentially dump by proposing selling prices to Canada that are below normal value.
- Importers of bicycles are putting pressure on exporters to lower their prices if the order is rescinded.
- There was dumping of the subject goods while the order was in place. Total SIMA duties collected from January 1, 2009 to March 31, 2012, were CAN\$1,329,627, which represents 0.45% of the value for duty of the subject goods imported during this period.
- There is still a strong connection between bicycle manufacturers in Chinese Taipei and China, and, as such, these manufacturers are able to shift production from one country to the other.
- If the order is rescinded, Chinese exporters who currently cooperated and have normal values may need to sell at lower prices in order to deal with the anticipated competition from Chinese exporters that currently do not have normal values.
- Other countries have anti-dumping measures in place on bicycles from Chinese Taipei and China. These measures by other countries increase the risk that export volumes of bicycles could be diverted to Canada. It also demonstrates that exporters from Chinese Taipei and China have a tendency to sell their bicycles at dumped prices.

¹⁰¹ Ibid.

¹⁰² Exhibit 53 (NC) – WBS's response to importer ERQ.

LIKELIHOOD OF CONTINUED OR RESUMED DUMPING

China

[117] As previously noted, 10 Chinese exporters provided responses to the ERQ. Four provided case arguments and one provided a reply submission.

[118] There is an excess bicycle production capacity in China. China's bicycle market and bicycle industry are the largest in the world. According to estimated figures released by the China Bicycle Association, total bicycle output in China amounted to 83.45 million units in 2011, a 2.3% increase over 2010. In 2011, China exported 55.72 million bicycles, a decrease of 4.2% from 2010. Domestic sales were approximately 23.73 million units. Exports to Canada were 1.1 million bicycles in 2011, an increase of 0.50% over 2010.¹⁰³

[119] In its reasons for extending the anti-dumping finding on bicycles for a further five years, the EU stated the following:

"The estimated annual spare capacity in the PRC is about 20 to 30 million bicycles, which is more than double the present production in the Union as stated in recital 66. Moreover, information obtained during the investigation shows that the production capacity in the PRC for bicycles can easily be increased, inter alia, through the employment of additional workforce, in case of an increased demand."¹⁰⁴

[120] An analysis of the production capacity of the exporters that responded is contained in the following table. Capacity utilization for these ten exporters remained fairly stable from 2009 to 2011, however, capacity utilization spiked significantly during the first three months of 2012. The first quarter figures in 2012 are based on seven out of ten exporters providing a response.

TABLE 4
Capacity Utilization of Chinese Exporters that Responded to the ERQ
(Units of Production)

Bicycles	2009	2010	2011	Jan. 1 – Mar. 31, 2012 ¹⁰⁵
Total Plant Capacity	8,552,832	13,178,569	10,506,552	1,683,967
Total Production Capacity – Subject Bicycles	5,016,183	8,978,005	7,298,827	1,438,253
Total Production Capacity – Non-subject Bicycles	2,410,476	2,189,866	2,067,308	233,282
Capacity Utilization Rate (%)	87%	85%	89%	99%

¹⁰³ Exhibit 50 (NC) – Oyama's response to exporter ERQ (Exhibit B12).

¹⁰⁴ Exhibit 95 (NC) – Supporting Documents to Raleigh's response to producer ERQ Appendix 1 (Paragraph 41).

¹⁰⁵ Based on seven responses only.

[121] The excess capacity available in 2011, the last complete year of production, is approximately 1.16 million units which is greater than the total number of imports into Canada in 2011. Furthermore, these exporters only represent a small portion of the total Chinese production capacity.

[122] As a result of this excess capacity, Chinese exporters need to find export markets in order to maintain production levels. If the Tribunal's order is rescinded, Canada would be an attractive market, absent the price constraints imposed by the application of normal values and anti-dumping duties.

[123] Chinese exporters, by proposing selling prices to Canada that are below normal values, have indicated that the goods would have been dumped. As mentioned under the section entitled "Enforcement of the Order", exporters are required to apply for interim normal values for bicycles they intend to ship to Canada in the upcoming selling season. Whenever exporters make a request for interim normal values to the CBSA, they are also requested to provide a proposed selling price for each model of bicycle they intend to ship to Canada in the upcoming season. This enables the CBSA to compare the proposed selling price with the interim normal value already determined for each model.

[124] An analysis of 2012 exporter requests for interim normal values was conducted on all applications up to February 28, 2012. Twenty-seven Chinese exporters made 120 applications requesting 1,012 interim normal values. Four exporters did not provide proposed selling prices with their applications and, as a consequence, the CBSA was unable to assess whether or not these exporters would be dumping. Therefore, the analysis was restricted to the 23 exporters that provided proposed selling prices with their interim normal value applications.

