



Ottawa, Monday, May 8, 1995

Reference No.: RE-95-001

IN THE MATTER OF a reference, under paragraph 34(1)(b) of the *Special Import Measures Act*, made by Canadian Blending and Processing Inc., a producer and importer, to the Canadian International Trade Tribunal;

AND IN THE MATTER OF an advice rendered by the Canadian International Trade Tribunal, under section 37 of the *Special Import Measures Act*;

RESPECTING the dumping in Canada of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the subsidizing of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America and the European Union.

ADVICE

The Canadian International Trade Tribunal hereby concludes that the evidence before the Deputy Minister of National Revenue discloses a reasonable indication that the dumping of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the subsidizing of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America and the European Union, have caused injury to the domestic industry. The Canadian International Trade Tribunal also concludes that the evidence discloses a reasonable indication that such dumping and subsidizing are threatening to cause injury to the domestic industry.

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

Anthony T. Eyton

Anthony T. Eyton
Member

Lyle M. Russell

Lyle M. Russell
Member

Michel P. Granger

Michel P. Granger
Secretary

Reference No.: RE-95-001

Date of Advice: May 8, 1995

Tribunal Members: Arthur B. Trudeau, Presiding Member
Anthony T. Eyton, Member
Lyle M. Russell, Member

Director of Research: Peter Welsh
Lead Researcher: Paul Berlinguette

Counsel for the Tribunal: John L. Syme
Heather A. Grant

Ottawa, Monday, May 8, 1995

Reference No.: RE-95-001

ADVICE rendered under section 37 of the *Special Import Measures Act* respecting:

THE DUMPING IN CANADA OF REFINED SUGAR, REFINED FROM SUGAR CANE OR SUGAR BEETS, IN GRANULATED, LIQUID AND POWDERED FORM, ORIGINATING IN OR EXPORTED FROM THE UNITED STATES OF AMERICA, DENMARK, THE FEDERAL REPUBLIC OF GERMANY, THE NETHERLANDS, THE UNITED KINGDOM AND THE REPUBLIC OF KOREA; AND THE SUBSIDIZING OF REFINED SUGAR, REFINED FROM SUGAR CANE OR SUGAR BEETS, IN GRANULATED, LIQUID AND POWDERED FORM, ORIGINATING IN OR EXPORTED FROM THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
 ANTHONY T. EYTON, Member
 LYLE M. RUSSELL, Member

STATEMENT OF REASONS

On March 17, 1995, on the basis of a properly documented complaint filed by the Canadian Sugar Institute (CSI), the Deputy Minister of National Revenue (the Deputy Minister) initiated an investigation into the alleged injurious dumping in Canada of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the alleged injurious subsidizing of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America and the European Union. The Deputy Minister was of the opinion that the evidence disclosed a reasonable indication that the alleged dumping and subsidizing “[have] caused injury and [are] threatening to cause injury to the production of like goods in Canada.¹”

On April 7, 1995, Canadian Blending and Processing Inc., which identified itself as a producer of certain subject goods and an importer of the subject goods, referred to the Canadian International Trade Tribunal (the Tribunal), under paragraph 34(1)(b) of the *Special Import Measures Act*² (SIMA), the question of whether “the evidence discloses that the alleged dumping and/or the alleged subsidizing of the subject goods originating in the USA or in the European Union or any named member state of the European Union, has caused material injury or retardation or is threatening to cause material injury.³” E.D. & F. Man

1. Department of National Revenue, Statement of Reasons, March 17, 1995, at 10.

2. R.S.C. 1985, c. S-15, as amended by S.C. 1994, c. 47, s. 164.

3. Letter of referral dated April 7, 1995, to the Tribunal from Grey, Clark, Shih and Associates, Limited.

(Sugar) Ltd., an exporter of the subject goods, supported the request made by Canadian Blending and Processing Inc.

Paragraph 37(b) of SIMA provides that the Tribunal shall render its advice on the question without holding hearings, on the basis of the information that was before the Deputy Minister when he reached his decision or conclusion on that question, forthwith after the date on which the reference is made to it and, in any event, not later than 30 days after that date.

The subject goods are defined as refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form. For greater clarity, the subject goods include:

- 1) white granulated sugar;
- 2) liquid sugar including invert sugar;⁴ and
- 3) specialty sugars (soft yellow and brown sugar, icing sugar, Demerara sugar and others).

Sugar is a carbohydrate, and sucrose is its chemical name. Sucrose is found in almost all plants, but is found in a greater concentration in sugar cane and sugar beets. While refined cane and beet sugars are identical (with the exception that soft yellow and brown sugar cannot normally be made from sugar beets), the production process for each type of refined sugar differs.

The production of cane sugar usually involves two steps: production of raw sugar from the cane and refinement of the raw sugar to the required level of purity. Raw sugar is produced (partially refined) in those countries where sugar cane is grown and harvested. Cane sugar is normally exported in the raw form, with final refining taking place in the importing country. In the initial refining stages, some of the colour and flavour-producing substances are separated from raw sugar to make specialty soft sugars such as brown, yellow and Demerara style. Canadian cane sugar refineries import raw cane sugar from several sources, including Australia and the Caribbean. The raw sugar is transported in bulk by cargo ships to refineries located at deep water ports. The four Canadian cane sugar refineries are located in Saint John, New Brunswick; Montréal, Quebec; Toronto, Ontario, and Vancouver, British Columbia. About 90 percent of the refined sugar produced in Canada is made from raw cane sugar.

