

LEGAL NOTICE NO. 285

REPUBLIC OF TRINIDAD AND TOBAGO

THE ANTI-DUMPING AND COUNTERVAILING DUTIES ACT, 1992

NOTICE

MADE BY THE MINISTER IN ACCORDANCE WITH SECTION 26(2) OF THE  
ANTI-DUMPING AND COUNTERVAILING DUTIES ACT

NOTICE OF FINAL DETERMINATION MADE BY THE  
MINISTER OF TRADE AND INDUSTRY ARISING OUT OF  
THE INVESTIGATION INTO THE ALLEGATION OF THE  
DUMPING OF AIR-CONDITION EQUIPMENT ORIGINATING  
IN THE PEOPLE'S REPUBLIC OF CHINA

NOTICE is hereby given that, in accordance with section 26(2) of the Anti-dumping and Countervailing Duties Act, 1992 ("the Act") the Minister of Trade and Industry has, for the reasons given hereunder, made a final determination in respect of the alleged dumping of Air-Condition Equipment originating in the People's Republic of China ("PRC").

CASE HISTORY

A preliminary determination was made by the Minister of Trade and Industry on 30th December, 2003 and published as Legal Notice No. 23 dated 12th February, 2004. Dumping margins in the amount of 41% for window units and 90% for mini-split systems from the PRC were found and the Minister concluded preliminarily that those goods were ones in respect of which a duty could be imposed.

Subsequent to the preliminary determination, one importer, Clamens and Associates 2000 Ltd., sought permission to apply for judicial review of the investigation and was granted an injunction against the implementation of the Minister's decision until the hearing of the judicial review application. The Anti-dumping Authority ("the Authority") was permitted to continue its investigation process but was however forced to suspend its investigation for more than a month immediately subsequent to the granting of the injunction.

## REASONS FOR THE FINAL DETERMINATION

### A. PROCEDURE

The Authority reviewed all calculations and methodology subsequent to the Court's decision to grant the judicial review. The Authority continued to collect invoices for imports of air-condition units and related statistics and continued to request information from both the exporters and importers. The complainant's data was verified.

### B. EXPORTERS/MANUFACTURERS

The following companies in the PRC were identified in the complaint as either manufacturers or exporters of air-condition equipment to Trinidad and Tobago, were notified of the investigation and were sent questionnaires:

Chunlan Electric Appliance Company

Guangdong Kelon Electric Holding Company Limited

Guangdong Rowa Air Conditioner Company

G.D. Midea Air Conditioner Manufacturing Company Limited

Guangzhou Hauling Air Conditioning Equipment Company Ltd.

The Embassy of the PRC in Trinidad and Tobago was also requested to send notifications and questionnaires to these and other companies that export or manufacture air-condition equipment in the PRC.

Throughout the investigation there was a reponse from only one exporter, that being Qingdao Haier Air Conditioner General Corporation Ltd.

This company indicated that it did not export air-condition equipment directly to Trinidad and Tobago. It stated that it sold air-condition equipment to a firm identified as "Price-Mart" (sic) in New York which "bought Haier window air-conditioners in the USA and moved some to T&T to sell in their stores."

Qingdao Haier Air Conditioner General Corporation Ltd. provided no other useful information.

C. IMPORTERS

- (i) The firms in Trinidad and Tobago that imported air-condition equipment directly from the PRC are as follows:

Servair Ltd., Marabella	imported directly from Chunlan Electric Appliance Company in PRC
H & G Aircon Specialist, St. James	imported directly from the PRC but did not identify the exporter.