[125] Of the 23 exporters, the proposed selling prices of seven exporters showed no dumping and 16 exporters showed that they would have been potential dumping with their proposed selling prices. Further analysis revealed that four exporters would have been potentially dumping 100% of their models and 11 exporters would have been potentially dumping more than 10% of their models. In addition, 70% of the Chinese exporters would have been potentially dumping at least one model and 48% of the Chinese exporters would have been potentially dumping more than 10% of their models. Finally, 20% of the total interim normal values requested by Chinese producers would have been potentially dumped by margins ranging from under 1% to 15%. In the absence of the Tribunal's order, it seems that these bicycles would have entered Canada at dumped prices.

[126] The CBSA received confidential information that importers of subject goods are putting downward price pressure on suppliers if the Tribunal's order is rescinded. The evidence indicates that importers would expect prices that are lower than current normal values if the order is rescinded. This type of pressure from importers for exporters to reduce their selling prices to Canada below normal values is an indication of a likelihood that selling prices to Canada could be below normal values (i.e. dumped) if the order is rescinded.

[127] There were anti-dumping duties collected while the Tribunal's order was in place. The amount of SIMA duties collected on subject bicycles from January 1, 2009 to March 31, 2012, for China was CAN\$1.2 million. The collection of CAN\$1.2 million demonstrates a continued interest in the Canadian market and an apparent inability for Chinese exporters of subject bicycles to compete in the Canadian market at non-dumped prices.

[128] As the Tribunal stated in Expiry Review No. RR-2002-001:

*"... although this represents only a small proportion of total imports of the subject goods, the fact that some of the subject goods are being dumped, even while an anti-dumping order is in effect, leads the Tribunal to believe that the subject countries will likely dump in much larger volumes, if the order is rescinded."*¹⁰⁶

[129] In 2011, anti-dumping duties were collected on bicycles from 77 exporters, out of a total of approximately 136 exporters from China.¹⁰⁷ Not all the 77 exporters were new to the interim normal value system as at least 15 of them were exporting bicycles to Canada on a regular basis and were well aware of the interim normal value system. Exporters that did not have normal values and shipped subject goods to Canada were assessed SIMA duties based on the application of the ministerial specification of 64% of the export price. Since established exporters shipping to Canada had dumped, it could not be argued that only exporters unaware of the order had been dumping.

[130] On July 7, 2011, the CBSA completed a reinvestigation on certain bicycles from China and Chinese Taipei. At the conclusion of the reinvestigation, the CBSA conducted an analysis of the margins of dumping on the 28 Chinese exporters that provided a response to the exporter request for information. This analysis revealed that 14 of the 28 Chinese exporters sold subject goods to Canada at prices that were dumped. This is a further indication that Chinese exporters, who were well acquainted with the normal value system, were dumping while the Tribunal's order was in place.

[131] There is a strong association between producers in China and Chinese Taipei which allows them to easily shift production from one country to the other should the Tribunal's order be allowed to expire for either China or Chinese Taipei.

[132] Chinese exporters may be facing price pressures from other Chinese exporters that do not have normal values and from Canadian mass merchandisers. When asked if they would modify prices to Canada if the Tribunal's order is rescinded for both Chinese Taipei and China, an exporter responded that they wouldn't plan to modify prices but it would be difficult to predict whether or not Canadian buyers would ask for a reduction in prices because the order had expired. The exporter further stated that they believe new exporters would attempt to sell to

¹⁰⁶ Exhibit 1 (NC) – Order and Statement of Reasons of the CITT in Expiry Review No. RR-2002-001, Page 10 regarding certain bicycles and frames originating in or exported from Chinese Taipei and China.

¹⁰⁷ Total number of exporters and the number of exporters being charged with anti-dumping duties are calculated from Exhibit 104 (PRO).

Canada if there is no anti-dumping order in place and that this would lead to price competition among exporters that could result in prices going below current normal values.

[133] In addition, this exporter dumped thirteen models during the 2011 reinvestigation. A comparison of the models dumped in 2011 and the top 10 models shipped in 2011 revealed that four of the dumped models in 2011 were listed on the exporter's top 10 models shipped to Canada during the period of September 1, 2011 to March 31, 2012. All of the top 10 models were sold to a Canadian retailer. The four models that were dumped in 2011, and that appeared on the list of the exporter's top 10 models, were all "Junior" type bicycles with either 16" or 20" wheels. The selling prices appeared to be entry level prices for these types of bicycles.

