

LEGAL NOTICE NO. 65

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 24 of the Anti-dumping and Countervailing Duties Act

NOTICE

PRELIMINARY DETERMINATION BY THE HONOURABLE MINISTER OF TRADE AND INDUSTRY AND CONSUMER AFFAIRS ARISING OUT OF THE INVESTIGATION INTO THE ALLEGATION OF DUMPING OF SWEETENED AND UNSWEETENED BISCUITS ORIGINATING IN VENEZUELA

IN ACCORDANCE with the Anti-dumping and Countervailing Duties Act ^{No. 11 of 1992} (hereinafter referred to as “the Act”) and the Anti-dumping and Countervailing Duties Regulations (hereinafter referred to as “the Regulations”) ^{L. N. No. 25 of 1996} the Minister of Trade and Industry and Consumer Affairs, has made a preliminary determination that the goods, sweetened and unsweetened biscuits originating in Venezuela are goods in respect of which he may make an Order imposing duty.

CASE HISTORY

By Legal Notice No. 14 of 1999, the Anti-dumping Authority of the Ministry of Trade and Industry and Consumer Affairs (hereinafter “the Authority”) announced the initiation of an anti-dumping investigation concerning imports of sweetened and unsweetened biscuits originating in Venezuela.

COMPLAINT

The investigation was initiated as a consequence of a complaint lodged by a local manufacturer of sweetened and unsweetened biscuits, Bermudez Biscuit Company Limited. The complaint allege that the exporter was Nabisco Venezuela C.A..

On 15th May, 1998 the Authority received a complaint lodged by the Company, Bermudez Biscuit Company Limited, which alleged that imports of sweetened and unsweetened biscuits are being dumped on the local market. The official complaint was subsequently amended on March 9, 1999 and submitted to the attorneys for the exporter, Nabisco Venezuela C.A. against whom the complaint was made.

Preliminary Determination by the Honourable Minister of Trade and Industry and Consumer Affairs arising out of the investigation into the allegation of dumping of sweetened and unsweetened biscuits originating in Venezuela

The official complaint contained evidence of dumping of the said products originating in Venezuela and of material injury resulting therefrom, which evidence was considered sufficient to justify the initiation of an investigation.

Bermudez Biscuit Company Limited and Consolidated Biscuit (Trinidad) Limited are the producers of sweetened and unsweetened biscuits in Trinidad and Tobago.

THE PRODUCT

The products allegedly being dumped are:

- (i) Sweetened biscuits produced by combining the ingredients of wheat flour, sugar, vegetable oil, vegetable shortening, cocoa powder, whey, cocoa liquor, sodium bicarbonate, ammonia bicarbonate, salt, lecithin and artificial flavour;
- (ii) Unsweetened biscuits produced by combining the ingredients of wheat flour, vegetable oil, sugar, sodium bicarbonate, ammonia bicarbonate, monocalcium phosphate and salt.

PROCEDURE

Having determined that the complaint has been lodged on behalf of the local industry in respect of which the complainant accounts for more than 25% of total domestic production of the like product, and that there was no opposition to the complaints from members of the industry to which the complainants belong, the Authority caused a preliminary hearing to be held on July 27, 1998. The Authority officially notified the complainant, other local producers, importers known to be concerned, the foreign exporter and the representatives from the exporting country of the preliminary hearing. The Authority officially advised of the receipt of the said complaint, and gave all parties directly concerned the opportunity to make their views known.

At this hearing the Authority distributed questionnaires. Bermudez Biscuits Company Limited submitted the Confidential Questionnaire on July 23, 1998 and the Non-Confidential Summary on February 4, 1999. At the request of the foreign exporter and local importers known to be concerned, an extension for the submission of questionnaires was given with a deadline of May 3, 1999. There was no response to the questionnaires from Nabisco Venezuela C.A.. Both Nabisco Venezuela C.A. and their attorneys-at-law submitted comments on the procedure adopted by the Authority.

In view of the above factors the Authority had no other alternative but to proceed on the basis of the facts made available in accordance with section 14 of the Act.

The investigation of dumping covered a period from November, 1996 to June, 1999.

