

LEGAL NOTICE NO. 272

REPUBLIC OF TRINIDAD AND TOBAGO

THE ANTI-DUMPING AND COUNTERVAILING DUTIES ACT, 1992 AND
THE ANTI-DUMPING AND COUNTERVAILING DUTIES REGULATIONS, 1995

NOTICE

*Made by the Minister in accordance with section 24 of the Anti-dumping
and Countervailing Duties Act*

PRELIMINARY DETERMINATION BY THE HONOURABLE
MINISTER OF TRADE AND INDUSTRY AND CONSUMER
AFFAIRS ARISING OUT OF THE INVESTIGATION INTO
THE ALLEGATION OF DUMPING OF LEAD ACID
BATTERIES ORIGINATING IN THAILAND

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

CASE HISTORY

By Legal Notice No. 174 of 2000, the Anti-dumping Authority of the Ministry of Trade and Industry and Consumer Affairs announced the initiation of an anti-dumping investigation concerning imports of lead acid batteries, originating in Thailand.

COMPLAINT

The investigation was initiated as a consequence of a complaint lodged on 31st May, 2000 by the local manufacturer of lead acid batteries, Automotive Components Limited, which alleged that imports of lead acid batteries originating in Thailand are being dumped on the local market.

The official complaint provided *prima facie* evidence of dumping of the said product and of injury, which was considered sufficient to justify the initiation of a proceeding.

THE PRODUCT

The product, lead acid batteries, which was the subject of the investigation, is currently classified under the Customs H.S. Code 8507.10 and is used in motor vehicles.

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It is produced by the local industry and is a “like good” pursuant to the definition in the Act.

The sole producer of lead acid batteries in Trinidad and Tobago is Automotive Components Limited.

PROCEDURE

Having determined that the complaint has been lodged on behalf of the local industry in respect of which the complainant accounts for 100% of domestic production, the Authority determined that there was sufficient evidence to justify the initiation of proceedings and consequently, preliminary meetings were held with interested parties. The Authority notified the complainant, the importers known to be concerned, the foreign exporters, representatives from the exporting country and all other interested parties, of the decision to initiate the investigation. Questionnaires were dispatched to all interested parties. The Authority gave all parties directly concerned the opportunity to make their views known. Some parties made their views known in writing.

Extension of deadline

A Questionnaire was forwarded to the producer on 11th August, 2000 and re-submitted on 12th September, 2000. The exporter indicated its inability to complete the questionnaire within the statutory period of thirty-seven days and the Authority granted an extension of seven days for the return of questionnaires from 19th September, 2000 to 25th September, 2000.

The exporter subsequently requested on 1st October, 2000 an additional extension for the completion of the questionnaires. The Anti-Dumping Authority responded on 4th October, 2000 reminding the exporter of the deadline set by its domestic legislation regarding receipt of questionnaires.

At the time of the signing of this preliminary determination the Anti-Dumping Authority still had not received a completed questionnaire. The exporter was informed that any information received would be taken into consideration during the course of the investigation.

The investigation of the dumping of lead acid batteries covered the period January, 1999 to August, 2000.

DUMPING

Normal Value

The average normal value was calculated based on wholesale prices of the product on the domestic market in Thailand. Evidence was

obtained based on written quotations from producers in Thailand. The domestic price for each type of battery was adjusted downward by an appropriate percentage, which is equivalent to the difference between the ex-factory export price and the free on board (FOB) price. This adjustment accounted for costs associated with transportation of the product from the factory to wholesale/retail outlets, i.e., delivery charges, a reasonable profit and general, selling and administrative costs.

Export Price

An average export price was obtained from CARICOM invoices of shipments of the product during the investigation period. The ex-factory export cost of the product was submitted by the exporter, which was used in determining an average ex-factory export price.

Dumping Margin

A price comparison between the average ex-factory normal value and the average ex-factory export price for each type of battery was found as a percentage of the cost, insurance, freight (C.I.F.) price. A weighted average dumping margin was found by taking a sample of exports to Trinidad and Tobago for the investigation period. The Authority concluded that there existed a weighted average dumping margin of 90 per cent.

INJURY

1. CONSUMPTION

The Authority calculated total consumption of lead acid batteries by adding the local manufacturer's sales to the total imports into Trinidad and Tobago falling within the Customs H.S. Code 8507.10. The Central Statistical Office indicated that for the period 1997 to 1998 lead acid batteries were classified under H.S. Code 85.07.001-Electric Accumulators Complete. The Information Department of the Central Statistical Office advised that an average or percentage of the quantity or value specific to lead acid batteries could not be disaggregated. For 1999 lead acid batteries were classified under "lead acid starting piston engines"-H.S. Code 85.07.10. Total consumption was estimated as being 1,834,244 kgs in 1997, 2,107,528 kgs in 1998 and 2,037,433 kgs in 1999.

