

LEGAL NOTICE NO. 59

REPUBLIC OF TRINIDAD AND TOBAGO

THE ANTI-DUMPING AND COUNTERVAILING DUTIES ACT, 1992

AND

THE ANTI-DUMPING AND COUNTERVAILING DUTIES REGULATIONS, 1996

*[Made by the Minister in accordance with section 26 of the Anti-dumping and Countervailing Duties Act]*

NOTICE

FINAL DETERMINATION BY THE HONOURABLE MINISTER OF TRADE AND INDUSTRY AND CONSUMER AFFAIRS ARISING OUT OF THE INVESTIGATION INTO THE ALLEGATION OF THE DUMPING OF PORTLAND GREY CEMENT ORIGINATING IN THAILAND

IN ACCORDANCE with the Anti-dumping and Countervailing Duties Act<sup>No. 11 of 1992</sup> (hereinafter referred to as “the Act”) and the Anti-dumping and Countervailing Duties Regulations, 1996<sup>L. N. No. 25 of 1996</sup> (hereinafter referred to as “the Regulations”) the Minister of Trade and Industry and Consumer Affairs, has made a final determination that the good, Portland Grey Cement, originating in Thailand is a good in respect of which he may make an Order imposing duty.

CASE HISTORY

*Preliminary Determination*

A preliminary determination was made by the Minister of Trade and Industry and Consumer Affairs on 13th August, 1999 and published as Legal Notice No. 157 dated 2nd September, 1999. Pursuant to that preliminary determination, by Legal Notice No. 210 dated 29th October, 1999, the Minister directed the Comptroller of Customs and Excise to secure payment of a provisional duty in the amount of one hundred and ninety-nine per cent *ad valorem* on imports of Portland Grey Cement originating in Thailand.

Prior to the preliminary determination, the first exporter, Siam City Cement Public Company Limited, indicated to the Anti-dumping Authority (the Authority) in July, 1999, that they did not export

Portland Grey Cement to Trinidad and Tobago. However, the Authority had evidence that Portland Grey Cement from the said first exporter entered Trinidad and Tobago in November, 1998.

#### UNDERTAKING

On 1st December, 1999, the second exporter, Siam Cement Trading Company Limited of Thailand, communicated a request to the Authority to make an undertaking to export Portland Grey Cement types I and III at a price that would not cause injury to the domestic industry. On 28th December, 1999, the said exporter requested an extension of the deadline to submit a completed questionnaire issued by the Authority.

By Legal Notice No. 2 dated 4th January, 2000, the Minister extended by two months the period between the preliminary determination and the final determination from 2nd September, 1999 until 2nd January, 2000 to 2nd September, 1999 until 2nd March, 2000.

On 18th February, 2000 the Authority received a completed questionnaire from the second exporter in respect of which there was no indication whether it was in a confidential or non-confidential format as is required under the Act and the relevant World Trade Organisation Agreement. The Authority was of the view, that there was not sufficient time before the deadline for the final determination (2nd March, 2000), to assess adequately the merits of the undertaking made by the exporter in view of the following considerations:

- (a) the lateness of the submission of the exporter's questionnaire;
- (b) the need to verify whether the questionnaire was confidential or not;
- (c) the requirement, based on the tenets of natural justice, to have the views of the complainant regarding the acceptability of the contents of the non-confidential questionnaire and to assess these views; and
- (d) the need to conduct an investigation in Thailand, in order to verify the data contained in the questionnaire.

The Authority did not invite comments from the second exporter regarding its refusal to accept the undertaking because the Authority considered it impracticable. Therefore the Authority took the decision to proceed to a final determination within the statutory deadline.

REASONS FOR THE FINAL DETERMINATION

For the purpose of this final determination the Authority concluded as follows:

(i) The exporters of the Portland Grey Cement to Trinidad and Tobago were:

(a) Siam City Cement Public Company Limited located at Mahatun Plaza Building, Ploenchit Road, Bangkok, Thailand, the shipment of which entered Trinidad and Tobago in November, 1998;

(b) SCT Company Limited located at 1 Siam Cement Road, Bangsue, Bangkok, Thailand, the shipment of which entered Trinidad and Tobago in April, 1999.

(ii) The information provided by both exporters was found to be generally inadequate. The first exporter, Siam City Cement Public Company Limited, provided information in its questionnaire regarding its cost of production but none regarding its export price to Trinidad and Tobago. Information regarding the first exporter's export price which was obtained by the Authority showed that the export price was lower than its cost of production.

The second exporter's SCT Company Limited, provided information on its cost of production in its questionnaire for 1998 only and made a separate submission regarding normal value. Information on the export price was offered in December, 1999 only, in the way of a proposal for an undertaking. The Authority found that the actual quoted export price of the second exporter's shipment was less than the normal value for that period. The authority relied on information acquired from various sources to arrive at an average normal value.

(iii) The authority was of the view that it would be impracticable to determine individual dumping margins for each known exporter or producer concerned because information was obtained in respect of only two of the known cement producers in Thailand. Therefore a dumping margin was arrived at based on an average of a weighted normal value and a weighted export price, adjusted to the ex-factory value as a percentage of a weighted average C.I.F. price.

(iv) The data submitted by the complainant with respect to injury was verified and it was evident that the complainant had suffered loss of market share, loss of profit and was

consequently forced to reduce their prices in order to maintain demand for their product. The Authority also found that there was a direct link between the injury suffered by the complainant and the unfairly priced Portland Grey Cement imports from Thailand.

***Conclusion***

In light of the above findings, the Authority concluded that the imports of Portland Grey Cement originating in Thailand are being dumped in Trinidad and Tobago at prices that have and continue to cause material injury to this industry.

As a result the Minister of Trade and Industry and Consumer Affairs in accordance with section 26 of the Act, gives notification that he has made a final determination that Portland Grey Cement originating in Thailand is a good in respect of which he may ultimately make an Order imposing duty of 152.84%.

Made this 25th day of February, 2000.

M. ASSAM  
*Minister of Trade and Industry  
and Consumer Affairs*