- (ii) The companies in Trinidad and Tobago that imported air-condition equipment from the PRC via a third country are as follows:

Clamens and Associates 2000 Ltd., Woodbrook	imported "Tempstar" air-condition equipment from Carrier InterAmerica Corporation in Florida, USA which was manufactured in the PRC by Kelon International Inc. in the PRC.
Maraj Air Conditioning Ltd., San Juan	imported air-condition equipment from Innovair Corporation in the USA which purchases air-condition equipment from the Lamda Group in Shunde, PRC.
Climate Control Ltd., Laventille	imported "all systems" from Miller manufactured in the PRC. Its York mini-split systems and window unit imports are manufactured in the PRC. The Company's letter did not state the country of export.
Comfort Engineering Ltd., Mucurapo	imported Trane air-condition equipment from the USA which are manufactured in the PRC.
Price-Smart (Trinidad) Ltd., Invaders Bay	Haier air-condition units were identified at Price-Smart store at Invaders Bay. Qingdao Haier Air-condition General Corporation indicated that they exported to "Price-Mart" Co. in New York, USA.
Select Air Ltd., San Fernando	imports air-condition equipment from ServiceTek Canada Ltd., Canada which is manufactured in the PRC.

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The following domestic importers did not respond to questionnaires issued by the Authority:

Cool Control Ltd., Gulf View  
Joseph J. Sabeeney Air Conditioning Division, Maraval  
Gamaldo H.E. Associates, Charles Street  
Unique Book and Sports Centre  
Daitech, Barataria  
Temp Tec Ltd., Chaguanas  
Service Expert Ltd., Woodbrook  
Comfort Engineering Ltd., Mucurapo  
Select Air Ltd., San Fernando

**D. THE PRODUCT**

For the preliminary determination, the description and the customs HS codes for the products under investigation were taken from the 1998 First Schedule to the Customs Act. For the final determination, the description and the customs HS codes for the products were taken from the 2003 (referred to in error as 2004) First Schedule to the Customs Act that is currently in force.

The products, air-condition equipment, are the subject of the investigation and are described in the 2003 First Schedule of the Customs Act under Tariff Heading No. 84.15 as "Air-conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated" and under Tariff Heading No. 84.18 as "refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air-conditioning machines of Heading No. 84.15".

The individual categories of products under investigation are currently classified under the following Customs Tariff Headings:

8415.10.00 "window or wall types, self contained or 'split systems'".

8415.81.00 "incorporating a refrigeration unit and a valve for the reversal of the cooling/heat cycle.". Heat pumps fall within this tariff heading number.

8415.82.00 "other incorporating a refrigeration unit.". Chilled water systems, evaporating and fan coil units, air handling units and package systems fall within this tariff heading number.

8415.83.00 “not incorporating a refrigeration unit.”. De-Humidifiers and Air-purifiers fall within this tariff heading number. Some importers classified fan coil units within this tariff heading number.

8415.90.00 “parts,”. Some importers classified fan coil units within this tariff heading number.

8418.99.00 “other,”. This category includes condensing units, air cooled condensers, evaporator and condenser coils.

Mini-split systems comprise fan coils or evaporators and a condensing unit whether imported together as a split system or separately as fan coils or evaporators and condensing units. They fall under the following descriptions and Customs Tariff Headings:

“..... ‘split systems’ ”	...	...	...	-8415.10.00
“other, incorporating a refrigerating unit”	...	...	...	-8415.82.00
“not incorporating refrigerating unit”	...	...	...	-8415.83.00
“other”	...	...	...	-8418.99.00

These classifications incorporate all air-condition equipment that is the subject of this investigation. The air-condition manufacturing process essentially involves the fabrication of metal parts, heat exchangers, plastic injected parts and polyfoam parts and the assembly of these parts and other components.

The only producer of air-condition equipment in Trinidad and Tobago of the type under investigation is Peake Industries Limited, the complainant in this matter.

**E. DUMPING MARGINS**

- (i) Due to a lack of any relevant information from exporters or manufacturers in the PRC, the Authority was forced to rely on information that was available for the calculation of dumping margins. Export price data was taken from the complainant's complaint, from data supplied by Clamens and Associates 2000 Ltd., and invoices collected by the Authority.

Normal value data was taken from the complainant's complaint which in turn relied on a foreign economic consultant's report which provided price data for air-condition equipment in the PRC. Normal value data from Clamens and Associates 2000 Ltd. was also utilized. Adjustments of both export price and normal value data in respect of the products under investigation were carried out by the Authority using information supplied by both the complainant and by Clamens and Associates 2000 Ltd.

(ii) WINDOW UNITS AND MINI-SPLIT SYSTEMS

Dumping margins were found only in the case of window units and mini-split systems. No data was provided in the complaint regarding prices on parts.