2. FACTORS RELATING TO DUMPED IMPORTS

(a) Volume of dumped imports

Imports of lead acid batteries from Thailand entered Trinidad and Tobago market ranking third in imported volumes for 1999. The Central Statistical Office quoted a total

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of 114,734 kgs imported from Thailand for 1999. Actual invoices received from the importer revealed imports in the amount of a gross weight totaling 130,170.60 kgs for 1999 and 84,648 kgs for January to August, 2000.

(b) Market Share

The imports from Thailand during the investigation period corresponded to an increase of the foreign exporter's market share. Export sales to Trinidad and Tobago increased by 48 per cent from January—December 1999 to January—September, 2000.

(c) Prices

During the investigation period lead acid batteries originating in Thailand were imported at prices which undercut the prices of the complainant and other imported foreign batteries sold at the wholesale level on the local market revealed the occurrence of price undercutting by lead acid battery imports originating in Thailand.

FACTORS RELATING TO THE STATE OF THE COMPLAINANT'S COMPANY—
AUTOMOTIVE COMPONENTS LIMITED (ACL)

(a) Sales

ACL's domestic sales increased by .16 per cent from October, 1996—September, 1997 to October, 1997—September, 1998. With the introduction of the imported batteries from Thailand in 1999, sales decreased by 7 per cent from October, 1997—September, 1998 to October, 1998—September, 1999 and fell further by 18 per cent from October, 1998—September, 1999 to October, 1999—August, 2000.

(b) Profitability

The decline in sales volume adversely affected the profitability of ACL. Net profit before taxes fell continuously from October, 1998 to September, 1999 by 26 per cent and from October, 1999 to August, 2000 by 18 per cent. If sales continue to fall it is projected that profit would decline by 35 per cent for the period September, 2000—September, 2001.

(c) Total Production

Total production decreased by 25 per cent from October, 1997—September, 1998 to October, 1998—September, 1999. Production continued to decrease by 7 per cent from October, 1998—September, 1999 to October, 1999—August, 2000. It is projected that production levels would continue at a downward trend by a further 5 per cent if the alleged dumping persists.

(d) Market Share

In order to determine market share the Authority compared total estimated consumption [(Imports-Exports) (+Production+/- Decrease/Increase Stocks)] to the producer's domestic sales over the period 1997 to 2000. The calculations revealed a decline in the producer's market share during the investigation to approximately 45 per cent from 1998-1999 to 1999-2000.

(e) Capacity Utilization

The plant's optimum capacity is 1,200 (units) batteries per day, however during the investigation period the company was producing approximately 650 (units) batteries per day. The company was operating at 45 per cent capacity in October, 1996-September, 1997 and from October, 1997-September, 1998 the company was able to increase their productivity to 58 per cent. However, during the periods October, 1998-September, 1999 and October, 1999-August, 2000 capacity utilization decreased to 43 per cent, in both periods. It is expected to decrease to 37 per cent in the next financial year.

(f) Inventories

The stock level at the beginning of the financial year increased by 38 per cent from the period October, 1997-September, 1998 to October, 1998-September, 1999. From the period, October, 1997-September, 1999 to October, 1999-August, 2000, stock levels increased by 7 per cent. Officials of the Authority viewed stock piles of uncharged batteries at the company's plant site.

(g) Cash Flow

ACL's cash flow for the investigation period was adversely affected due to the reduced volume of sales on the domestic market and increased levels of stock. During this period the company's level of borrowing increased in order to meet payment requirements.

(h) Employment

As a result of reduced production one section of the plant was shut down which resulted in the retrenchment of twelve employees including workers, store clerks and quality control supervisors. Full time staff was reduced by 7 per cent.

In view of the facts stated above and in particular in light of the decline in production, sales and market share, the Authority concludes for the purpose of its preliminary findings, that Automotive Components Limited has suffered material injury within the meaning of the Act.

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CAUSAL LINK BETWEEN THE DUMPED IMPORTS AND THE INJURY

The Authority examined whether there was a causal link between the dumped imports and the injury suffered by the domestic industry and whether other factors caused or contributed to that injury. The Authority considered the effects of the dumped imports and found that the increase in volume, sales and market share of the dumped imports was also reflected in a decrease in the volume, sales and market share of the local industry.

CONCLUSION

In light of the above findings, the Authority concluded for the purposes of its preliminary determination, that imports of lead acid batteries originating in Thailand were sold at dumped prices and have caused material injury to this industry.

As a result the Minister of Trade, Industry and Consumer Affairs in accordance with section 24(1) of the Act has made a preliminary determination that lead acid batteries originating in Thailand is a good in respect of which he may ultimately make an Order imposing duty.

Made this 19th day of October, 2000.

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