Normally, beet sugar is produced by a single process beginning with the raw beets and ending with pure granular white sugar. Sugar beets grow in temperate climate zones. In Canada, the harvest occurs in September and October, and the beets are stockpiled prior to severe frosts and snowfalls. The two Canadian sugar beet factories are located in Winnipeg, Manitoba, and Taber, Alberta, close to major centres of beet production.

The evidence provided to the Tribunal by the Department of National Revenue (Revenue Canada) included a documented complaint from the CSI, a case analysis prepared by officers of Revenue Canada and a copy of Revenue Canada's statement of reasons dated March 17, 1995.

4. To satisfy customer demand, sugar can be delivered dissolved in water when the customer's end use is compatible with this form. Two basic categories of liquid sugar are sold: pure sucrose and water (liquid sucrose), and a mixture of sucrose, glucose, fructose and water (liquid invert sugar).

The Tribunal notes that the Deputy Minister, using information submitted by the CSI, estimated that the subject goods were being dumped at weighted average margins of 43 percent for exports from the United States; 31 percent, 32 percent, 33 percent and 32 percent for exports from Denmark, the Federal Republic of Germany, the Netherlands and the United Kingdom, respectively; and 40 percent for exports from the Republic of Korea. The Deputy Minister concluded, on the basis of his own analysis, that the estimated margins of dumping were indicative of the levels of dumping throughout 1994. The Tribunal further notes that the Deputy Minister is satisfied that the exporters' ability to sell the subject goods to Canada at prices substantially below their estimated cost supports the CSI's allegation that subsidy programs are available to the sugar industries in the United States and the European Union.

The Tribunal also notes that the information contained in the Deputy Minister's file indicates that total imports of refined sugar increased from about 99,000 metric tonnes in 1990 to over 158,000 metric tonnes in 1993, then declined to approximately 147,000 metric tonnes in 1994. The increase during the 1990-93 period was mostly attributable to increases in imports from the United States. Imports from the subject countries grew at an average annual rate of 15.8 percent during the 1990-94 period. The share of total imports held by the subject countries was 98 percent in 1994 compared to 81 percent in 1990. The domestic industry lost 3 percentage points in market share between 1990 and 1994. The market share held by the imports from the subject countries rose from 8.3 percent in 1990 to 12.9 percent in 1994.

According to the evidence provided by the CSI, the influx of dumped and/or subsidized imports from the subject countries has resulted in margin depression and suppression. In this connection, the industry provided evidence that the net margins per metric tonne on raw sugar declined for domestic producers during the 1990-94 period. It is alleged that, as a result, profits declined during the period. Furthermore, the presence of allegedly dumped and/or subsidized imports in the Canadian marketplace has forced domestic producers to increase discounts in order to maintain their customer base. The CSI provided examples where customers received lower quotes, resulting in lost contracts or forcing the industry to reduce its selling prices to retain accounts. The evidence also indicates that there is an increasing surplus of sugar which cannot be sold in the United States and the European Union.

Pursuant to section 34 of SIMA, the Tribunal must provide advice as to whether the evidence before the Deputy Minister discloses a reasonable indication that the dumping or subsidizing of the subject goods has caused injury or is threatening to cause injury.⁵ Upon reviewing the evidence before the Deputy Minister in this case, the Tribunal observes an apparent correlation between several of the injury indicators and the dumping and subsidizing of the subject goods. The Tribunal considers that this correlation provides a reasonable indication that the dumping and subsidizing have caused injury. The Tribunal also considers that the evidence of price suppression caused by the imports from the named countries discloses a reasonable indication that the alleged dumping and subsidizing are threatening to cause injury to Canadian producers of like goods. Its conclusion is further supported by the evidence of the increasing surplus of sugar which cannot be sold in the United States and the European Union. However, it is only through an inquiry that the Tribunal will be able to fully explore the causation element and satisfy itself as to whether the dumping and subsidizing of the subject imports are causing injury or are threatening to cause injury.

5. Subsection 2(1) of SIMA provides that "injury" means material injury to a domestic industry.

The CSI submitted that, because raw sugar prices increased at a greater rate than refined sugar prices over the period, the producers' margins have been reduced significantly. If the case proceeds to an inquiry, the Tribunal will need to fully explore the relationship between raw and refined sugar prices, particularly as it affects margins and profitability. Also, the industry submission referred to the effects of competing substitutes as a factor in developments in the market. Although the industry did not attribute its injury to sugar substitutes, the Tribunal's inquiry will need to examine to a greater extent the role that they have played in the market.

Therefore, under section 37 of SIMA, the Tribunal concludes that the evidence discloses a reasonable indication that the dumping of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America, Denmark, the Federal Republic of Germany, the Netherlands, the United Kingdom and the Republic of Korea, and the subsidizing of refined sugar, refined from sugar cane or sugar beets, in granulated, liquid and powdered form, originating in or exported from the United States of America and the European Union, have caused injury to the domestic industry. The Tribunal also concludes that the evidence discloses a reasonable indication that such dumping and subsidizing are threatening to cause injury to the domestic industry.

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