Individual dumping margins were calculated for those exporters from the PRC who were identified as having exported window units and mini-split systems to Trinidad and Tobago. The capacities in BTU (British Thermal Unit) ratings of the products under investigation ranged from 7000 BTU's to 24000 BTU's and these originated from 7 different exporters, namely, Kelon, Chunlan, Haier, Midea, Rowa, National and Gree.

The following margins were calculated:

<i>Manufacturer</i>	<i>Window Unit Dumping Margin</i>	<i>Mini-Split Systems Dumping Margin</i>
KELON	40.76%	111.37%
CHUNLAN	—	116.30%
HAIER	—	152.79%
NATIONAL	—	343.16%
ROWA	—	65.80%
MIDEA	—	64.04%
GREE	—	54.45%
Average Dumping Margin	41%	141%

There was no response from the following companies regarding data on window units: Chunlan, Haier, National, Rowa, Midea and Gree.

Where there is no identified dumping margin for a particular company as those listed above, dumping margins for window units and mini-split systems originating in the PRC will be the average dumping margins of 41% and 141% respectively. These margins are based on the facts available as there were no price or volume data provided by exporters and manufacturers in the PRC.

F. VOLUME AND VALUE

Statistics from the Central Statistical Office (CSO) from 1998 to 2002 contain the following description for window units and mini-split systems:

“air-conditioning machines—window type” and “air-conditioning other with refrigeration units” under the general customs tariff heading of 8415.

The volume and value of window unit imports from the PRC showed an uneven climb from 1999 to 2003. That is from 106 units valued at TT\$148,992 in 1999 increasing to 2,367 units valued at TT\$3,067,403 in 2003.

The value of mini-split systems from the PRC under the customs tariff headings 8415.82.00, 8415.83.00 and 8418.99.00 started at TT\$466,212 in 1999, rose to TT\$774,510 in 2000, rose again to TT\$1,069,092 in 2001, fell to TT\$341,569 in 2002 and rose again in 2003 to TT\$2,395,137. The volume data was not available from the CSO statistics or from importers or exporters or the complainant.

G. INJURY

(i) *PRICE EFFECT*

Price surveys were conducted on the local market in Trinidad and importers were invited to submit pertinent information particularly wholesale and retail price listings of air-condition equipment sold domestically. The complainant provided data to show that over the period 2000 and 2003 there was significant price depression with regard to window units and mini-split systems at a time when those products originating in the PRC was present in the market.

During the investigation period, the dumped window units and mini-split systems were imported at prices lower than the retail prices at which the complainant's like goods were being sold on the domestic market.

In 2002, for example, 9000 BTU window units were imported at an average price of US\$120.42 while the complainant's price for the same product was the TT dollar equivalent of US\$218.89. The 12,000 BTU window units were imported at an average price of US\$143.90 and the complainant's like good was sold at the TT dollar equivalent of US\$234.29. The 18,000 BTU window units were imported at an average price of US\$196.99 and the complainant's like good was sold at TT dollar equivalent of US\$267.94. The 24,000 BTU window units were imported at an average price of US\$217.08 while the complainant's like good was being sold at the TT dollar equivalent of US\$336.19.

With regard to mini-split systems, the 9000 BTU units were imported at an average price of US\$168.30 while the complainant's like good was being sold at the TT dollar equivalent of US\$284.92. The 12,000 BTU units were imported at an average price of US\$170.36 while the complainant's like good was being sold at the equivalent of US\$336.35. The 18,000 BTU units were imported at an average price of US\$242.55 while the complainant's like good was being sold at the TT dollar equivalent of US\$384.60. The 24,000 BTU units were imported at an average price of US\$343.40 while the complainant's like good was being sold at the TT dollar equivalent of US\$448.89.

There was significant price depression over the period of investigation from 2000 to 2003. Over this period, the complainant provided evidence to show that the price per unit fell for both mini-split systems and window units on the local market.

The complainant also provided evidence to show price suppression. The margin between the average unit selling price and average unit cost of production could not be maintained over the investigation period and the complainant was unable to return to its 2002 price levels for the units under consideration.