[134] One of the exporter's customers is a Canadian retailer. If this retailer demands lower prices from the exporter and its other bicycle suppliers in the absence of an anti-dumping order or if the exporter or other Chinese exporters that currently cooperated and have normal values face new price pressures from new Chinese exporters in the absence of an anti-dumping order, then it is reasonable to conclude that Chinese exporters that currently have normal values will drop their selling prices to maintain their Canadian customers.

[135] There are anti-dumping measures in place on bicycles from China in other countries such as Argentina, Brazil and the EU.¹⁰⁸ These measures against bicycles from China increase the risk that China's export volumes could be diverted to Canada. These anti-dumping measures and a recent initiation of a subsidy investigation by the EU (April 27, 2012) have created pressure on Chinese bicycle manufacturers to look for new export markets to replace lost volumes in markets where anti-dumping orders are in place.¹⁰⁹ For example, in 2011, Chinese producers exported 450,000 bicycles to Brazil. The decision by Brazil to raise its import duty on bicycles from China could result in an additional 450,000 bicycles looking for a new market. These measures in place by other countries also indicate that Chinese bicycle exporters have a tendency to sell in other markets at dumped prices.

President's Determination - China:

[136] Based on evidence contained on the record respecting: the existing production capacity in excess of Chinese domestic demand; the potential dumping exhibited by exporters in requesting 2012 interim normal values; importers putting downward pressure on prices; SIMA duties collected during the POR; the potential of new exporters to drive down selling prices in the absence of a Tribunal order; and anti-dumping measures in place by other countries, the President determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain bicycles originating in or exported from China.

¹⁰⁸ Exhibit 95 (NC) – Supplemental documents filed by Raleigh (Appendix 4)

¹⁰⁹ Ibid. (Appendix 9)

Chinese Taipei

[137] As previously noted, four exporters from Chinese Taipei provided responses to the ERQ but none filed case arguments or reply submissions.

[138] There is excess production capacity in Chinese Taipei. The Chinese Taipei bicycle industry is among the most technologically advanced in the world and producers there appear to be focusing on high quality and high value added production and moving away from the low price market. The Chinese Taipei bicycle industry is heavily export oriented with shipments of 4.2 million, 4.9 million and 4.2 million in 2009, 2010 and 2011, respectively. Exports to Canada were 110,434 units, 73,111 units and 88,699 units in 2009, 2010 and 2011, respectively.¹¹⁰ The decline of 700,000 units in total exports between 2010 and 2011 suggests that Chinese Taipei exporters have excess capacity available for other export markets.

[139] The EU's recent regulation imposing definitive anti-dumping duty on imports from China revealed that Chinese Taipei's exports to the EU declined from 2008 levels by 470,000 units (3.428 million to 2.958 million) in the investigation period (April 2009 to March 2010). This would further suggest that Chinese Taipei producers have further available capacity for other export markets.¹¹¹

[140] An analysis of the production capacity of the exporters that responded is contained in the following table. Capacity utilization is only for the three exporters that shipped subject goods to Canada during 2011. It does not include Giant Taiwan who did not ship subject goods to Canada in 2011.

TABLE 5
Capacity Utilization of Chinese Taipei Exporters
(Excluding Giant Taiwan) that responded to ERQ
(Units of Production)

Bicycles	2009	2010	2011
Total Plant Capacity	559,916	546,816	533,716
Total Production – Subject Bicycles	159,179	145,813	109,758
Total Production – Non-subject Bicycles	79,465	60,145	60,109
Capacity Utilization Rate (%)	43%	38%	32%

[141] The excess capacity available in 2011, the last complete year of production, is approximately 363,000 units for these three producers which is equivalent to approximately a third of the apparent Canada market for 2011. Furthermore, these exporters only represent a small portion of the total Chinese Taipei production capacity.

¹¹⁰ Exhibit 38 (NC) – Giant Taiwan's response to exporter ERQ (Exhibit A16).

¹¹¹ Exhibit 75 (NC) – EU Decision imposing definitive anti-dumping duty on imports of bicycles originating in the People's Republic of China, October 3, 2011.

[142] As a result of this excess capacity, Chinese Taipei exporters need to find export markets in order to maintain production levels. If the Tribunal's order is rescinded, Canada would be an attractive market, absent the price constraints imposed by the application of normal values and anti-dumping duties.

