

**Date: 20060524**

**Docket: A-527-04**

**Citation: 2006 FCA 197**

**CORAM: RICHARD C.J.  
DÉCARY J.A.  
NOËL J.A.**

**BETWEEN:**

**SPECTRA PREMIUM INDUSTRIES INC.**

**Applicant**

**and**

**SPARKLE DEVELOPMENTS LTD./MINTAR INTERNATIONAL CORP./  
ZHONGSHAN TIANYI AUTO PARTS AND HARDWARE WORKS/  
MINTAR AUTO INDUSTRIES COMPANY, RACO MANAGEMENT CO. LTD.,  
FINELINE FUEL SYSTEMS INC., LINDSAY AUTO SALES,  
RELIABLE AUTOMOTIVE DISTRIBUTING,  
CROSS CANADA AUTO BODY SUPPLY (WINDSOR) LIMITED**

**Respondents**

Heard at Ottawa, Ontario, on May 24, 2006.

Judgment delivered from the Bench at Ottawa, Ontario, on May 24, 2006.

REASONS FOR JUDGMENT OF THE COURT BY:

RICHARD C.J.

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Ottawa, Ontario, on May 24, 2006)**

**RICHARD C.J.**

[1] This is an application for judicial review of a decision of the Canadian International Trade Tribunal (the Tribunal) of August 31, 2004 in CITT Inquiry No. NQ-2004-002.

[2] The Tribunal conducted an inquiry, under the provisions of section 42 of the *Special Import Measures Act* (the Act), to determine whether the dumping in Canada of new steel fuel tanks, gasoline or diesel, for passenger cars and light trucks, for the replacement market, originating in or exported from the People's Republic of China and Chinese Taipei has caused injury or retardation or is threatening to cause injury to the domestic industry.

[3] Pursuant to subsection 43(1) of the Act, the Tribunal found that the dumping in Canada of the aforementioned goods has not caused injury and is not threatening to cause injury to the domestic industry.

[4] The Tribunal concluded that:

... the injury due to price erosion and price suppression, however caused, was not material. The remainder of the injury, caused by declining sales volume and the consequent impact on SPI's financial performance, was primarily attributable to factors other than dumping. Any portion of this injury that could be attributable to dumping is not material.

[5] In our view, the Tribunal was entitled to take into account the commercial behaviour of the domestic industry in reaching its conclusion.

[6] This suffices to dispose of the application.

[7] Accordingly, the application for judicial review will be dismissed with a single set of costs to the respondents.

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“J. Richard”  
Chief Justice