Increasing import tariffs on cement to WTO bound rate levels: Views of the FTC

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On Monday 24th September, 2001, the staff of the Fair Trading Commission (FTC) was informed by staff of the Ministry of Commerce, Industry and Technology, that the Ministry has been approached by Carib Cement Ltd. (CCL), the sole Jamaican producer of cement, for an increase in the import tariffs on cement from its current level (approximately 18%) to the maximum permitted by the WTO, i.e., the WTO bound rate of 50%. The reason put forward for this request was that cement is a product that is continually dumped in the market.

The first cement case that was brought to the Anti-Dumping and Subsidies Commission (ADSC) resulted in a 87.91% countervailing duty on cement originating in Thailand and imported by Mainland International Limited from Harricrete Limited, a regional distributor. Nonetheless, CCL argued that going the ADSC route was a lengthy and time-consuming process. According to CCL, cement is often a dumped product and therefore imposing the highest possible import tariffs was a more effective safeguard against dumping. Further, CCL undertakes not to increase prices without the government's approval.

Under the Ministry's guidance, economic liberalization is hailed as the process through which sustained economic growth for Jamaica can be achieved. The move to raise import tariffs is a step backwards in this regard. Such moves are also against the spirit of free trade in which agendas such as those under the FTAA, of which Jamaica is a member, are currently being negotiated.

CCL's proposal must therefore be carefully studied before being approved. The impact on Jamaica should be analyzed from all viewpoints including the overall economic impact, competition and the impact on consumers.

The FTC's mandate concerns the promotion of the *process* of competition, not the protection of competitors, in the economy and ultimately the protection of consumers. It therefore has an interest in such policy moves as they have both competition and consumer welfare implications. The following is a brief on some of the FTC's concerns pertaining to the issue. Specifically, section 1 explains the relation between trade and competition. The other sections pose the following questions:

- Is dumping bad for the consumer?
- What is the likely impact on cement prices of increasing import tariffs?
- What is the cost to the consumer?
- What is the cost to overall economic growth?
- What is the role of the ADSC?

As can be seen from the comments below, the FTC is highly cautious of any moves to increase cement tariffs. Strong evidence of the real threat of dumping must be obtained. Indeed, the partial dissenting opinion of one of the Commissioners of ADSC in the investigation into Thai cement imported by Mainland International Limited points out the following:[1]

> "the <u>only</u> threat factor which supports the Complainant's allegation is excess capacity in Thailand where the demand for cement remains well below the levels experienced before the Asian financial crisis … of the two sales that [Siam Cement Public Company Ltd.] SCPC made to Jamaica during 2000 neither was dumped. … the record indicates that the dumping of cement into Jamaica has been isolated and not repeated since 1999"

The Ministry is encouraged to carefully weigh the choice of providing protection for a particular company at the cost of the consumer and wider economic objectives.

1. Trade barriers and competition

Competition lies at the heart of any successful market economy and is crucial to the protection of consumers' interests and the efficient allocation of resources. It has several dimensions of which price is only one, albeit in many markets the most important. It encourages the development of new or improved products or processes and, in the long run, enhances economic growth and living standards. The objective of the Fair Competition Act (FCA) is therefore to ensure that the benefits of the competition process in Jamaica are unhindered by anti-competitive activity.

Competition is not an end in itself. Rather, it is a means to the final objective – the improvement of consumer welfare. Where goods and services are concerned, the extent of variety, quality and prices of goods and services determine consumer welfare. It is now almost universally accepted that market competition is the key to achieving these ends; hence the global shift towards an ideology of economic deregulation, privatization and liberalization.

Competition can come from foreign and domestic players alike; hence trade and competition are closely linked. The lower the import barriers, the higher the competition in the market, *ceteris paribus*. Similarly, low export barriers could also increase the competitiveness of domestic players as they venture into export markets. This is especially important in small economies where economies of scale cannot be achieved by depending on the domestic market alone. If instead a domestic supplier expands its sales in the global market, it can enjoy the benefits of large scale of production, making it more

[1] The partial dissenting opinion was from Commissioner Dr. Cecil Goodridge; see p. 2 – 3 of opinion the Anti-Dumping and Subsidies Commission's public notice on investigation #AD-01-2000, published on June 11, 2001.

efficient and competitive. Indeed, export expansion has proven to be a key ingredient in the economic success in smaller economies.

In the relatively small Jamaican economy, imports are an important source of competition, leading to lower prices, wider variety and better quality for consumers. Consequently, any moves to increase trade barriers to restrict imports and provide protection for selected domestic players would naturally be of concern to the FTC.

2. Is dumping bad for the consumer?

A product is considered to be dumped if it is sold at prices "below normal value". The common benchmark for normal value is the price at which the good is sold in the domestic market of the supplier if the supplier's domestic market conditions are comparable to those of the Jamaican market (for example, in terms of number and concentration of players). Note that "below normal value" is not necessarily below cost.

The question is, is dumping bad from the consumer's perspective? In the short term at least, dumping is good for the consumer as it means lower prices. In the longer term, dumping could lead to negative consequences if it drives out other competitors (including domestic players) from the market and gives the 'dumper' a monopoly position in the market such that prices are raised in a captive market. In essence, this would be predation by the foreign supplier. In the absence of the risk of predation, dumping can only be a good thing from the consumer's perspective, even if it means a lower market share for domestic players. [2]

There is a reasonable risk of predation if the goods are sold at below cost in the Jamaican market. However, as noted before, the definition of dumping is "below normal value" which does not necessarily mean below cost. There are various reasons that may explain why a good is sold at "below normal value" – the market power of the supplier in its own domestic market may be so strong that it commands monopoly prices; the cost of distribution and sales in the market may be unusually high; it may be just a reaction to consumer demand conditions (consumers in the other market may be willing to pay a higher price); and so on. The key point is that, as long as a price is not below cost, it is sustainable in that it is not necessarily the case that the supplier will predate and raise prices excessively at a later date. And if prices do not rise excessively in the future, consumers are not made worse off.

