



TT Distributors

v.

The Republic of Trinidad and Tobago

TT Distributors Ltd (TT Distributors) was incorporated under the laws of the Republic of Trinidad and Tobago in 2022. 55% of TT Distributors' shares are owned by Domineeca Soap Ltd (Domineeca Soap), a company incorporated and with its registered head office in Domineeca. The remaining 45% of shares in TT Distributors are held by a national of Venezuela, Mr Pico. Domineeca Soap is 100% owned by two citizens of Domineeca, Mr and Mrs Hassan.

Mr Pico was born and raised in Venezuela, a non-CARICOM state. Mr and Mrs Hassan were born and raised in Syria but left their home country in 2021 to move permanently to Domineeca after acquiring Domineecan citizenship. The Hassans acquired Domineecan nationality by purchasing a 5 bedroom condominium in the exclusive Nikki Beach Development, an Approved Real Estate Project under the Citizenship by Investment Programme of Domineeca. In addition to the purchase price of the condominium, Mr and Mrs Hassan were required to pay Government fees and supplementary charges to obtain their certificates of naturalization and passports. The Hassans spend 6 months of the year in Domineeca, and the remainder in Malta.

The primary business of TT Distributors is to import soap products from Domineeca into Trinidad and Tobago, including soap noodles, which can be shaped into products including laundry bar soap and bath bar soap. TT Distributors shapes the noodles and packages them as three products: TT Blue Laundry Soap, TT Bath Bars, and TT Facial Cleanser. All three products are labelled as having been packed in Trinidad and Tobago, that they are of Domineecan origin, and only use natural ingredients.

In 2023, following a request from a Trinidad and Tobago soap packaging company, Trinidad and Tobago Soaps Ltd (Trinidad and Tobago Soaps), the Government of Trinidad and Tobago applies to the CARICOM Secretary General under Article 84 of the *Revised Treaty of Chaguaramas (RTC)* for a safeguard certificate to allow for suspension of the 40% Common External Tariff (CET) on non-Community origin soap noodles. In its application the Government states that (1) the quantity of soap noodles being produced in the Community does not satisfy Community demand, and (2) the quality of regional soap noodles is below the Community standard. The Government also states that (3) a suspension is justified to support an industry in Trinidad and Tobago, namely, Trinidad and Tobago Soaps, which employs over 1000 Trinidad and Tobago nationals and makes a significant contribution to Trinidad and Tobago's regional exports. Trinidad and Tobago Soaps shapes imported soap noodles into Trinidad and Tobago Bluest Laundry Soap and sells its products in both Trinidad and Tobago and Jamaica.

The CARICOM Secretary General refuses to grant a safeguard certificate. In her view the quantity and quality of Community-origin soap noodles is satisfactory; in addition, she notes that Trinidad and Tobago Soaps contributes less than 0.01% of the Trinidad and Tobago GDP.

Following this decision Trinidad and Tobago Soaps imports a two shipping containers of soap noodles directly from Indonesia. The Comptroller of Customs of Trinidad and Tobago classifies the shipment as being industrial monocarboxylic fatty acid pellets, not soap noodles. The Comptroller applies a 5% CET charge on the pellets under CARICOM's tariff heading 38.23.

The Manager of TT Distributors, Mr Vikesh, who is clearing his own shipment in the port, is made aware of the 5% CET charge and strongly protests the Comptroller's decision. He indicates that the shipment is comprised of soap noodles and therefore must be subjected to a 40% CET under CARICOM's tariff heading 34.01. After some heated words, Mr Vikesh is escorted from Customs. The CET charge on the shipment remains at 5%.

The Manager of TT Distributors writes letters to various Trinbago Ministers, including the Prime Minister, Attorney General and Minister of Finance, complaining about the incorrect classification of the soap noodles imported by Trinbago Soaps. He alleges that this error, if repeated, will bankrupt TT Distributors by depriving it of its main market and is contrary to Caribbean Community law. Mr Vikesh also leaks his letters to the two most prominent Trinbago newspapers, where they are published in full. These letters are subject to considerable debate on radio talk shows.

The Manager of Trinbago Soaps contacts the Trinbago Private Sector Organization (TPSO), a privately owned NGO that promotes competition and consumer safety issues, including by raising concerns about poor quality products entering the Trinbago market. One week after the letters were leaked to the newspapers, the TPSO launches a 'Safe and Clean Campaign' (Campaign). The Campaign promotes use of blue laundry soap with the following phrases: 'Blue as the Caribbean Sea, only Trinbago's own blue laundry soap is safe. Unlike other soaps, it only uses natural ingredients. Support Trinbagonian products!' Campaign posters are distributed to all major supermarkets where they are prominently displayed next to racks filled solely with Trinbago Bluest Laundry Soap. On the back label of each bar of Trinbago Bluest Laundry Soap are the words 'Made in Trinbago' in prominent, large lettering. Other laundry soaps are located two aisles away from the display.

TT Distributors applies to the Caribbean Court of Justice for special leave to bring a claim against Trinbago for breaches of Articles 32, 82-84 and 91 of the *Revised Treaty of Chaguaramas (RTC)*. TT Distributors alleges that the actions and inactions of Trinbago substantially impair its right of establishment, frustrate the benefits its products receive as Community origin goods, and frustrate the free movement of goods.

Trinbago responds by indicating that the Court does not have jurisdiction and should refuse leave for two reasons. Firstly, TT Distributors is not a CARICOM national under Community law; secondly, the 'Safe and Clean Campaign' is lawful in Trinbago and was promoted by a private sector body, TPSO. TPSO is not funded or managed by the Trinbago Government, and the Government cannot be responsible for the actions of private actors. Regarding TT Distributors' nationality, Trinbago states that TT Distributors' parent company, Domineeca Soap, is not owned by CARICOM citizens. Domineeca Soap is owned by Syreans who never obtained valid Domineeca nationality. The Government alleges that both Mr and Mrs Hassad were convicted of fraud and sentenced to 5 years imprisonment in Syrea in 2021. Following their convictions, they immediately fled Syrea for Domineeca, without serving their sentences. Their names remain on an Interpol Red List and as convicted criminals, they have no genuine link with Domineeca, and were never eligible for Domineecan citizenship.

In response, TT Distributors states that the Hassads' convictions were politically motivated and illegal, that they obtained and still possess valid Domineecan citizenship. Further, TT Distributors notes that citizenship can only be removed by Order of the Minister under the Domineeca Citizenship Act and that no such Order has been made. As a result, TT Distributors submits that the Hassads remain full CARICOM citizens and are entitled to exercise all their rights under Community law.

Senior Counsel of TT Distributors will argue that Trinbago has violated *RTC* Articles 32 and 82-84; Junior Counsel will argue that Trinbago has violated Article 91.

Senior Counsel of Trinbago will argue that Trinbago has not violated *RTC* Articles 32 and 82-84; Junior Counsel will argue that Trinbago has not violated Article 91.

Competitors may apply the laws of the Republic of Trinidad and Tobago and the Commonwealth of Dominica to the fact pattern, as if Trinbago was the former state, and Domineeca was the latter.