DUMPING

Normal Value

Based on the fact that the exporter has failed to submit a completed questionnaire it was necessary to use retail receipts and price lists obtained from Venezuela as evidence of the normal value. An estimated reduction of 20% was applied to the recommended retail price in Venezuela in order to arrive at an ex-factory price.

Export Price

In establishing the export price for the purposes of a preliminary determination the Authority based its determination on invoices representing export transactions during the investigation period.

Dumping Margin

In comparing the normal value and the export price, the excess of normal value over export price was calculated as a percentage of the C.I.F. price. In respect of sweetened biscuits, for which there were different prices according to the package size, an average was taken of the different export prices. The Authority concluded that there existed dumping margins of 156% and 123% of sweetened and unsweetened biscuits respectively.

Injury

TOTAL CONSUMPTION

Sweetened Biscuits

In 1997, imports of sweetened biscuits from Venezuela inclusive of the dumped product represented 44,493,000 kg.

Unsweetened Biscuits

Imports of unsweetened biscuits inclusive of the dumped product entered the local market in 1996 in the amount of 5000 kg and increased to 42,521,000 kg in 1997.

FACTORS RELATING TO DUMPED IMPORTS

1. *Volume of dumped imports*

The volume of dumped imports is estimated to collectively represent 20% of the total local market for the two types of biscuits.

2. Market Share

The imports from Venezuela during the investigation period corresponded to an increase of the Venezuelan exporter's market share from 6% in 1997 to 10% in 1999. The market share of imported products has continually increased during this period.

3. Prices

During the investigation period sweetened and unsweetened biscuits were imported at prices which undercut those of the complainant.

FACTORS RELATING TO THE STATE OF THE COMPLAINANT'S COMPANY—

(a) **Sales**

Sales are normal to the extent that they peak in November and December of the year.

Sweetened Biscuits

The sales of sweetened biscuits decreased by 66% from August, 1997 to November, 1997. For the period November, 1997 to April, 1998, sales had decreased by 99%.

Unsweetened Biscuits

The domestic sales decreased by 10% from November, 1996 to January, 1997. For January, 1998, sales declined by approximately 20% when compared to January, 1997. In January, 1999, sales continued to decreased by 37% from January, 1998.

(b) **Market Shares**

Sweetened Biscuits

Market Share decreased from 7% to 3% from August, 1997 to January, 1999.

Unsweetened Biscuits

Market Share decreased from 6% to 2% from November, 1996 to January, 1999.

(c) **Profitability and Return on Investment**

The decline in sales volume from 1997 to January, 1999 affected the profitability of the company. In order to preserve a share in the industry and to compensate for the undercutting of the dumped product, increased selling and distributing expenses resulted in a reduction in contribution for the period. Therefore the overall profit and resulting return on the investment of the Company declined.

(d) Production

Production is very price sensitive and the introduction of the dumped products forced the company to reduce domestic production.

(e) Introduction of Like Products

During the investigation period the Company introduced new "like products" to compete with the dumped imports, however price undercutting persisted.

In view of the facts stated above and in particular in light of the decline in profitability and market share, the Authority concluded for the purpose of its preliminary findings, that Bermudez Biscuit Company Limited had suffered material injury within the meaning of the Act.

CASUAL LINK BETWEEN THE DUMPED IMPORTS AND THE INJURY

The Authority examined whether there was a casual link between the dumped imports and the injury suffered by the domestic industry and whether other factors caused or contributed to that injury and concluded as follows:

EFFECT OF THE DUMPED IMPORTS

The Authority found that the volume and market share of the dumped imports were reflected in a continued decrease in the domestic volume and market share of Bermudez Biscuit Company Limited in respect of sweetened and unsweetened biscuits.

CONCLUSION

In light of the above findings, the Authority concluded, for the purpose of its preliminary determination, that imports of sweetened and unsweetened biscuits originating in Venezuela were sold at dumped prices and have caused material injury to this industry.

As a result the Minister of Trade and Industry and Consumer Affairs in accordance with section 24(1) of the Act has made a preliminary determination sweetened and unsweetened biscuits originating in Venezuela are goods in respect of which he may ultimately make an order imposing duty.

Made this 9th day of March, 2000.

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