In other words, imposing countervailing duties on goods that are considered to be sold "below normal value" is not always beneficial to the consumer. The beneficiaries are the domestic players. This is consistent with the ADSC's mandate to protect the *domestic* industry (in contrast to the FTC's mandate to protect the *consumer*).

[2] While it is often argued that measures such as trade barriers and anti-dumping duties are necessary to afford *temporary* protection for local industry so as to enable them to develop, mature and become competitive (the so-called 'infant industry argument), it is often difficult to remove such protection once erected. The US steel industry is arguably one of the oldest 'infant industries' around.

3. The likely impact on cement prices

Even though CCL is undertaking not to raise prices without the government's approval, the FTC does not believe that this is a sufficiently strong safeguard to mimic a competitive market. The proposal reflects a move towards price regulation, but by a "weak" regulator. The Ministry has a wide portfolio and would not have the time, resources or expertise to carefully determine if a requested price rise is reasonable. To do this, one must consider, amongst other factors, the current and future efficiencies of the company, the amounts of capital and operating expenditure required and the reliability of the data provided. It is a complex task requiring expertise of specialists in the field.

While the Ministry would not have the resources to devote to regulating cement prices, CCL will, of course, have the incentive to increase prices away from the competitive levels and therefore to persuade the Ministry that its proposed price increases are reasonable. All this would finally be to the detriment of consumers and the overall economy.

4. The cost to consumers of increasing import tariffs on cement

Increasing the import tariffs on cement will inevitably lead to a higher market price for cement, in spite of undertakings from CCL not to increase prices without the government's approval (as discussed above). This will happen eventually, if not immediately. Higher prices will without doubt mean that consumers will be worse off. They will have to pay the price for the benefits that will be enjoyed by the protected party, i.e., CCL.

Currently, imported building (grey) cement incurs the following tariffs:

- 15% import duty
- 3% Standard Compliance Fee (SCF); this is paid to the Bureau of Standards for checking samples of the cement as well as the packaging;

In other words, imported cement is taxed at a rate of 18%, in addition to the standard GCT of 12.5%.[3]

It is not unreasonable to expect the future rise in market prices to mirror the rise in tariffs. Therefore, the proposed tariff increase from 18% to 50% can be anticipated to eventually lead to a rise in market prices of 32% (i.e., 50% minus 18%).

5. The overall economic cost of increasing import tariffs on cement

Cement is a key ingredient in the construction sector. Increasing cement costs would dampen construction and housing. The importance of this sector to the overall economic health of the country extends beyond the proportion of GDP that it accounts for (7.6% in year 2000):

- Housing and construction is often a leading indicator of consumer and business confidence. A takeoff in this sector is a good predictor of economic improvement.

[3] A stamp duty of J$5 if the CIF value is less than J$5,000 and J$100 if the CIF value is more than J$5,000.

Given the importance of consumer and business sentiment in the growth of all economies, Jamaica included, the follow-on consequences of any negative impact on this sector cannot be under-estimated.

- More generally, construction is an underlying factor in overall economic growth. Investments and the development of practically all sectors require the construction of facilities, factories, roads, and so on. An increase in the cost of construction will increase the cost of investment and reduce the profitability of business development in this country. This will consequently damage the growth prospects of Jamaica.

- More specifically, construction is crucial in the development of tourism, the most important segment of the economy. In 2000, tourist expenditure alone amounted to US$1.3 billion, equivalent to J$59.8 billion.[4] While this sector is currently suffering from various setbacks, there is no doubt that it will, and must grow again. Hotels and facilities need to be built. Jamaica has to compete with the other Caribbean destinations for the needed investments in this sector. If construction costs are high, Jamaica's attractiveness for tourism investments and eventually as a tourist destination will be damaged.

The question that must be posed is, is Jamaica willing to bear these costs in order to protect a particular company and its employees? While employment is an important issue, the primary avenue to achieving sustainable employment creation is to increase competitiveness and to improve overall economic growth. Protection is not likely to be the way forward. Even if the construction sector shrunk by only 1% due to the increase in import tariffs, based on 2000 figures and without taking into account secondary effects, this would amount to a direct cost of J$0.23 billion.[5] Assume that CCL had 100 employees. The cost of protecting the jobs of each employee would be more than J$2 million, a figure that is way above the median annual salary in Jamaica.

6. The role of the Anti-Dumping & Subsidies Commission (ADSC)

Given the potential cost, to the consumers as well as to economic growth, the benefits of increasing cement tariffs are not obvious. Further, CCL may address its concerns with the ADSC . It may be of the view that going that route to obtain protection takes too long. This may be based on the experience in the cement case that the ADSC has investigated. It has to be pointed out however, that the ADSC is a relatively new organization and the cement case was the first case it faced. It justifiably took extra care and therefore extra time. Now that one case is under the belt, it is almost certain that the ADSC will be able to process new cases much quicker, especially in cement, given its experience and expanded staff. Going the import tariff route will only serve to undermine the purpose of the very same institution that the Ministry has created.

[4] Source of data: *Economic and Social Survey Jamaica 2000*, Planning Institute of Jamaica.
[5] GDP at current prices in 2000 was J$298.7 billion, of which the construction sector accounted for 7.6%, or J$22.7 billion. 1% of this gives approximately J$0.23 billion. Source of data: *Economic and Social Survey Jamaica 2000*, Planning Institute of Jamaica.