

LEGAL NOTICE NO. 23

REPUBLIC OF TRINIDAD AND TOBAGO

THE ANTI-DUMPING AND COUNTERVAILING DUTIES ACT, 1992

AND

THE ANTI-DUMPING AND COUNTERVAILING DUTIES REGULATIONS, 1996

NOTICE

MADE BY THE MINISTER IN ACCORDANCE WITH SECTION 24(2) OF THE ANTI-DUMPING AND COUNTERVAILING DUTIES ACT, 1992 AND REGULATION 12(2) OF THE ANTI-DUMPING AND COUNTERVAILING DUTIES REGULATIONS, 1996

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

Act No. 11  
of 1992  
Legal Notice  
No. 25  
of 1996

NOTICE is hereby given that, in accordance with section 24(2) of the Anti-dumping and Countervailing Duties Act, 1992 and regulation 12(2) of the Anti-dumping and Countervailing Duties Regulations, 1996, the Minister of Trade and Industry has, arising from the investigation into the allegation of dumping described hereunder, made the preliminary determination that he has reasonable cause to believe that air-condition equipment originating in the People's Republic of China are goods in respect of which he may make an Order imposing duty.

Commence-  
ment

1. This Notice is deemed to come into effect on the 30th day of December, 2003.

#### CASE HISTORY

By Legal Notice No. 39, dated 3rd April, 2003, the Anti-dumping Authority of the Ministry of Trade and Industry (hereinafter referred to as "the Authority") announced the initiation of an Anti-dumping investigation concerning the importation of air-condition equipment originating in the People's Republic of China.

#### COMPLAINT

The investigation was initiated as a consequence of a complaint lodged on 21st June, 2002, by the local manufacturer of air-condition equipment, Peake Industries Limited (PIL). The complainant alleged that air-condition equipment originating in the People's Republic of China is being dumped on the local market and had provided sufficient *prima facie* evidence of dumping and injury and a causal link between

dumping and injury. The main exporters were identified as Chunlan, Haier Group Company, Guandong Kelon Electric Holding Company Limited, National-Wanbao (Guangzhou) AC Co. Limited, Rowa Air Conditioner Company and Midea Air Conditioner Manufacturing Company Limited.

#### THE PRODUCTS

The products, air-condition equipment, are the subject of the investigation and are described 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 H.S. Codes:

8415.10 "window or wall types, self contained".

8415.81 "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 "other incorporating a refrigeration unit". Mini split air-condition units and chilled water systems, evaporating and fan coil units, air handling units and package systems fall within this tariff heading number.

8415.83 "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 "parts". Some importers classified fan coil units within this tariff heading number.

8418.99 "other". This category includes condensing units, air cooled condensers, evaporators and condenser coils.

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.

*Notice of Preliminary Determination made by the Minister of Trade and Industry arising out of an Investigation into the Allegation of Dumping of Air-Condition Equipment Originating in the People's Republic of China*

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PROCEDURE

Having determined that the complaint was lodged on behalf of the local industry in respect of which the complainant accounts for 100% of domestic production, the Authority caused a preliminary hearing to be held on 15th November, 2002.

The Authority officially notified the complainant, the importers known to be concerned, the foreign exporters and the Government of the producing country of the preliminary hearing. The Authority officially advised of the receipt of the said complaint and gave all parties concerned the opportunity to make their views known. A second phase of the preliminary hearing was held on 27th February, 2003 during which the interested parties had a second opportunity to make their views known regarding the complaint.

Subsequently, the formal investigation was commenced and questionnaires were dispatched to all interested parties.

The investigation of dumping of the said product covered the period from January, 2000 to May, 2003.

DUMPING

*Normal Value*

The country of origin of the dumped product is the People's Republic of China. The normal value was calculated based on an average price for air-condition equipment in the ordinary course of trade in the People's Republic of China discounted to the ex-factory level. Evidence of the normal value was provided via price quotations submitted by the complainant and other interested parties.

*Export Price*

In establishing the export price, the Authority based its determination on evidence in the form of price quotations, *pro-forma* invoices and price listings from the exporters in the People's Republic of China. The ex-factory export price was arrived at by discounting the Free on Board (FOB) price by 10%. This percentage represented the cost of inland freight and handling charges incurred from the factory gate to the Port.

*Dumping Margin*

Based on the information available, the Authority was able to determine average dumping margins for window units identified under Customs H.S. Code as Heading No. 8415.10 and mini split units identified under Customs H.S. Code as Heading No. 8415.82 only. The dumping margin was calculated based upon a price comparison between the normal value and the export price as a percentage of the Free on Board (FOB) price. The Authority concluded that there existed average dumping margins of 41% for Window Units: H.S. Code 8415.10 and 90% for Mini Split Units: H.S. Code 8415.82.

*Injury*

(i) *Total Imports*

The Authority determined total imports of air-condition equipment from the People's Republic of China by requesting the import statistics for air-condition equipment from the Central Statistical Office (CSO). Based on the methodology employed by the CSO to record quantities of imported air-condition equipment the Authority was unable to disaggregate the specific quantities for the respective air-condition equipment. However, the total imports from the People's Republic of China in 2000 were 19,804 kgs, 39,139 kgs in 2001, and 35,789 kgs in 2002. For the year 2003 up to March, imports totalled 19,799 kgs.

(ii) *Factors relating to dumped imports*

(a) *Volume of dumped imports*

Total trade imports of air-condition equipment from the People's Republic of China increased by 27% from January, 2000 to December, 2002.

(b) *Market Share*

There was an increase in market share for air-condition equipment originating in China over the investigation period as a result of the dumped imports from China.

(c) *Prices*

During the investigation period, air-condition equipment were imported at prices which undercut those of the complainant to such an extent that Peake Industries Limited was forced to decrease its prices by 15% in order to compete on the local market.

(iii) *Factors relating to the state of the complainant's company—Peake Industries Limited (PIL).*

(a) PIL's domestic sales increased from 1999 to 2001. However, due to the dumped imports domestic sales decreased over the period 2001 to 2002 by 15%.

- (b) Total production decreased by 36% from the period 2001 to 2002. Total production continued to decline by 58% from 2002 to January to April 2003.
- (c) For the period of 2001 to 2002, capacity utilization decreased from 60% to 38%. During the investigation period the company was operating at 38% of its production capacity. From January to April 2003, capacity utilization was 48%.
- (d) The decline in sales volume from 2001 to 2002, adversely affected the profitability of PIL.
- (e) The net profit of PIL for the investigation period reflected a decrease of 150% from 2001 to 2002.
- (f) PIL has experienced a reduction in staff from 637 to 477 employees from 2000 to 2001. Staff was reduced by a further 67 employees in 2002.

In view of the facts stated above and in particular in light of the decline in production, sales and profitability, the Authority concluded for the purpose of its preliminary finding, that Peake Industries Limited has suffered material injury within the meaning of the Act.

#### CASUAL LINK

The Authority examined all of the information that was submitted by the interested parties and determined that the complainant had begun to and continued to suffer loss of sales, market share and employment subsequent to the period of the importation of air-condition equipment from the People's Republic of China. A casual link between the injury suffered by the complainant and the dumped imports was therefore found.

#### CONCLUSION

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

Made this 30th day of December, 2003.

K. VALLEY  
*Minister of Trade and Industry*