

THE CCJ RULING...

At the TCL Group, We view the outcome of the CCJ's ruling as a "WIN" for all!

The Group sought, through the Caribbean Court of Justice (CCJ), to clarify the procedures and principles that guide the suspensions of the Common External Tariff (CET). We are of the view that the CCJ's judgment brings greater clarity to the process going forward while delivering benefits for consumers, manufacturers and our economies.

The following includes Extracts from the Detailed Judgment Pronounced by the Caribbean Court of Justice in Port of Spain, Trinidad on August 10, 2009:

PROTECTION FOR REGIONAL MANUFACTURERS

- A promise by Member States at the 26th Meeting of the Council for Trade and Economic Development (COTED) to "**first source from within**", was emphasized at paragraph 78. This statement was followed with the pronouncement that "The Court wholly endorses this principle and considers that it should at all times be reflected in the actions of Member States."
- The Court stated at paragraph 41, that "applications for suspensions must be dealt with in a principled, procedurally appropriate manner."
- At paragraph 80, the Court detailed the information COTED should have in its possession when it meets to consider a request for a suspension. This includes "**evidence of unfulfilled orders, evidence of the response of the regional producer** including transportation logistics (force majeure excepted) and **information showing what efforts they have made to obtain regional supplies.**"
- At paragraph 81, the Court concluded that "in the future when the Secretary-General takes a decision to authorize a suspension it is good practice for his authorization to be supported by a brief statement of the reason or reasons for arriving at his decision."
- The importance of the CET to the manufacturing sector in the region was underscored at paragraph 46. The Court declared that "the CET is not to be divorced from the overall aim of the implementation of a common protective policy so as to further integrate the economies of the Member States by creating an enlarged and more assured market for regional producers and manufacturers."

PROTECTION FOR REGIONAL ECONOMIES

- Paragraph 46: "The CET is a fundamental pillar in the establishment of a Caribbean Single Market and Economy (CSME). Its primary purpose is to encourage and promote the production of goods within CARICOM. It is but one of a range of measures identified by the Member States as necessary in order to strengthen the productive sector and to accelerate the process towards making their exports internationally competitive."
- Enforcement of the trading principles outlined by the CCJ will promote the goals and objectives of the CSME and ultimately build and strengthen our economies.

PROTECTION FOR CONSUMERS

RELIABLE SUPPLY

- It was stated at paragraph 56, that Article 83 (2)(b) of the Revised Treaty of Chaguaramas (RTC), which lists the conditions for suspending the CET, must be interpreted in a sensible manner. The Court stated that "COTED may authorize a suspension of a rate not only where the quantity of the product being produced in the Community does not satisfy the demand of the Community as a whole but also where the ongoing demand of a particular Member State will not be met either on a timely basis or at all by the regional producers of the commodity."
- Prior to authorization of a suspension by the Secretary-General, he must be satisfied that "he has received from the Competent Authorities, in response to the inquiry, which he is required to pose to them, specific answers that would allow him to determine whether the quantity of the product being produced in the Community can satisfy the demand of the requesting State" (paragraph 76). In the same paragraph, the Court further recommends that a Form be provided to the Competent Authorities which "should require the Authority to disclose inter alia, what entities, if any, a Competent Authority has consulted and whether there is a local producer able and willing to satisfy the demand on a timely basis."

*At paragraph 82, a clear statement was made that "TCL acted properly in bringing this action". It was further stated that "the Court considers that it was **important not just to TCL but to the entire private sector in the region that the Court should pronounce on many of these issues that are relevant to suspensions of the CET**". In recognition of this, the Court ordered that the Community bear one half of the costs of TCL.*

A CLEAR "WIN" FOR ALL!

*To view the full judgment, you may visit the CCJ's website at www.caribbeancourtofjustice.org



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