[143] Exporters in Chinese Taipei, by proposing selling prices to Canada that are below normal values, have indicated that the goods would have been dumped. As mentioned under the section entitled "Enforcement of the Order", exporters are required to apply for interim normal values for bicycles they intend to ship to Canada in the upcoming selling season. Whenever exporters make a request for interim normal values to the CBSA, they are also requested to provide a proposed selling price for each model of bicycle they intend to ship to Canada in the upcoming season. This enables the CBSA to compare the proposed selling price with the interim normal value determined for each model.

[144] The number of exporters applying for interim normal values has remained fairly consistent over the POR – nine exporters in 2009, eight exporters in 2010, seven exporters in 2011 and eight exporters in 2012. Furthermore, six exporters have remained constant over the entire POR. It would appear from the evidence that certain exporters still have an interest in shipping subject goods from Chinese Taipei. None of the exporters ship to mass merchandisers.

[145] An analysis of 2012 exporter requests for interim normal values was conducted on all applications up to February 28, 2012. Six Chinese Taipei exporters made 11 requests for 105 interim normal values. Of the 105 interim normal values issued, fourteen would have been potentially dumped at the selling prices proposed by the exporter. These potential margins of dumping would have ranged from 3% to 13%. In the absence of the Tribunal's order, it seems that these bicycles would have entered Canada at dumped prices.

[146] There were anti-dumping duties collected while the Tribunal's order was in place. The amount of SIMA-related duties collected on subject bicycles from January 1, 2009 to March 31, 2012, for Chinese Taipei was CAN\$107,526. This represents 1.41% of the value for duty on all subject bicycles from Chinese Taipei during the POR. Conversely, the amount of SIMA duties collected on subject bicycles from China during the POR was CAN\$1,222,101. This represents 0.43% of the value for duty of all subject bicycles from China during the POR. This indicates that there is a higher propensity for exporters in Chinese Taipei to sell at dumped prices.

[147] In 2011, anti-dumping duties were collected on bicycles from 16 exporters, out of a total of approximately 39 exporters from Chinese Taipei.¹¹² Not all the 16 exporters were new to the interim normal value system. Exporters that did not have normal values and shipped subject goods to Canada were assessed SIMA duties based on the application of the ministerial specification of 64% of the export price. At least three of them were exporting bicycles to Canada on a regular basis and were well aware of the interim normal value system.

¹¹² Total number of exporters and the number of exporters whose bicycles had been assessed anti-dumping duties were calculated from Exhibit 104 (PRO).

Since established exporters shipping to Canada had dumped, it could not be argued that only exporters unaware of the order had been dumping.

[148] In the 2007 expiry review investigation, it was reported that the SIMA duties collected as a percentage of total value for duty were 0.6%, 0.8% and 1.6% in 2004, 2005 and 2006, respectively. In this expiry review investigation, SIMA duties collected as a percentage of value for duty are 1.0%, 1.6% and 1.9% in 2009, 2010 and 2011, respectively. Overall, it appears that there is an increasing trend of the proportion of SIMA duties being collected on subject bicycles from Chinese Taipei.

[149] On July 7, 2011, the CBSA completed a reinvestigation on certain bicycles from China and Chinese Taipei. At the conclusion of the reinvestigation, the CBSA conducted an analysis of the margins of dumping on six Chinese Taipei exporters that provided a response to the exporter request for information. This analysis revealed that four of the six Chinese Taipei exporters sold subject goods to Canada at prices that were dumped. This is a further indication that Chinese Taipei exporters were dumping while the Tribunal's order was in place.

[150] In the event that the order is rescinded in respect of Chinese Taipei, there is significant likelihood of production being shifted from China to Chinese Taipei. The decision of the Tribunal in RR-2002-001 speaks to the significant participation of Chinese Taipei bicycle manufacturers in China. The Tribunal noted:

*"A substantial portion of Chinese Taipei's bicycle production migrated to China in the last ten years... It is clear from this evidence that the bicycle industries both in China and Chinese Taipei have significant available capacity to produce bicycles and frames for export and can easily switch production between Chinese Taipei and China to maximize use of capacity."*¹¹³

[151] The relationship between producers in Chinese Taipei and plants in China can also be seen in the results of the latest normal value reinvestigation that was concluded on July 7, 2011. In that review, 28 Chinese exporters were reviewed and 12 (43%) were found to have associations with Chinese Taipei exporters.¹¹⁴

[152] The concern about moving production to Chinese Taipei has been raised by a Chinese exporter in its submission to these proceedings. The submission states:

"...assuming there is no anti-dumping for bicycles exported from Taiwan to Canada, but China remains subject to the anti-dumping, this may encourage some Taiwanese owned bicycle companies to shift some productions from China to Taiwan for export to Canada."

¹¹³ Exhibit 4 (NC) – Bicycles and Frames from China and Chinese Taipei (RR-2002-001), pp.9-10.