(ii) *PERFORMANCE INDICATORS*

Peakes Industries Limited submitted documentation in support of its claims on 16th July, 2003 and 10th August, 2004, respectively. This included information reflecting the company's position with respect to sales, profitability, employment, and capacity utilization data for the period 1998 to March 2004.

The percentage change in domestic sales for window units for the period 1999 to 2000 was a 19% increase. From 2000 to 2001, domestic sales for window units increased by 5% but fell by 28% from 2001 to 2002. From the period 2002 to 2003, domestic sales for window units increased by 19%.

The percentage change in domestic sales for mini-split systems for the period 1999 to 2000 was an 81% increase while prices fell by 5%. From 2000 to 2001, domestic sales for mini-split systems increased by 7% while prices fell by 10%. Domestic sales fell by 14% from 2001 to 2002 and prices fell by 15%. From the period 2002 to 2003, domestic sales in mini-split systems increased by 58% while prices increased by 1%.

Net profit as a percentage of domestic sales for window units experienced a 5% increase from 1999 to 2000. From 2000 to 2001, net profit as a percentage of domestic sales for window units increased by 3% but decreased by 15% from 2001 to 2002. A further decrease by 4% was revealed from 2002 to 2003.

Net profit as a percentage of domestic sales for mini-split systems experienced a 4% increase from 1999 to 2000. From 2000 to 2001, net profit as a percentage of domestic sales for mini-split systems increased by 9% but decreased by 18% from 2001 to 2002. From 2002 to 2003 there was an increase in net profit as a percentage sales for mini-split systems by 12%.

In the categories of window units and mini-split systems, there were reducing increases from 2000 to 2001 and a significant decline in economic indicators from the year 2001 to 2002. In the years 2002 to 2003 there were increases in the economic indicators from a position of decline but 1999 levels had not been attained. From 2002 to 2003 there was a decline in net profits in the category of window units. Overall the importation of dumped window units and mini-split systems caused injury to the complainant in these categories over the investigation period.

(iii) *Ripple Effect*

The price effects discussed above had a ripple effect in the industry's overall economic performance such that it experienced declines as follows:

Total production from 1999 to 2000 experienced a 32% increase and from 2000 to 2001 declined to 24%. From 2001 to 2002 total production decreased by 36% and from the period 2002 to 2003 increased by 11%.

Capacity utilization for the period 1999 to 2000 was 61%. From 2000 to 2001, capacity utilization was 60%. However from 2001 to 2002 capacity utilization decreased to 38%. From 2002 to 2003 capacity utilization increased to 43%. For the period January to March, 2004 capacity utilization was 44%.

Investments decreased from 1999 to 2000 by 74%. From 2000 to 2001 investments increased by 82%, however from 2001 to 2002 investments decreased by 63%. In 2003, investments increased by 3% from the previous year.

Return on capital employed increased by 11% from 1999 to 2000 and 30% from 2000 to 2001. From 2001 to 2002, return on capital employed decreased by 41% and continued to decrease from 2002 to 2003 by 5%.

Staff increased from 1999 to 2000. However, from 2000 to 2001 staff decreased by 2% and from 2001 to 2002 by 30% as part-time staff in the manufacturing and other departments was no longer employed in 2002. Staff was reduced by 175 employees from 2001 to 2002. In 2003, staff continued to be reduced by a further 125 employees of which 109 were full-time employees in the manufacturing department.

Total salary cost increased from 1999 to 2000 and 2000 to 2001 by 22% and 13%, respectively. However from 2001 to 2002 total salary cost decreased by 20% and continued to decrease from 2002 to 2003 by 12%.

#### H. CASUAL LINK

The existence of significant price effects on the local market having a negative impact on the production of like goods by the local industry demonstrates a causal relationship between the existence of the dumped import on the local market and the injury suffered by the complainant.

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***Conclusion***

In the light of the above findings, the Authority concluded, for the purposes of its final determination, that imports of window units and mini-split air-condition equipment originating in the People's Republic of China were sold at a dumped price and have caused material injury to the domestic industry.

Dated this 4th day of October, 2004.

K. VALLEY  
*Minister of Trade and Industry*