¹¹⁴ Exhibit 30 (PRO) – Exporter responses to the reinvestigation completed on July 7, 2011.

[153] The willingness of exporters to shift production back to Chinese Taipei has been reported in bicycle industry publications. In the article entitled “Full Circle? Bicycle brands resist costly China” (September 2011), Advanced International Multitech Co. Ltd. (AIM), a publicly listed supplier to some of the world’s top bicycle and golfing brands, intends to migrate Chinese production lines back to its Chinese Taipei operations. AIM is seeking to circumvent mainland wage increases and EU anti-dumping duties on Chinese origin bicycles.¹¹⁵

[154] The article states that wage pressures appeared in 2010 when the Chinese Communist Party’s 12th Five Year Plan prescribed substantial economic and industrial thrusts across its provinces through 2011-2016. In alignment with the Five Year Plan, Guangdong, the province where AIM is located, ordered minimum annual wage increases which averaged 18%.

[155] As well, the article further states that tariffs on bicycle imports between China and Chinese Taipei have dropped from 12% to 0% in 2011, courtesy of the economic cooperation framework agreement between China and Chinese Taipei. This agreement has allowed Chinese Taipei exporters to move their operations almost effortlessly between the two countries, depending on demand and client need.¹¹⁶

[156] Another article on the record, taken from Cycle Press Dec 2011/Jan 2012, supports the argument that bicycle manufacturers could easily switch production from China to Chinese Taipei in the event the Tribunal’s order for Chinese Taipei is rescinded.¹¹⁷

[157] The strong integration between Chinese Taipei and Chinese producers allows for production to be easily diverted from one country to the other. If the Tribunal’s order was allowed to expire for Chinese Taipei and remain for China, Chinese Taipei producers could easily transfer production from China and supply the Canadian market from Chinese Taipei.

[158] There is an anti-dumping measure in effect in Argentina against bicycles from Chinese Taipei.¹¹⁸ The existence of this measure indicates that bicycle exporters in Chinese Taipei have demonstrated a propensity to dump in at least one other market. Furthermore, any capacity that was available for the Argentinian market could potentially be diverted to other export markets, such as Canada.

¹¹⁵ Exhibit 95 (NC) – Raleigh Supporting Documents (Appendix 8).

¹¹⁶ Ibid.

¹¹⁷ Exhibit 59 (NC) – Raleigh’s response to the producer ERQ (Exhibit A28a).

¹¹⁸ Exhibit 95 (NC) – Raleigh Supporting Documents (Appendix 3).

President's Determination – Chinese Taipei:

[159] Based on evidence contained on the record respecting: excess production capacity; the potential dumping exhibited by exporters in requesting 2012 interim normal values; SIMA duties collected during the POR; the ability to shift production back and forth between Chinese Taipei and China; and the anti-dumping measures in place by another country, the President determined that the expiry of the order is likely to result in the continuation or resumption of dumping into Canada of certain bicycles originating in or exported from Chinese Taipei.

CONCLUSION

[160] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors contained in subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of evidence on the record, the President determined that the expiry of the order made by the Tribunal on December 10, 2007, in Expiry Review No. RR-2006-001, in respect of certain bicycles originating in or exported from Chinese Taipei and China is likely to result in the continuation or resumption of dumping of these goods into Canada.

FUTURE ACTION

[161] On July 27, 2012, the Tribunal commenced its inquiry to determine if the continued or resumed dumping of certain bicycles from Chinese Taipei and China is likely to result in injury or retardation to the Canadian industry. The Tribunal has announced that it will issue its order no later than December 7, 2012.

[162] If the Tribunal determines that the expiry of its order in respect of certain bicycles from Chinese Taipei and China is likely to result in injury or retardation, the order will be continued in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping duties on dumped importations of certain bicycles originating in or exported from Chinese Taipei and China.

[163] If the Tribunal determines that the expiry of its order in respect of certain bicycles from Chinese Taipei and China is unlikely to result in injury or retardation, the order in respect of those goods will be rescinded. Anti-dumping duties would no longer be levied on importations of certain bicycles beginning on the date the order is rescinded.

INFORMATION

[164] This *Statement of Reasons* has been provided to persons directly interested in these proceedings. It is also posted on the CBSA's Web site, in English and in French, at the address below. For further information, please contact the officer identified as follows:

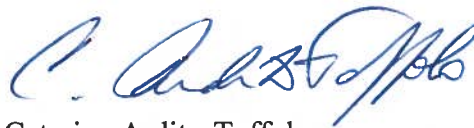
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